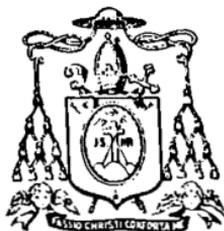


THE SECOND VATICAN COUNCIL
AND RELIGIOUS LIBERTY

Michael Davies



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DEDICATION

This book is dedicated to the memory of

Monsignor Joseph Clifford Fenton,

Editor of *The American Ecclesiastical Review* 1944–1963,

Whose clear, consistent, and courageous defence of

Papal Teaching on Church and State

Must once again be vindicated as the authentic Catholic Position.

Magna est Veritas et Praevalet

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Murray Lives

Before his death in 1967 Murray had involved himself in dialogues with Communists, Lutherans, and Jews—He claimed that “Dialogue is a contemporary way of presenting the Gospel”—He states that the teaching of the Church condemning contraception could be reversed while maintaining continuity with the past—He claimed that on the question of contraception the Church had reached for too much certainty too soon—In *Humanae vitae* Pope Paul VI taught that the intrinsic evilness of contraception pertains to the Natural Law, the faithful observance of which is necessary for men’s eternal salvation—Murray has received the Liberal equivalent of canonization for the freedom which he brought to untold millions—This has, in fact, been freedom from the teaching of the great modern Popes which constitutes the freedom of the sons of God—Father Pelotte suggests that Murray’s thought could lead to a democratization of Church structures aided by centuries of Protestant experience—He states that “Murray’s Catholicism was based on the need to bring religion into harmony with the American consensus”—Msgr. George Kelly provides statistics proving the abysmal decline of Catholicism in the U.S.A. following its being brought into harmony with this consensus—Michael Novak, a once uncritical admirer of Murray, now accepts that rather than renewing the Church Vatican II has diluted, divided, and weakened it—Father Kenneth Baker warns that the Catholic Church in the U.S.A. is being “replaced by a Protestant American Church separate and independent from Rome”—Father Pelotte endorses Murray’s allegation that the Church had opposed man’s historical movement towards freedom—Pope Leo XIII taught that the only freedom worthy of the name is adherence to the eternal law of God—Father Pelotte is elevated to the episcopate.

Lex Orandi, Lex Credendi

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FOREWORD

It is probable that more has been written concerning *Dignitatis humanae*, the Vatican II Declaration on Religious Liberty, than any other document of that Council, except perhaps the Constitution on the Sacred Liturgy. In my book *Pope John's Council*, I have provided considerable documentation to prove the accuracy of an observation by the late Bishop Lucey, of Cork and Ross Ireland, that the people who exercised real power at the Council were the *periti*, the expert advisers, rather than the bishops. In his classic account of Vatican II, *The Rhine Flows into the Tiber*, Father R.M. Wiltgen, whose objectivity no one could question, notes that a single *peritus* could impose his views upon the entire Council if he could win the approval of the German bishops. In this present work it will be shown that a single *peritus* was able to impose his views upon the entire Council by winning the approval of the American hierarchy. The *peritus* in question was Father John Courtney Murray, S.J., whose superiors had ordered him to cease writing on Church/State relations in 1955, and who was not invited to the first session of the Council due to doubts in Rome about his orthodoxy.

Father Murray's objective was straightforward and consistent: he wished to replace the traditional Catholic doctrine on Church and State with a new corpus of teaching based upon the American Constitution, and he achieved it to an extent which must have surpassed his most optimistic dreams. In 1967 he was able to claim with satisfaction: "The object or content of the right to religious freedom, as specified both in the Declaration and the American Constitutional system, is identical" (see page 101). Murray noted that the schema (draft document) on religious liberty was often called the "American Schema", and it was accepted due to "the solid and consistent support of the American bishops, and their numerous interventions had considerable influence in determining its substance and language." He could also have added that he was the author of the

most important of these interventions, which he wrote in praise of the schema that he had been instrumental in drafting. As one American prelate expressed it: "The voices are the voices of the United States' Bishops, but the thoughts are the thoughts of John Courtney Murray" (see page 161).

The 20 July 1992 issue of *The Catholic Virginian* included an article by Father G.P. Fogarty, S.J., President of the American Catholic Historical Association, entitled: "Richmond: Seedbed of Americanism and Religious Liberty". Father Fogarty makes it clear that he is in favour both of Americanism and Religious Liberty, and regrets the fact that *Testem benevolentiae* (see page 98) ". . . served to place American Catholic praise of religious liberty under a cloud." He then attributed to Father Murray precisely the pivotal role during the Second Vatican Council that I have done, although in terms far more blunt than any that I have used.

Only in the 1940s did John Courtney Murray, an American Jesuit, again raise the question. Like the Americanist bishops, he faced rebuke, but had the good fortune to become a theologian at the Second Vatican Council and helped draft the Declaration on Religious Liberty, which made universal Catholic teaching what had previously been considered an aberration of the American Church. Richmond's Americanists had been finally vindicated (my emphasis).

My book also documents the erudite and courageous defence of the traditional teaching by Msgr. Joseph Clifford Fenton, Editor of *The American Ecclesiastical Review*. It is dedicated to him and is a tribute to his integrity and courage in upholding a position that was considered totally untenable by the majority of his fellow citizens. The question my book raises is whether the teaching of *Dignitatis humanae* is compatible with that of the pre-conciliar popes, upheld by Msgr. Fenton, Cardinal Ottaviani, Msgr. George W. Shea, and Father Francis J. Connell in the pages of *The American Ecclesiastical Review*. It might be claimed that it is an act of temerity to so much as suggest the possibility of such incompatibility, but no less a person than Cardinal Joseph Ratzinger, Prefect of the Congregation for the Doctrine of the Faith, has stated that this is a position which a Catholic is entitled to hold. In a letter to Archbishop Marcel Lefebvre, dated 20 July 1983, he wrote:

It must be noted that, because the conciliar texts are of varying authority, criticism of certain of their expressions, in accordance with the general rules of adhesion to the Magisterium, is not forbidden. You may likewise express a desire for a statement or an explanation on various points. You may not, however, affirm that the conciliar texts, which are magisterial texts, are incompatible with the Magisterium and with Tradition. You may say that personally you cannot see how they are compatible, and so ask the Holy See for an explanation.

I have, I hope, worked within these guidelines throughout my book which, of course, I submit in advance to the judgement of the Magisterium. If anywhere within its pages I may appear to be taking a magisterial tone I regret this and intend to do no more than express my inability to understand how the two positions can be reconciled. As I make clear in Chapter XXI, reconciling the traditional and conciliar teaching on religious liberty is not simply a personal difficulty, but one that has been shared by Catholics of every shade of opinion within the contemporary theological spectrum, and even by Cardinal Ratzinger himself in a book written in 1966.

From Chapter XIII onwards, the reader will find it helpful to insert a bookmark on page 316 at the beginning of Appendix VII. This appendix is a timechart which lists the sessions of the Council and the evolution of *Dignitatis humanae* in chronological order. Whenever the chronology of the Declaration appears confusing in the text of the book, reference to this appendix should clarify matters.

English spelling and punctuation have been used throughout the book, and in the interests of consistency even quotations from American writers have been adapted to English usage. I would appreciate hearing from readers who detect any inconsistency in this respect, any misprints, and, above all, any factual errors, so that the necessary corrections can be made in subsequent printings.

I would like to acknowledge the help and advice given to me by a number of people, above all by my dear friend Norah Haines without whose help this book would never have been written. She typed the first draft for me in 1977, and since then has probably spent more time working on it than I have, not simply in typing new and re-drafted chapters, but by correcting mistakes, suggesting revisions,

checking sources, correcting the proofs, and compiling the index. Next I must express heartfelt thanks to Paul Hallett for writing an introduction which, I feel, fully vindicates the position that I have taken. There is no one upon whose endorsement I would place more value. I am very grateful to Father Brian Harrison for the generous permission he gave me to quote from his own book *Religious Liberty and Contraception*. This is the most convincing attempt yet published to prove that the conciliar and pre-conciliar teaching on religious liberty are compatible. It forced me to reconsider and revise some of my initial judgements, and, although it has not convinced me that the two positions are compatible, it is a book which everyone taking a serious interest in the question of religious liberty should own. I am very grateful to Father Basil, O.S.B., for his advice, and above all for giving me access to his own monumental study of the question. I am also indebted for invaluable advice to Father François Laisney and Monsieur Arnaud de Lassus, and to Valentine Gallagher and Greg Crow for drawing my attention to important source material.

Michael Davies,

4 August 1992,

St. Dominic, Confessor.

*O God who, by the merits and teaching
of Blessed Dominic Thy Confessor,
hast been pleased to enlighten Thy Church:
grant that through his prayers
she may not be deprived of temporal help,
and may continually advance in spiritual growth.*

Collect

INTRODUCTION

by Paul H. Hallett

I have known the author of this book both personally and through his writings for more than 15 years. Michael Davies is an author of amazing industry and power. Between the years 1976 and 1983, he published *Cranmer's Godly Order*; a two volume *Apologia Pro Marcel Lefebvre*—about an Archbishop unpopular in his time but with views well worth pondering today; *Pope John's Council*, *Pope Paul's New Mass*, *The Order of Melchisedech*, on the priesthood, *Partisans of Error*, on Modernism, and *Newman Against the Liberals*, besides nine pamphlets—all written when he was still quite young, teaching school in England, and supporting a growing family. Today these volumes are as readable and useful as they were then—and uncomfortably prophetic.

I think it is a fair judgement to say that the greater part of the defections from and loss in confidence in the Catholic Church that we have seen among so many of the faithful in the past few years began with the unsettlement of minds produced by the radical changes in the liturgy begun in the Pontificate of Pope Paul VI, a disaster which Davies addresses in many of his writings. He did not, of course, neglect doctrine, the corruption of which was made easier by ill considered liturgical novelties. But *The Second Vatican Council and Religious Liberty*, I believe, is the first of the author's volumes that is devoted solely to the attack on orthodoxy in the contemporary Catholic Church.

I have read and reread all 350 pages of the book with the full expectation that I would find something in them with which I would disagree. But I found no crack in the author's logic, no lack of support for his thesis that such men as the late Father John Courtney Murray, S.J., and others near to the Vatican II Council, so dominated that body that they left the Church in an unsettled condition that might continue for many years.

Davies never scolds or rants. He examines patiently and fairly the

arguments of opponents and refutes them in the same spirit. His diction is superb—every word fitted to its need, every idea advanced with lucid precision. Our author is a master of logic and argumentation. If anyone can detect a fallacy or an error in this book it has escaped me. In fact, a careful study of this volume is an exercise both in logic and in the authority of the Catholic Church, which, as Davies demonstrates time and again, often finds reason for tolerating the individual who is in error, but never allows him to subvert the foundations of divine truth.

Freedom alone cannot guarantee the acceptance of supernatural revelation by fallen man, or even its reasonable pursuit. Freedom is only a necessary condition for the discovery and development of further truth. The basic gift of God to man for his enlightenment and progress can easily lead to sophistries that obscure the very purpose of freedom, and subvert it to the worship of false gods. The effect of the indiscriminate emphasis on this watchword since Vatican II can be seen in a passage of Davies that for sheer pathos I find hard to equal. On page 245 he writes, speaking with particular reference to Catholic countries after the Second Vatican Council: "Pope Paul's illusion that his Council would purify the aspirations of the modern world was finally dispelled for him when he wept at the establishment of an abortion clinic in Rome itself shortly before his death in 1978."

In our own country the problem of restoring the position in public life that religion once enjoyed was made dismayingly clear on June 24, 1992, when the U.S. Supreme Court struck down by a 5-4 majority the historic American custom of prayer at graduation exercises at the end of the public school term. The irony of this decision was accented by the fact that the justice who wrote the majority opinion for the court was a Catholic, Anthony Kennedy, as was also the spokesman for the four dissenting judges, Antonin Scalia. As if this decision was not bad enough, five days later came another 5-4 verdict by which the court ruled, in reference to a Pennsylvania law, that while some abortion restrictions are valid those that place "undue" obstacles before a woman seeking abortion are not. Here again, Justice Kennedy, who wrote for

the majority opinion striking down prayer in public school graduation exercises, was the Catholic justice, opposed again by his fellow Catholic on the bench, Justice Scalia, who entered a blistering opinion against the pro-abortion decision.

A book such as this one could hardly have awaited a more appropriate time for its appearance.

Michael Davies is an author who is scrupulously loyal to the doctrine of the Church he joined when still quite young. This means that he adheres to the tradition and teaching office of the Catholic Church. He does not waver when confronted with currently unpopular but clear and final facts, such as the right of the State to accept Catholicism as the religion of the nation wherever Catholics are in a decisive majority. But at the same time he does not hesitate to quote an authority who writes that "no Catholic holds or may hold that the State would be called upon to impose the Catholic faith on dissident citizens. Reverence for the individual conscience forbids this . . ." (page 43).

Here Davies makes a crucial distinction between the toleration of religious error on the part of the Catholic State—which may be conceded for any good reason—and the right to spread error. He explains that there can be no right to religious error even as there can be no right to evil, however sincere the proponent of error may be. This, however, does not mean that Catholics should have no respect for an erroneous but sincere conscience. "Thus a Protestant who was honestly convinced that the doctrine of Christ's Real Presence in the Eucharist was false, and that those who adored the Blessed Sacrament committed idolatry, would actually sin if, for example, he attended Mass to win the approval of his Catholic neighbors" (page 50).

But this is a personal obligation, Davies warns, binding only the person concerned in the retreat of his own conscience. On the other hand: "Partisans of racial prejudice may sincerely believe in their pernicious theories, but in Britain they can rightly be prosecuted for teaching racial hatred in public" (page 51). In practice the same thing can be said for many parts of the United States.

Davies is an author who loves clear and precise definition. He uses

no pivotal term without full and accurate illustration. His style is crystal clear. He is scrupulously fair to his adversaries, particularly the one mentioned before, the late Father John Courtney Murray, who was the actual father of the Vatican II Document on Religious Freedom, which is the object of the major part of Davies' criticism, but which is not among the major documents of that council and therefore not necessarily infallible in everything it says.

Pope Leo XIII, who wrote more encyclicals touching on human liberty than any other pope, declared in an encyclical that bears that name that the more a state is driven to tolerate evil the further it is from perfection. Never has that observation been more true than it is today.

Leo's contemporary, the great English Catholic author John Henry Newman, wrote a foreboding essay cited in this book, in which he pointed to the absurdities to which complete liberty of thought would lead: "What if a man's conscience," Newman asked, "embraces the duty of regicide? or infanticide? or free love?"

Prescient as he was, Newman could not have known how exactly he had divined the future. Although regicide, or the assassination of public figures, is not yet the thing to do, infanticide in the form of abortion has been elevated to the status of an untouchable right. This was instanced in the 1992 Democratic convention which nominated Bill Clinton as its candidate for President of the United States. At that time the convention gave the platform for five minutes to a woman of the rival Republican party simply because she supported the party's nominee as an advocate of "abortion rights". At the same time a prominent Democrat, Pennsylvania Governor William Casey, who opposes abortion, was not permitted to speak against it at the convention. As for "free love", it is recognized and protected in this country to an extent well beyond any foreseeable possibility of its suppression.

Davies writes that St. Thomas Aquinas summed up the fundamental principle upon which the traditional Catholic teaching of the Church is based in this quotation from the Angelic Doctor: "Now the end of human life and society is God." From this fact our author draws the conclusion: "The State, therefore, has no right to be

'secular'. It must, as a State, recognize the Kingship of Jesus Christ and do Him homage; and, of course, so act that there is no contradiction between the laws it passes and the laws of God" (page 63 et seq.).

I could go on for page after page with this commentary on our author's treatment of the right and wrong conceptions of religious freedom. I could comment especially on the chapters in which he points out the weaknesses and confusions of the (non-infallible) Declaration on Religious Freedom of Vatican II, which, of course, has its good points, but also a number of questionable assertions which have greatly added to the confusion of Catholics and others since it was approved by Vatican II in 1965. But any reader who has got this far will want to read and study *The Second Vatican Council and Religious Liberty* for himself. I can think of no book on a burning question of today that will better reward its pursuit. — PAUL H. HALLETT.

Paul H. Hallett, Litt.D., has long been regarded as one of the most popular and highly respected Catholic journalists in the United States. He has spent more than fifty years in Catholic journalism, most of it with the National Catholic Register which he joined while it was still the Denver Catholic Register, under its legendary editor Msgr. Matthew Smith, who developed it into the world's largest circulation Catholic newspaper. The story of the Register and Msgr. Smith is told in Mr. Hallett's autobiographical book, Witness to Permanence (Ignatius Press, 1987). As well as being associate editor of the Register, he was the journal's book reviewer, wrote editorials and articles of comment, and a nationally celebrated question and answer column, "Ask and Learn". Paul Hallett, who has received several awards for his Catholic journalism, is the author of four books and has translated a number of classic theological books from Latin to English.

AN HISTORIC CONFRONTATION

On 18 November 1965, Father John Courtney Murray, S. J., took part in two celebrations. He had received a personal invitation from Pope Paul VI to join with a number of other theologians in concelebrating Mass with him in St. Peter's Basilica. The second celebration took the form of a champagne party.¹

In the January 1964 issue of *The American Ecclesiastical Review* a brief announcement had stated that its Editor-in-chief for twenty-five years, Monsignor Joseph Clifford Fenton, had "resigned because of poor health". The two events were not unconnected.

Msgr. Fenton and Fr. Murray had opposed each other in a long-standing and sometimes bitter debate which had lasted for more than a decade. The champagne party on 18 November 1965 celebrated the total victory of Fr. Murray. Theories which his superiors had forbidden him to propagate in 1955 would be promulgated as the official teaching of the Second Vatican Council within a few weeks (on 7 December 1965). Yesterday's heresy had become today's orthodoxy.

Msgr. Fenton and Fr. Murray had both been invited to attend the Council as experts (*periti*). They confronted each other in a dramatic and fateful meeting on 11 November 1963. A draft statement on religious liberty compiled by Cardinal Bea's Unity Secretariat was to be included as Chapter V of the schema (draft document) on ecumenism. Certain members of the Council's Theological Commission considered that the draft contradicted the traditional papal teaching on religious liberty so flagrantly that they did not wish it to be restored to the Council agenda from which it had been removed. What "was perhaps the most important meeting in the history of the religious liberty issue" took place on 11 November 1963.² The full Commission met to debate the issue with a number of *periti* in attendance. Fr. Murray has described the meeting himself:

Ottaviani, however, called first on Rahner, then on one or two

others. Bishop (subsequently Cardinal) Wright introduced my name again, amid other murmurs of approval and invitation, and I got to make my speech—face to face with Ottaviani, with Msgr. Fenton at the end of the *periti* table. The final vote was 18–5—a glorious victory for the Good Guys.* The meeting lasted from 4:30 to 7:00. And it was pretty tense from beginning to end. (We had a big party at the Hilton later in the week to celebrate the occasion.)³

This decisive vote made the ultimate triumph of Fr. Murray and the downfall of Msgr. Fenton inevitable. Msgr. Fenton had consistently and resolutely upheld the traditional Catholic teaching on the question of religious liberty. As a result of the Liberal triumph at this meeting, opinions which he had denounced as untenable would almost certainly be adopted by the Council, and placed before the faithful as official teaching. A priest of Msgr. Fenton's moral and intellectual stature could hardly have been expected to make a complete *volte-face* and uphold Fr. Murray's views as authentic Catholic teaching. He resigned as editor of *The American Ecclesiastical Review* within a few weeks of the meeting.

*The five members of the Theological Commission who opposed the inclusion of the Religious Liberty text on the Council agenda were Cardinal Ottaviani, Cardinal Browne, Cardinal Santos of Manila, Cardinal Florit of Florence, and Archbishop Parente of the Curia.⁴

NOTES

¹ TIC, p. 100.

² *Ibid.*, p. 82.

³ *Ibid.*

⁴ *Ibid.*, p. 110, note 44.

II

JOHN COURTNEY MURRAY—LIBERAL FOLK HERO

The Catholic Telegraph (U.S.A.) published an NC News Service historical profile of John Courtney Murray on 9 June 1978.* The profile illustrates the extent to which Fr. Murray has been elevated to the status of a Liberal folk-hero (if not saint). He is "a man of whom to be proud and to whom to be grateful". It mentions the fact that:

In 1945 Cardinal Mooney of Detroit urged Fr. Murray to work on a serious study of the Catholic position on Church-State relations. The published results alarmed the traditionalists who used *The American Ecclesiastical Review* to publish their sometimes acrimonious reactions. Their position was the generally accepted one.

We thus have an admission from the Liberal standpoint that the position of Fr. Murray's critics in *The American Ecclesiastical Review* (henceforth referred to as AER) was the generally accepted pre-conciliar position. This position will be explained in subsequent chapters in the words of the Popes, but particularly as interpreted by three writers in the AER, Msgr. Joseph Clifford Fenton, its Editor and later a *peritus* at Vatican II; Father Francis J. Connell, C.S.S.R., also a *peritus*; and Msgr. George W. Shea. Reference will also be made to Cardinal Ottaviani, with whom Msgr. Fenton worked very closely, and who was strongly opposed to the views of Fr. Murray. A scholarly, but adulatory, study of Fr. Murray by Fr. Donald E. Pelotte, S.S.S., was published in 1975.¹ Fr. Pelotte also accepts that the "Ottaviani-Connell-Fenton position on Church and State" had been "the dominant 'orthodox' view in the United States and throughout the Catholic world, until the Council."² This "orthodox" view had been set out in considerable detail in *Catholic Principles of Politics* by John A. Ryan and Francis J. Boland which was published in New York in 1940. The book was essentially

*This article was also published in a number of other Catholic newspapers in the U.S.A.

a restatement of *The State and the Church*, which Msgr. Ryan had co-authored with two other priests in 1922. Msgr. Ryan's books were accepted as the standard treatment of the topic in the U.S.A. In their turn, they simply synthesized the teaching of the Popes as set out in the standard theological manuals. Writing in the AER in September 1950, Msgr. Shea refers to this teaching as ". . . the authentic, perennially valid and unalterable Catholic doctrine concerning the relations between Catholic Church and Catholic State, the relations which should *per se* obtain by reason of the nature of Church and State in a Catholic society, so that any deviation from these relations, while tolerable perhaps as a concession prompted by expediency, could not merit approval on principle."³

Msgr. Shea stressed the fact that at that time (1950) the doctrine which he upheld was "still the teaching generally presented in manuals of theology and of *Jus Publicum Ecclesiasticum*, even those of most recent vintage."⁴ On several occasions during his article he provides comprehensive lists of references to authoritative manuals and treatises on the subject. Indeed, it would be hard to improve on Msgr. Shea's article for a bibliography of what he correctly terms the "classic and certain doctrine among Catholic philosophers and theologians, doctrine confirmed by the Popes."⁵

Fr. Murray admitted quite openly on a number of occasions that the position he was attacking was the "received opinion" (*opinio recepta*) within the Church. He accepted that this was the case as late as 1965, as is proved in an unpublished letter to Cardinal König concerning the conciliar Declaration on Religious Freedom.⁶

NOTES

¹ D.E. Pelotte, *John Courtney Murray: Theologian in Conflict* (Paulist Press, New York, 1975).

² TIC, p. 81.

³ AER, vol. 123, 1950, p. 161.

⁴ *Ibid.*

⁵ *Ibid.*, p. 165.

⁶ TIC, p. 136, note 5.

III

TRUE AND FALSE LIBERTY

The terms freedom and liberty will be considered synonymous for the purpose of this study. The Latin word *libertas* is expressed by either, depending upon the translator. The most important treatment of the subject is the encyclical letter *Libertas humana*, 1888, of Pope Leo XIII. Unless otherwise stated, the quotations from the writing of Pope Leo XIII which are included in this chapter are taken from *Libertas humana*.

Before examining the teaching of Pope Leo XIII, it is necessary to have a clear concept of the various meanings of the word liberty. Its fundamental meaning is the ability to act without constraint. Such constraints can be physical, psychological, and moral. Freedom to act in a particular manner can only be considered a right in the absence of all three forms of constraint, including moral constraint. Thus, being morally free to perform an action is synonymous with having a right to perform that action, and so the concepts of *moral liberty* and a *right* can be considered synonymous. No woman can ever have a true right to an abortion as this act is forbidden by the natural law, and she is not morally free to murder her unborn child, even though in countries such as Great Britain and the U.S.A. she has the legal right to do so. Before discussing moral liberty in more detail the other two forms of liberty will be examined.

Physical liberty simply means the absence of any external constraint which would prevent a man carrying out a desired action. A man serving a prison sentence might like to take a holiday by the sea, but would be constrained from doing so by the prison authorities. The faculty of acting in a manner of their choosing in the absence of physical constraints is common both to men and animals. A dog, for example, has the physical freedom to bury a bone anywhere in the garden it wishes, providing its owners allow it out of the house.

Psychological liberty is better known as free will, and involves

the capacity to make moral choices. This faculty is thus restricted to angels and to men. The possessor of free will, or psychological liberty, is thus the master of his acts, and is consequently responsible for them. Animals have physical but no psychological freedom. A pair of blackbirds can select the tree in which they wish to build their nest, but they do not possess the free will enabling them to decide whether or not to build a nest and raise a family.

The possession of the faculty of free will by no means guarantees that it will be exercised correctly. The teaching of Pope Leo XIII in this respect will be examined later. A bank clerk might have the physical liberty to steal from his employer, and he would have the psychological liberty, the faculty of free will, enabling him to make the choice, but he would not have the moral liberty, and hence the right, to carry out the act.

The Oxford Companion to Law informs us that the term *right* is "a much ill-used and over used word". The term is used frequently within the text of *Dignitatis humanae*, but in no instance is a clear definition given of what is meant by the word. *The Random House College Dictionary* defines it as "a just claim or title, whether legal, prescriptive or moral." The word *just* is of the greatest importance, for where a claim is not just there can be no right to make it. Catholic teaching, expressed clearly in the encyclicals of Pope Leo XIII, is that no man can lay claim justly to anything that is contrary to the eternal or natural law of God.

In Catholic teaching, as has been explained, the terms *right* and *moral liberty* can be considered as synonymous. A right is the moral faculty of a person enabling him justifiably to perform an action, own a possession, or make a claim. The word *justifiably* indicates that we can only speak of a right when its object is morally licit. This is the axiom upon which Pope Leo XIII bases his teaching on true liberty. There can only be a right, that is, the moral liberty, to choose that which is good and true. No man can ever have a right to choose what is evil or false: "For right is a moral power which—as We have before said and must again and again repeat—it is absurd to suppose that nature has accorded indifferently to truth and falsehood, to justice and injustice." The object of a genuine

right, one that is free from any moral constraint, must be something that is objectively good.

It is necessary to make a distinction between a moral and a legal right. The two forms often correspond. Our bank clerk had neither the moral nor the legal right to steal, but the misguided woman who murdered her unborn child had a legal though no moral right to an abortion. In this case the legal right was no true right, as there can be no true right where a moral constraint exists.

In speaking of a right three aspects must be distinguished. These can be made clear by considering the right to own a house. Firstly there is the *subject* of the right, that is the person enjoying the right, i.e. the owner. Secondly there are the *terms* of the right, and these include the obligations of others towards him in virtue of his just ownership of the house: that of not hindering his due possession for example. Thirdly, there is the *object* of the right, the action, possession, or claim the subject has a right to perform, own, or make—in this case the house.

It is evident that there can be no rights without corresponding duties. If I have purchased something by post the vendor has a duty to send it to me. If I purchase something on approval, and decide to keep it, then I have the duty to pay for it. A religious superior or an officer in the armed forces has the right to expect obedience from his subordinates, but he has a duty to exercise his authority in a reasonable manner, and for the purpose for which he was invested with it.

Liberty of Conscience

Pope Leo XIII warned that there are certain so-called liberties which modern society takes for granted that every man possesses as a right. These are the liberties “which the followers of Liberalism so eagerly advocate and proclaim.” The essence of Liberalism is that the individual human being has the right to decide for himself the norms by which he will regulate his life. He has the right to be his own arbiter as to what is right and what is wrong. He is under no obligation to submit himself to any external authority.

In the Liberal sense, liberty of conscience is the right of an individual to think and believe whatsoever he wants, even in religion and morality; to express his views publicly, and to persuade others to adopt them, using word of mouth, the public press, or any other means. He has the right to choose any religion or to have no religion, and this, Liberals claim, is a natural right. The *Nouveau Larousse Illustré*, published circa 1900,¹ defines liberty of conscience as "the right left to each individual to adopt the religious doctrines which he considers preferable, without being troubled by the public authorities."* In his encyclical letter *Tametsi futura prospicientibus* published on 1 November 1900, Pope Leo XIII remarked: "The people have heard quite enough about what are called the rights of man. Let them hear about the rights of God for once."

It is necessary to make a distinction of crucial importance which must be kept in mind throughout this book. This is the distinction between religious liberty considered from a legal or juridical standpoint, and from a theological standpoint. Considered from a juridical standpoint, it examines the grounds for and the extent of the legal coercion to be applied to the expression of religious belief in the external public forum. Considered from a theological standpoint, that is, a standpoint based upon the nature and will of God as revealed to man, there can be no question of any natural right to believe or propagate error, or not to be prevented from propagating error in public. As the teaching of Pope Leo XIII set out in this chapter will make clear, man has a natural right only to follow the will of God and obey His commandments. Neither Father Murray nor *Dignitatis humanae* so much as suggests a natural right to choose error. Father Murray specifically rejects this classic Liberal position in a footnote to his translation of *Dignitatis humane*. He explains that to affirm that a man has a right to believe what is false or to do what is wrong is "moral nonsense". He continues: "Neither error nor evil can be the object of a right, only what is true and good."²

"... la faculté laissée à chacun d'adopter les doctrines religieuses qu'il juge préférables, sans être inquiété par la puissance publique."

Although this chapter will examine papal teaching on liberty of conscience considered from a theological standpoint, the book, as a whole, examines the question from a juridical standpoint. Where it is suggested that Father Murray or *Dignitatis humanae* may have adopted, or moved towards, a Liberal position, this refers only to the basis for and the extent of the legal coercion to be applied to the expression of religious belief in the external forum, and not to what Father Murray rightly described as the nonsensical Liberal claim that man can have a natural right to believe or to do what is wrong.

Important Distinctions

In considering the question of religious liberty from the juridical standpoint the following distinctions must be kept in mind. The first distinction must be that between the internal forum and the external forum. The internal forum refers to what a man does in private, the external forum to what he does in public. The second distinction must be made between not being *forced* to act *against* one's conscience, i.e. freedom from coercion, and freedom not to be *restrained* from *acting in accordance with* one's conscience. The traditional Catholic teaching is that in religious matters:

1. No one must be forced to act against his conscience in private.
2. No one must be forced to act against his conscience in public.
3. No one must be prevented from acting in accordance with his conscience in private.
4. The right of acting in accordance with one's conscience in public can be restricted.

Catholicism and Liberalism concur on all four points, but differ on the criteria for restricting the expression of private belief in the external public forum. As will be explained in subsequent chapters, Catholicism posits the public good as the limiting criterion, while Liberalism accepts public order as the only legitimate criterion for restraint. Article 4 of the French Revolutionary *Declaration of the Rights of Man* states that liberty consists of the right to do anything that does not harm anyone else.

Some readers might consider that the distinction between “forced to act” and “prevented from acting” is somewhat confusing. A simple example should make it clear. There is an obvious difference between forcing a Protestant to profess belief in transubstantiation, in private or public, and permitting him to attack this teaching in public in a Catholic country.

The four combinations of key words to be kept in mind throughout this book are:

1. Forced to act in private
2. Forced to act in public
3. Prevented from acting in private
4. Prevented from acting in public

What is True Liberty?

Referring to the so-called liberties taken for granted by modern society, Pope Leo XIII commented that “many cling so obstinately to their own opinion in this matter as to imagine these modern liberties, cankered as they are, to be the greatest glory of our age, and the very basis of civil life, without which no perfect government can be conceived.” It is depressing to reflect upon the fact that since Pope Leo wrote these words in 1888, the errors he condemned have become so generally accepted within the Liberal-dominated ethos of Western society that they would now be taken for granted by most Catholics. The God-given privilege of free will is a gift with which we are endowed to use not as we wish but as God wishes: “Not my will, but Thine be done.”

Where the correct use of free will is concerned, St. Thomas Aquinas wrote:

God left man in the hand of his own counsel, not as though it were lawful for him to do whatever he will, but because, unlike irrational creatures, he is not compelled by natural necessity to do what he ought to do, but is left the free choice proceeding from his own counsel.³

Similarly, Pope Leo taught that:

While other animate creatures follow their senses, seeking good

and avoiding evil only by instinct, man has reason to guide him in each and every act of his life.

The Pope shows that liberty can only be exercised by those who have the gift of reason, i.e. angels and men. He defines reason as "the faculty of choosing means fitted for the end proposed; for he is master of his actions who can choose one thing out of many."

He then explains that "freedom of choice is a property of the will, or rather is identical with the will in so far as it has in its action the faculty of choice."

The will always chooses what it considers to be good or useful. The act of the will, the choice, is based upon a judgement made by the intellect. Judgement is "an act of reason, not of the will." We frequently lack the will-power to implement what our judgement tells us is the right course of action.

Freedom is exercised legitimately only when man conforms his will to that of God. He has no moral right to prefer his own counsel to that of his Creator, even though physically and psychologically he is able to do so. Pope Paul VI explained the authentic Catholic position very clearly in his encyclical *Humanae vitae*:

Responsible parenthood, moreover, in the terms in which we use the phrase, retains a further and deeper significance of paramount importance which refers to the objective moral order instituted by God, — the order of which a *right* conscience is the true interpreter. As a consequence the commitment to responsible parenthood requires that husband and wife, keeping a right order of priorities, recognize their own duties towards God, themselves, their families, and human society.

From this it follows that they are not free to do as they like in the service of transmitting life, on the supposition that it is lawful for them to decide independently of other considerations what is the right course to follow. *On the contrary, they are bound to ensure that what they do corresponds to the will of God the Creator.* The very nature of marriage and its use makes this clear, while the *constant teaching* of the Church affirms it (my emphasis).

But in the language of Liberalism, to say that a man is physically

and psychologically free to do something means that he has a right to do it, subject only to the requirements of public order. "Nothing more foolish can be uttered or conceived," teaches Pope Leo XIII, "than the notion that because a man is free by nature, he is therefore exempt from law."

The Natural Law

The primary law to which every man has the duty to submit is the *eternal* or *natural law*, the law of nature implanted in our hearts by our Creator as part of human nature. This natural law, the Pope explains, "is written and engraved in the mind of every man; and this is nothing but our reason, commanding us to do right and forbidding sin . . . the law of nature is the same thing as the *eternal law*, implanted in rational creatures, and inclining them to their right action and end; and can be nothing else but the eternal reason of God, the Creator and Ruler of all the world."

What applies to the individual applies no less to civil society. Those invested with the power to govern in the State derive their authority not from people who elected them, in the case of a democracy, but from God. Legislators have no right to enact civil laws which conflict with the natural law, even if a majority of the people wishes them to do so. All authority in Church, State, and the family derives from God, as Our Lord pointed out to Pontius Pilate. Pope Leo condemns "the doctrine of the supremacy of the greater number, and that all right and all duty reside in the majority." Thus the Church accepts democracy if, by this term, it is meant that those who govern are selected by a vote based on a limited or universal suffrage. The Church condemns democracy in the sense that those who govern do so not as delegates of God, but as delegates of the people who elected them; and that they are bound to legislate in accordance with the wishes of the majority. "It is not of itself wrong to prefer a democratic form of government," writes Pope Leo, "if only the Catholic doctrine be maintained as to the origin and exercise of power." Under no circumstances can any civil government have the right to permit such

an abomination as abortion which is manifestly contrary to the eternal law of God. The Pope's teaching upon this point is very clear, and he adds that where a government enacts legislation contrary to the natural law we are bound *not* to obey it:

It is manifest that the eternal law of God is the sole standard and rule of human liberty, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that through the injunctions of the civil law all may more easily conform to the prescriptions of the eternal law . . . The binding force of human laws is in this, that they are to be regarded as applications of the eternal law, and incapable of sanctioning anything which is not contained in the eternal law, as in the principle of all law . . . Where a law is enacted contrary to reason, or to the eternal law, or to some ordinance of God, obedience is unlawful, lest while obeying man we become disobedient to God.

The Will Can Err

The faculties of reason and will are not perfect and Pope Leo notes that "it is possible, as is often seen, that the reason should propose something which is not really good, but which has the appearance of good, and that the will should choose accordingly." This is a most important distinction. Man can err, culpably or inculpably. When the reason errs and leads the will with it into an erroneous choice, what it has chosen is simply a mirage, the appearance of a good. The choice of error is a proof of the existence of free will, but not a valid exercise of the faculty. It is a corruption or an abuse.

Man is obliged to do all in his power to exercise the faculty of reason correctly, to exercise his judgement in accordance with right reason, bearing in mind that in moral and religious matters his decisions must affect his last end. Pope Leo explains:

The reason prescribes to the will what it should seek after or shun, in order to secure the eventual attainment of man's last end,

for the sake of which all his actions ought to be performed. This ordinance of *reason* is called law. In man's free will, therefore, or in the moral necessity of our voluntary actions being in accordance with reason, lies the very root of the necessity of law.

True Freedom is Obedience to God's Law

When a man exercises his liberty in accordance with the law of God he renders his Creator the homage which is due to Him in strict justice, and also follows the only path by which he can be saved. He does not abdicate his dignity, he asserts it. When he chooses evil he abuses and profanes his most sacred possession. Psalm 118, the *Beati immaculati*, provides an inspired commentary on the correct exercise of human freedom:

Set before me for a law the way of Thy justifications, O Lord:
And I will always seek after it.
Give me understanding, and I will search Thy law:
And I will keep it with my whole heart.

The Need for Grace

Needless to say, the unaided human reason could never ensure that freedom was so exercised that salvation was assured. To maintain this is to fall into the heresy of Pelagianism. It is with the aid of God's grace that the individual is enabled to exercise his freedom in accordance with the law of God and thus attain salvation. The effects of original sin rule out the possibility of the unaided human reason leading men to salvation without the aid of grace. In his allocution *Singulari quadam* (1854), Pope Pius IX warned that:

Such clients, or rather devotees, of human reason, who set it up as their unerring teacher and promise themselves every success under its guidance, have surely forgotten what a deep and severe wound was inflicted on human nature through the sin of our first parents; for darkness has clouded the mind and the will has been made prone to evil . . . Since it is certain that the light of reason has been dimmed, and that the human race has fallen miserably from

its former state of justice and innocence because of original sin, which is communicated to all the descendants of Adam, can anyone still think that reason by itself is sufficient for the attainment of truth? If one is to avoid slipping and falling in the midst of such great dangers and in the face of such weakness, dare he deny that divine religion and heavenly grace are necessary for salvation?

Pope Leo stresses the role of grace as the most important aid for the correct use of the reason and the will.

The first and most excellent of these is the power of His divine *grace*, whereby the mind can be enlightened and the will wholesomely invigorated and moved to the constant pursuit of moral good, so that the use of our inborn liberty becomes at once less difficult and less dangerous.

Freedom from Coercion

In order to promote freedom of conscience in its correct sense, Pope Leo teaches that the State should not ensure that "everyone may, as he chooses, worship God or not", but that "every man in the State may follow the will of God, and, from a consciousness of duty and free from every obstacle, obey His commands. This, indeed, is true liberty, a liberty worthy of the sons of God, which nobly maintains the dignity of man, and is stronger than all violence or wrong—a liberty which the Church has always desired and held most dear."

Freedom of conscience is not, then, a natural right if it is taken as meaning that man has a *right* to choose error. But, although an individual has no natural right to choose error, he does possess a right not to be coerced into choosing truth in private or in public. Pope Leo XIII taught in his encyclical *Immortale Dei*:

The Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as St. Augustine wisely reminds us, "Man cannot believe otherwise than of his own free will."

The application of this principle in practice is best shown by

the tolerance and protection extended by the Popes to the Jews.* It must be admitted frankly that during the history of the Church this principle has often been violated, but where attempts to force individuals to accept the Catholic faith have occurred it has been a violation of the true Catholic teaching.

*This can be studied in the article *Toleration* in the *Catholic Encyclopedia*.

NOTES

- 1 *Nouveau Larousse Illustré*, dictionnaire encyclopédique, publié sous la direction de Claude Augé, vol. III (undated, circa 1900).
- 2 Abbott, p. 678.
- 3 ST, II, II, Q. 104, art. 1, ad. 1.

IV

THE STATE

Man is a social being. He lives not simply as an isolated individual, or even in isolated groups, but in relationship with and interdependence upon other individuals and social groups. This involves the establishment of various social structures for such matters as education or law and order. The traditional Catholic teaching is that the State is the highest and most inclusive organized group of persons, with the common good as its concern. Aristotle considered the Greek city-state to be the highest form of man's natural and necessary inclination to ordered existence. This concept was taken and developed by St. Thomas Aquinas and has become the accepted Catholic teaching. The great modern popes have employed the word "State" to designate the highest politically structured community.

Man has one ultimate purpose in his existence, that of eternal happiness in heaven. He has a twofold purpose during his earthly life. The first is to earn his title to eternal happiness, and the second to attain a measure of temporal happiness consistent with the first purpose.

The goal of the State is the temporal happiness of man. Its proximate purpose is the preservation of the external juridical order, and the provision of a reasonable abundance of the means of human development in the interests of its citizens and their posterity.

A state is composed of two principal elements: the authority and the multitude. Authority is invested in those who govern. Pope Leo XIII teaches in *Immortale Dei*:*

No society can hold together unless some one be over all, directing all to strive earnestly for the common good; every civilized community must have a ruling authority, and this authority, no less than society itself, has its source in nature, and has, consequently,

* All the teaching of Pope Leo XIII cited in this chapter is taken from *Immortale Dei* unless otherwise stated.

God for its author. Hence it follows that all public power must proceed from God; for God alone is the true and supreme Lord of the world. Everything, without exception, must be subject to Him, and must serve Him, so that whosoever holds the right to govern, holds it from one sole and single source, namely God, the Sovereign Ruler of all. "There is no power but from God" (Rom. 13:1).

The fact that all authority proceeds from God, and that those who govern do so as His delegates, is axiomatic to Catholic teaching on the State. Because those who govern derive their authority from God, no government has the right to pass laws contrary to His law. Providing that the fact that all authority has its origin in God is accepted, the Church is not committed to any particular form of government:

The right to rule is not necessarily, however, bound up with any special mode of government. It may take this or that form provided only that it be of a nature to insure the general welfare. But whatever be the nature of the government, rulers must ever bear in mind that God is the paramount Ruler of the world, and must set Him before themselves as their exemplar and law in the administration of the State.

As was explained in Chapter III, the Church is not opposed to democracy if all that is meant by this word is that the government is elected by universal suffrage. The Church is opposed to democracy in the sense that authority is said to reside in the people, and that those who govern do so as delegates of the people. Pope Leo teaches:

In a society grounded upon such maxims, all government is nothing more nor less than the will of the people, and the people, being under the power of itself alone, is alone its own ruler. It does choose nevertheless some to whose charge it may commit itself, but in such wise that it makes over to them not the right so much as the business of governing, to be exercised, however, in its name.

The authority of God is passed over in silence, just as if there were no God, or as if He cared nothing for human society; or as if men, whether in their individual capacity or bound together in social relations, owed nothing to God; or as if there could be a

government of which the whole origin and power and authority did not reside in God Himself. Thus, as is evident, a State becomes nothing but a multitude, which is its own master and ruler.

As will be made clear below, the Catholic view is not that the State is concerned solely with man's temporal happiness, and the Church with his eternal happiness. The State must concern itself with the common good of the citizens. This involves man's ultimate purpose, his eternal destiny. The State should, therefore, co-operate with the Church in promoting what will assist man in achieving his ultimate purpose, and in repressing what will frustrate it.

In June 1945, Fr. Murray correctly defined the State as the inclusive political society, "the organized society with its agencies of government."¹ Just as an individual has a moral nature and moral functions, so does the State. The Popes have explained it as a corporate personality obliged to worship and acknowledge God according to the teachings of the Catholic Church.² As Fr. Murray expressed it in 1945, the natural law imposes on the State "the obligation to acknowledge God as its Author, to worship Him as He wills to be worshipped, and to subject its official life and action to His law."³

Msgr. Ryan explained the traditional teaching as follows:

If there is only one true religion, and if its possession is the most important good in life for States as well as individuals, then the public profession, protection, and promotion of this religion and the legal prohibition of all direct assaults upon it, become one of the most obvious and fundamental duties of the State. For it is the business of the State to safeguard and promote human welfare in all departments of life.⁴

Fr. Murray held the same view in 1945 when he wrote that the State has "the right to restrict by juridical processes the spread of opinions, and to prohibit external actions, that tend to destroy in the community belief in God and fidelity to moral standards. . . ."⁵

As will be shown later, the State has this obligation because states no less than individuals are subject to the dominion of Christ

the King. The ideal situation is the union of Church and State. Msgr. Ryan explains this ideal as follows:

The State should officially recognize the Catholic religion as the religion of the commonwealth: accordingly it should invite the blessing and the ceremonial participation of the Church for certain important functions, such as the opening of legislative sessions, the erection of public buildings, etc., and delegate its officials to attend certain of the more important festival celebrations of the Church; it should recognize and sanction the laws of the Church; and it should protect the rights of the Church, and the religious as well as the other rights of the Church's members.⁶

Reference has already been made to the long list of approved Catholic authors cited by Msgr. Shea in defence of the traditional view. In his July 1950 AER article, Msgr. Shea provides a résumé of their teaching, stressing that this applies to states in which the overwhelming majority of the population is Catholic. "What is under discussion is the State when it is the body-politic of a Catholic people." A good many authors refer to the situation with regard to a Catholic State as the "thesis". Where Catholics are in a minority a completely different situation prevails, and this is referred to as the "antithesis". Msgr. Shea explains:

What the philosophers and theologians have to say, relevant to the matter in hand, can be given only in résumé. That man has the duty not only of individual but also of social worship, is elementary Catholic doctrine. In treating of this obligation of social worship, authors go on to affirm that even the State, *qua* State, not simply "society" but the politically organized community, civil society as such, is bound to profess religion, the true religion; to worship God in the way He wills to be worshipped; and is so bound by the natural law. It is understood, of course, that the State is a moral person, able to be the subject of duties, and to fulfil them, only through the medium of physical persons, the individual members who compose it. Concretely, then, the State professes, exercises religion, worships God, through official acts of those placed in authority. To satisfy its religious obligations, the State must worship God not only indirectly, virtually, administratively,

but also directly and formally. That is to say, not only, for example, by abstaining from whatever is contrary to divine law, not only by positive furtherance of public religion, not only by legislation, *ex motivo religionis*, against perjury, public blasphemy, writings inimical to public religion and morality, etc., but also by official participation in acts of worship properly so-called—of adoration, thanksgiving, supplication, and the like

The State is a creature of God, for He is author of man's social nature, of all authority in the State, of all the benefits the State enjoys; therefore, the State must acknowledge its dependence on God, by appropriate acts of worship. If the State be, indeed, "of the natural law", one can hardly dispute this argument. Further, one perceives that, if it holds for any state, the argument holds for all—for all forms, those known and those undreamed-of, for juridical democracy and for any other new realizations in the reality of the "State" which historical evolution has brought or may yet bring about.

To continue the résumé—the State is no less a creature of God, and therefore no less bound to worship Him, for all that the actual order of things is a supernatural order, that a supernatural religion, the Catholic, has been revealed as obligatory for all men, that a supernatural religious society, the Catholic Church, has been divinely instituted for the worship of God. Given these facts, the State, in conformity with its obligation under natural law to profess the true religion, to worship God as He decrees ("the hypothetical obligation of accepting a higher belief, law, and mode of worship, if God reveals them as His will"), has then the duty of accepting Catholicism, its creed, code, cult. The objective duty exists for all; and where the objective duty is sufficiently known, the duty is subjective as well. This latter obtains in the case of a Catholic society. For in such case the State is not in the position of having to discover the true religion. It does not have to seek for that which has been found and is known in advance by the Catholic people of which the State is the body-politic. It has rather but to acknowledge what the Catholic populace acknowledges, the divine institution of the Catholic Church. That the State finds the Church in this wise, indirectly, through the medium of the Catholic citizenry, does not mean that the State has no direct duties towards the Church. For, in the supernatural order no less than in

the natural, the State remains a creature of God, and, as such, and as a perfect society really distinct from the Church, has its own duty of divine homage, of worshipping God as He wills to be worshipped, a duty which the State cannot fulfil apart from the Church.

Such would seem to be the mind of the representative authors we have been consulting. What are the implications of all this as to the question of the theological necessity of "the religion of the State"? It is difficult to understand why the foregoing considerations should not call for the conclusion that, in a Catholic society, it is incumbent upon the State to be a "Catholic State", to declare and to treat Catholicism as "the religion of the State". The formal, official, and exclusive recognition and profession of Catholicism by the State in a Catholic society as its own one and only religion, in short, the establishment of Catholicism as "the religion of the State", seems necessarily contained in the very notion of the State's duty to accept and profess the true religion, therefore Catholicism, with its creed, code and cult. How else could the State, *qua* State, in truth accept and profess Catholicism, together with its tenet that it alone is the true religion?⁷

This résumé of the teaching of the approved authors is a faithful reflection of papal teaching. Msgr. Shea noted that Fr. Murray had conceded that, for example, Pope Leo XIII had approved of the concept of the religion of the State on more than one occasion. He notes that Fr. Murray claims that this was not meant to be a permanently valid principle, but one which "was *then* necessary to ensure the well-being of the Church against the onslaughts of Continental Liberalism."⁸ Msgr. Shea is quite prepared to accept that such contingent reasons could have contributed to Pope Leo's approval of the "religion of the State" but insists that:

The Pope adduced at least one doctrinal reason of permanent validity for "the religion of the State", and thereby taught the theological necessity of the latter. The reason? The State, *qua* State, must worship God because it is a creature of God.⁹

Writing in the AER in May 1953, Cardinal Ottaviani condemned those who attempt to bypass permanently valid teaching in encyclicals on the grounds that it is transient and applicable only to the

historical circumstances which prompted it. The Cardinal was writing specifically on the Church-State problem.

The first fault of these persons consists precisely in their failure to accept fully the *arma veritatis* and the teachings which the Roman Pontiffs during the past century, and particularly the reigning Pontiff Pius XII, have given to Catholics on this subject in encyclical letters, allocutions, and instructions of various kinds.

To justify themselves, these people assert that in the body of teaching imparted within the Church there are to be distinguished two elements, the one permanent, and the other transient. This latter is supposed to be due to the reflection of particular contemporary conditions.

Unfortunately, they carry this tactic so far as to apply it to the principles taught in pontifical documents, *principles on which the teachings of the Popes have remained constant so as to make these principles a part of the patrimony of Catholic doctrine* (my emphasis).¹⁰

After summarizing papal teaching on the question of Church and State, including "the duty of rulers of a Catholic State *to protect from everything that would undermine it the religious unity of a people who unanimously know themselves to be in secure possession of religious truth*,"¹¹ Cardinal Ottaviani traces this teaching through successive pontificates up to that of Pope Pius XII and concludes:

These principles are firm and immovable. They were valid in the times of Innocent III and Boniface VIII. They are valid in the days of Leo XIII and of Pius XII, who has reaffirmed them in more than one of his documents . . . I am certain that no one can prove that there has been any kind of change, in the matter of these principles, between *Summi pontificatus* of Pius XII and the encyclicals of Pius XI, *Divini Redemptoris* against Communism, *Mit brennender Sorge* against Nazism, and *Non abbiamo bisogno* against the state monopoly of fascism, on the one hand; and the earlier encyclicals of Leo XIII, *Immortale Dei*, *Libertas*, and *Sapientiae christianae*, on the other.

"The ultimate, profound, lapidary fundamental norms of society," says the august Pontiff in his Christmas radio-message of 1942, "cannot be damaged by the intervention of man's genius. Men can deny them, ignore them, despise them, disobey them, but they can never abrogate them with juridical efficacy."¹²

These "firm and immovable principles" are clearly expressed in a series of extracts from encyclicals which Msgr. Shea cited in his justly celebrated article in the AER of September 1950:

In the Encyclical *Humanum genus*, 20 April 1884, Pope Leo XIII declared: "To have in public matters no care for religion, and in the arrangement and administration of civil affairs to have no more regard for God than if He did not exist, is a rashness unknown to the very pagans . . . Human society, indeed, for which by nature we are formed, has been constituted by God the Author of nature; and from Him, as from their principle and source, flow in all their strength and permanence the countless benefits with which society abounds. As we are each of us admonished by the very voice of nature to worship God in piety and holiness, as the Giver unto us of life and of all that is good therein, so also, and for the same reason, nations and states (*populi et civitates*) are bound to worship Him; and therefore it is clear that those who would absolve society (*civilem communitatem*) from all religious duty act not only unjustly but also with ignorance and folly."

More instructive still is the Encyclical *Immortale Dei*, issued Nov. 1, 1885:

"As a consequence, the State (*civitas*), constituted as it is, is clearly bound to act up to the manifold and weighty duties linking it to God, by the public profession of religion. Nature and reason, which command every individual devoutly to worship God in holiness, because we belong to Him and must return to Him since from Him we came, bind also the civil community by a like law. For men living together in society are under the power of God no less than individuals are, and society, not less than individuals, owes gratitude to God, who gave it being and maintains it, and whose ever-bounteous goodness enriches it with countless blessings. Since, then, no one is allowed to be remiss in the service due to God, and since the chief duty of all men is to cling to religion in both its teaching and practice—not such religion as they may have a preference for, but the religion which God enjoins, and which certain and most clear marks show to be the only one true religion—it is a public crime to act as though there were no God. So, too, is it a sin in the State not to have care for religion, as a something beyond its scope, or as of no practical benefit; or out of many forms of religion to adopt that one which chimes in with the

fancy; for States are bound absolutely to worship God in that way which He has shown to be His will. All who rule, therefore, should hold in honour the holy Name of God, and one of their chief duties must be to favour religion, to protect it”

Later in the same Encyclical, Leo XIII cites as reprehensible the views:

“The State (*civitas*) does not consider itself bound by any kind of duty towards God. Moreover, it believes that it is not obliged to make public profession of any religion; or to inquire which of the very many religions is the only one true; or to prefer one religion to all the rest; or to show to any form of religion special favour; but, on the contrary, is bound to grant equal rights to every creed, so that public order may not be disturbed by any particular form of religious belief.”

Perhaps the most significant of all is the passage in the same Pontiff's Encyclical *Libertas humana*, 20 June 1888:

“This kind of liberty (liberty of cult), if considered in relation to the State, clearly implies that there is no reason why the State should offer any homage to God, or should desire any public recognition of Him; that no one form of worship is to be preferred to another, but that all stand on an equal footing, no account being taken of the religion of the people, even if they profess the Catholic faith. But, to justify this, it must needs be taken as true that the State has no duties towards God, or that such duties, if they exist, can be abandoned with impunity, both of which assertions are manifestly false. For it cannot be doubted but that, by the will of God, men are united in civil society; whether its component parts be considered; or its form, which implies authority; or the object of its existence; or the abundance of the vast services which it renders to man. God it is who has made man for society, and has placed him in the company of others like himself, so that what was wanting to his nature, and beyond his attainment if left to his own resources, he might obtain by association with others. Wherefore civil society (*civilis societas, quia societas est*) must acknowledge God as its Founder and Parent, and must obey and reverence His power and authority. Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of

action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engraven upon it.”

There is room for but one more relevant pronouncement of the Popes. Pius X wrote in his Encyclical *Vehementer nos*, 11 February 1906:

“That the State should be separated from the Church is an absolutely false and most pernicious thesis. For first, since it is based on the principle that religion should be of no concern to the State, it does a grave injury to God, He Who is the founder and conservator of human society no less than He is of individual men, for which reason He should be worshipped not only privately but also publicly.”

As I see it, these various papal pronouncements bear upon the State, *qua* State; not simply on “society” considered as the pre-political “matter” to which the State imparts a political “form”. The State, to which man’s God-given social nature impels him, is a creature of God, and as such is bound by the natural law to worship God, and in the way He wills. If this be conceded, it should not be necessary to pursue any further the significance of such papal utterances for the various points discussed in the previous section of this paper.¹³

NOTES

- ¹ TS, VI, June 1945, p. 266.
- ² L, p. 76.
- ³ TS, VI, p. 266.
- ⁴ CPP, p. 319.
- ⁵ TS, VI, p. 267.
- ⁶ CPP, p. 316.
- ⁷ AER, 123, 1950, pp. 165–8.
- ⁸ TS, X, June 1949, pp. 231–3.
- ⁹ AER, 123, 1950, p. 170.
- ¹⁰ *Ibid.*, 128, 1953, p. 323.
- ¹¹ *Ibid.*, p. 327.
- ¹² *Ibid.*, pp. 328–9.
- ¹³ AER, 123, 1950, pp. 170–3.

CHRIST THE KING

Msgr. Shea pointed out that although some of the reasons which prompted Pope Leo XIII to endorse the doctrine of "the religion of the State" may have been related to the particular historical circumstances of his epoch, nonetheless: "the Pope adduced at least one doctrinal reason, of permanent validity, for 'the religion of the State', and thereby taught the theological necessity of the latter. The reason? The State *qua* State must worship God because it is a creature of God."¹

Pope Leo XIII wrote in *Immortale Dei*:

For God alone is the true and supreme Lord of the world. Everything, without exception, must be subject to Him, and must serve Him, so that whosoever holds the right to govern, holds it from one sole and single source, namely God, the Sovereign Ruler of all.

In 1945 Fr. Murray accepted that the State has "the obligation to acknowledge God as its author, to worship Him as He wills to be worshipped, and to subject its official life and action to His law."²

Fr. Connell explained that the fundamental issue was not the obligation of states to obey the laws of the Catholic Church, but "the obligation of civil rulers in their official capacity to obey the divine positive law of Jesus Christ".³ He adds:

In other words, the real point at issue is not the relation between the State and the Catholic Church but rather the relation between the State and Christ the King.⁴

This is a point of crucial importance which must be borne in mind throughout this study. The obligations of the State to God, deriving from the rights of Christ the King, are quite independent of any particular historical circumstances which may have influenced the writing of a particular encyclical. In any case it is made clear in the citations from encyclicals quoted in the previous chapter that, as Cardinal Ottaviani demonstrated, the Popes were

laying down general principles *with a permanent validity*. These principles retain their validity no matter what may have been the circumstances which prompted particular encyclicals. The same argument of "historical conditioning" is used by Modernist biblical scholars to explain away sections of the Gospels which do not suit them, particularly the Infancy Narratives.

The doctrine of Christ the King was given new emphasis by Pope Pius XI in his encyclical *Quas primas* (1925). This is an extremely important but extremely neglected encyclical. Pope Leo XIII had taught clearly that the Kingdom of Christ embraces all men. In his encyclical *Annum Sacrum* of 25 May 1899, he wrote:

His empire includes not only Catholic nations, not only baptized persons who, though of right belonging to the Church, have been led astray by error, or have been cut off from her by schism, but also all those who are outside the Christian faith; so that truly the whole of mankind is subject to the power of Jesus Christ.

Commenting on this passage in *Quas primas*, Pope Pius XI taught:

Nor is there any difference in this matter between the individual and the family or the State; for all men, whether individually or collectively, are under the dominion of Christ. In Him is the salvation of the individual, in Him is the salvation of society. "Neither is there salvation in any other, for there is no other name under heaven given to men whereby we must be saved" (Acts 4:12). He is the author of happiness and true prosperity for every man and for every nation. "For a nation is happy when its citizens are happy. What else is a nation but a number of men living in concord?" (St. Aug., *Ep. ad Macedonium*, c.iii). If, therefore, the rulers of nations wish to preserve their authority, to promote and increase the prosperity of their people, they will not neglect the public duty of reverence and obedience to the rule of Christ. What We said at the beginning of Our Pontificate concerning the decline of public authority, and the lack of respect for the same, is equally true at the present day. "With God and Jesus Christ," We said, "excluded from political life, with authority derived not from God but from man, the very basis of that authority has been taken away, because the chief reason of the distinction between ruler and subject has been

eliminated. The result is that human society is tottering to its fall, because it has no longer a secure and solid foundation."

Fr. Connell emphasized the relevance of *Quas primas* to the question of a Catholic State in the AER in 1948. He explains the difference between the authority of the Church, which extends only to her members, and that of the authority of Christ the King which extends to all mankind. The Church's disciplinary laws are not binding upon non-Catholics: they are not bound by the laws of fasting and abstinence, for example. But the authority of Christ the King extends to all mankind. Fr. Connell writes:

But the doctrine that organized civil society, as well as every individual, is subject to the positive supernatural law of Christ as Man must be maintained in view of the clear pronouncements of the Pope. Even if Our Lord had not consigned His religion to a Church authorized by Him to incorporate all men into its membership, He would still be a King of all men and of all nations. In the words of St. John, Christ is "the ruler of the kings of the earth" (Apoc. 1:5).⁵

Thus states have an obligation to make their laws conform to the positive supernatural law of Christ, e.g., in forbidding divorce. Fr. Connell is quite adamant that "by the positive law of Christ the civil authority now possesses no power to grant any couple a divorce with a right to remarry."⁶

This is a view which has the full support of Pope Leo XIII:

We mean by the law of Christ, not only the natural precepts of morality or those which the ancients received from God, all of which Jesus Christ perfected and brought to their highest state, by declaring, interpreting and sanctioning, but also the rest of His teaching and all things expressly instituted by Him.

Then, after stating that all men are bound to accept the law of Christ as taught by the Catholic Church, the Pope continued:

⁵Fr. Connell cites Gasparri, *De Matrimonio* (Rome, 1923), II, n. 1136, as his authority for this claim.

What holds in respect to private individuals is almost the same in respect to empires; these necessarily fall into disastrous plights if they swerve from the *Way*. The Son of God, the Creator and also the Redeemer of human nature, is the King and Lord of the world, and holds supreme power over men, both as individuals and as united by law. . . . Therefore, the law of Christ must prevail in human association and in society so that it is the ruler and teacher, not only of private but also of public life.⁷

Fr. Connell, conforming to papal teaching, rejected the theory that the State should confine itself solely to the temporal good of its citizens. He uses the term society as equivalent to state, following the practice of Pope Leo XIII and other popes. As will be shown later, Fr. Courtney Murray's finalized theory made a distinction between society and state. Fr. Connell writes:

To avoid difficulties based on the accepted doctrine as to the end of civil society, we must distinguish carefully between the *natural* good of the citizens and their *temporal* good. The two terms are by no means synonymous. The direct purpose of civil society is, indeed, to promote the common *temporal* good—that is, the good of the citizens in the present life. But in view of the elevation of all men to the supernatural order, their temporal good embraces the practice of the supernatural virtues, as well as of the natural virtues. Hence, to promote the welfare of its citizens, a government must concern itself with their observance of the supernatural law of Christ as well as of the natural law. . . .

How is this doctrine to be applied in practice? Of course, in the concrete, the particular circumstances of time and place can greatly modify and restrict the manner and measure of the homage and obedience that a government can and should manifest to Christ the King. But here we are concerned with what *per se* is required for the fulfilment of this obligation. It is quite evident that, although "men joined in society are no less under the power of Christ than individuals," as Pope Pius XI expressed it, the parallel between personal and civic duties cannot be followed out in every respect. A government cannot be baptized, nor is it liable to eternal punishment. On the other hand, a government through its lawful rulers can express homage, it can adapt its legislation to the moral principles laid down by the Son of God. However, in its

supervision and regulation of the conduct of its citizens in relation to the law of Christ, the State must confine itself to matters that affect the common good.

The government has the obligation to express in some public manner its dependence on God and on Jesus Christ. A beautiful example of such an acknowledgment is found in the opening paragraph of the Constitution of Ireland: "In the name of the Most Holy Trinity, from whom is all authority and to whom, as our final end, all actions, both of men and states must be referred, we, the people of Eire, humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, etc." Furthermore, at least occasionally, there should be religious ceremonies at which the rulers will assist in their official capacity. These ceremonies should be in conformity with the belief and worship of the Catholic Church.

As Pope Leo XIII expressed it (in *Immortale Dei*):

"It is a sin in the State not to have care for religion, as something beyond its scope, or as of no practical benefit; or out of many forms of religion to adopt that one which chimes in with the fancy; for we are bound absolutely to worship God in that way which He has shown to be His will."

The civil rulers have the obligation to permit the Catholic Church to teach its doctrines to the people, whether baptized or unbaptized. In the event that the Gospel is being announced for the first time, the rulers have the right and the duty to investigate the claims of the preachers before giving positive approval. Since the Church received her commission to preach directly from Christ Himself, she has the right to announce her message in non-Christian lands whether the government consents or not. However, the usual procedure of missionaries to pagan lands has been to seek governmental confirmation of their mission, when it is prudently possible to follow this procedure.

The State is bound to promote religion. To quote Pope Leo XIII again (*Immortale Dei*):

"All who rule should hold in honour the holy name of God, and one of their chief duties must be to favour religion, to protect it, to shield it under the credit and sanction of the laws, and neither to organize nor enact any measure that may compromise its safety.

This is the bounden duty of rulers to the people over whom they rule. . . Wherefore, care must especially be taken to preserve unharmed and unimpeded religion, the practice of which is the link connecting man with his God.”⁸

NOTES

¹ AER, 123, 1950, p. 170.

² TS, VI, June 1945, p. 266.

³ AER, 125, 1951, p. 9.

⁴ Ibid.

⁵ AER, 119, 1948, p. 247.

⁶ Ibid, p. 250.

⁷ Encyclical Letter, *Tametsi futura*, 1 November 1900.

⁸ AER, 119, 1948, pp. 248-50.

THE CATHOLIC STATE AND HERESY

Msgr. Shea has already been quoted as showing that the teaching of the Popes and the representative Catholic authors is that:

In a Catholic society, it is incumbent upon the State to be a "Catholic State", to declare and to treat Catholicism as "the religion of the State" . . . How else could the State, *qua* State, in truth accept and profess Catholicism, together with its tenet that it alone is the true religion?¹

Msgr. Shea then went on to deal with the problem of minority religions within a Catholic State:

One must then face up to the problem of what ought to be the State's attitude toward, and dealings with, the heterodox: the problem of what "logical and juridical consequences", as regards sects, should flow from the situation of Catholicism as "the religion of the State". Before a further word is said on this subject, let it be noted at once that no Catholic holds or may hold that the State would be called upon to impose the Catholic faith on dissident citizens. Reverence for the individual conscience forbids this, and the very nature of religion and of the act of faith. If these be not voluntary they are nought.²

In support of this point Msgr. Shea quoted Pope Leo XIII in *Immortale Dei*:

The Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as St. Augustine wisely reminds us, "Man cannot believe otherwise than of his own free will."

The same passage is quoted by Fr. Connell who admits: "That some medieval princes transgressed this rule cannot be doubted; but their method was not in accordance with genuine Catholic principles."³

There is thus no divergence between the traditional view and that

of Father Murray as regards the first two of the four distinctions cited in Chapter III, i.e.:

1. No one must be forced to act against his conscience in private.

2. No one must be forced to act against his conscience in public.

Similarly, there is no difference of opinion on the third point:

3. No one must be prevented from acting in accordance with his conscience in private.*

Fr. Connell writes: "Similarly, the civil rulers should not prevent the *private* exercise of false religious cults, when no harm is thereby done to the public welfare."

Fr. Connell begins his next sentence with the word "but"—and it is a crucially important "but" as it marks the difference between the traditional papal teaching, as expounded by the representative authors in the approved manuals, and the Liberal view which Fr. Murray came to accept, and which influenced the teaching of *Dignitatis humanae*. Fr. Connell repeats the traditional teaching that an individual may be prevented from acting *in accordance with his conscience* in public should he wish to propagate heresy which would infringe the right of Catholic citizens in a Catholic State to the peaceful possession of their faith. What a man does in private affects only himself and his family, but when he acts in public the rights of other citizens are involved, as Fr. Connell explains:

But it is fully within their (civil rulers) right to restrict and to prevent public functions and activities of false religions which are likely to be detrimental to the spiritual welfare of the Catholic citizens or insulting to the true religion of Christ. Nowadays, it is true, greater evils would often follow such a governmental course of action than would ensue if complete tolerance were granted; *but the principle is immutable* (my emphasis).⁴

Writing in 1950, Msgr. Shea stressed that what is at issue here is a question of principle, i.e. "the relations which should *per se* obtain by reason of the nature of Church and State in a Catholic

* It is understood that the discussion here refers to the divine positive law and not to the natural law. The State has an obligation to forbid and punish breaches of the natural law whether committed in public or in private, e.g. incest.

society, so that any deviation from these relations, *while tolerable perhaps as a concession prompted by expediency, could not merit approval on principle*" (my emphasis).⁵

This corresponds precisely with the position which Pope Pius XII would adopt three years later (1953) in his discourse *Ci riesce*, which will be discussed later in this chapter. It is also identical with the teaching of Pope Leo XIII in *Libertas humana*:

While not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good.

In the same paragraph Pope Leo stressed that "the common good" is "the only legitimate reason" for the toleration of evil. There is not the least suggestion in the teaching of any pre-Vatican II pope that there could be a natural right on the part of any non-Catholic to propagate his errors in public, or not to be prevented from propagating them in public. The same can be said of the expositions of papal teaching found in the works of the "approved authors". It is evident that if non-Catholics possessed a natural right not to be prevented from propagating error, then such a right could not possibly be the subject of toleration. The State is bound in justice to accord to a citizen what he possesses as a right. It is only what cannot be demanded as a right that can be conceded as an act of toleration.*

*It would be contrary to natural justice to deny to anyone what is due to him as a right. The "object" of justice is *what is due to another* (*ius* in Latin). The "subject" of justice is *the person to whom it is due*. He who owes is bound to give what is due. This "binding" is called *obligation* or *duty*. *Ius* is translated into English as "right". "Right" and "duty" are thus correlative concepts. If non-Catholics have a right not to be prevented from propagating their errors in public in a Catholic State then the legislator has a duty in justice to permit this, and not simply to concede it as an act of toleration. No such right could exist, of course, because, as was explained in Chapter III, no right can exist in the face of a moral constraint. Every true right is a right to something *objectively good*. As Pope Leo stated, rights can be conceded only to "what is true and honest". There can never be a true right not to be prevented from diffusing error.

The distinction between what is accorded as a right and what is merely tolerated was made very clear by St. Thomas Aquinas. He repudiates the opinion that Jewish children should be baptized against their parents' wishes, because, among other reasons: "According to the natural law, a son, before coming to the use of reason, is under his father's care. Hence it would be contrary to natural justice, if a child, before coming to the use of reason, were to be taken away from its parents' custody, or anything done to it against its parents' wish."⁶ The right in this instance is a "right not to be prevented". Before God, no man has the right to believe in a false religion or to teach it, even to his own children, but the authority accorded to parents under the natural law means that non-Catholics have a right not to be prevented from bringing up their children according to their own beliefs.

Where the *public* celebration of the rites of unbelievers is concerned, St. Thomas does not speak of natural law, natural justice or of any rights on their part. He refers only to toleration. He explains that: "Hence, though unbelievers sin in their rites, they may be tolerated, either on account of some good that ensues therefrom, or because of some evil avoided." St. Thomas points out that as of old the Jewish rites foreshadowed the truth of the faith which we hold, they still represent our faith "in a figure, so to speak". St. Thomas adds that there are rites of other unbelievers which should by no means be tolerated, but even here he makes an exception if toleration is demanded by the common good, and he gives as possible reasons for toleration: ". . . the scandal or disturbance that might ensue, or some hindrance to the salvation of those who if they were unmolested might gradually be converted to the faith. For this reason the Church, at times has tolerated the rites even of heretics and pagans, when unbelievers were very numerous."⁷

The teaching of St. Thomas is echoed in the *Dictionnaire de Théologie Catholique* in its article "Liberté". It explains that even in a country where Catholicism is established as the religion of the State, the legislator can, where sufficiently grave motives exist, allow members of certain non-Catholic cults to practise their faith freely in

public. This means that the members of these cults would possess a civil "right not to be prevented" (*de n' être pas empêché*) from acting in public, but this is simply a question of a civil right accorded to avoid some evil or gain some greater good. Thus, although there is a legitimate use of the term "right not to be prevented from acting in public", where non-Catholic cults are concerned, this can only refer to a civil right granted to them as a concession, and not to a natural right to which they can lay claim as an act of natural justice.

This form of liberty or *civil* tolerance of certain cults is not due to them in justice, *in their capacity as cults*, because these cults are founded on error, and every right is founded on truth; but this liberty or tolerance is conceded to them either to obtain a greater good or to prevent a greater evil.⁸

As will be made clear in subsequent chapters, it is hard to see how the distinction between what is accorded as a right and what is merely tolerated can be reconciled with the teaching of Article 2 of *Dignitatis humanae*. The Declaration does not so much as mention the word "toleration", and refers to religious liberty in the external forum for all religions not simply as a *civil* right, but as a right that "has its foundation in the very dignity of the human person." If the teaching of Vatican II is correct, then this right must always have existed and not only has a long line of Popes, in common with St. Thomas Aquinas, taught a doctrine that is false, but non-Catholics have frequently been deprived of what was due to them as a natural right.

Father Connell made it clear that there is no doubt whatsoever concerning the right of a Catholic State to repress the public expression of heresy:

The State has the right of repression and limitation (although often it is not expedient to use it) when error is doing harm to the spiritual interests of the Catholic citizens. For the spiritual welfare of the citizens (which in the present order is supernatural) pertains to their temporal well-being. Hence, just as the State can prohibit

people from preaching the doctrine of free love, so it can prohibit them from preaching, to the detriment of Catholic citizens, the doctrine that Christ is not present in the Holy Eucharist.⁹

Msgr. Shea's exposition of the traditional teaching concurs with that of Fr. Connell:

Would the Catholic State be under moral obligation (*per se*—as was stated at the very outset, our whole discussion has been moving at the level of principles) to restrict sects in such matters as the public profession and exercise of their false religion, in their propaganda, the spread of their heretical doctrines?

It is no secret that the defenders of the "old thesis" answer in the affirmative. They consider such action by the State inherent in the logic of the State's duty to accept and profess Catholicism, a necessary consequence of the situation of Catholicism as "the religion of the State". And that it was the mind of Pius XI that "the religion of the State" entailed some manner of sectarian restriction, is candidly acknowledged by Fr. Murray. To counter certain utterances of Mussolini anent the import of the Lateran Pacts (Treaty and Concordat), the Pope, in his letter of 30 May 1929, to Cardinal Gasparri, published in *L'Osservatore Romano* on 5 June 1929—two days before the formal ratification of the Lateran Pacts—forcefully insisted that it be "clearly and loyally understood that the Catholic religion, and it alone, according to the Statute and the Treaties, is the religion of the State with the logical and juridical consequences of such a situation of constitutional law, especially with reference to propaganda"; and the Pope went on to add that full liberty of discussion is inadmissible, since some forms of discussion can easily trick unenlightened minds and become a cloak for harmful propaganda.¹⁰

Msgr. Ryan had pointed out in the two editions of his book that:

If there is only one true religion, and if its possession is the most important good in life for states as well as individuals, then the public profession, protection, and promotion of this religion and the legal prohibition of all direct assaults upon it, become one of the most obvious and fundamental duties of the State. For it is the business of the State to safeguard and promote human welfare in all departments of life.¹¹

Msgr. Ryan is taking it for granted that the State has a duty to promote the common good of its citizens, which includes more than their temporal good. It must therefore regulate its laws in accordance with the common good and not simply public order.

Fr. Murray himself had once accepted and taught the traditional doctrine that "the State has the obligation directly to promote public religion and morality as essential elements of the common good."¹² This included: ". . . the right to restrict by juridical process the spread of opinions, and to prohibit external actions, that tend to destroy in the community belief in God and fidelity to moral standards. . . ."¹³

An example of the traditional teaching ("the thesis") appeared in the Italian Jesuit review, *La Civiltà Cattolica*, in April 1948. This journal reflected Vatican thinking even more accurately than *L'Osservatore Romano*.

The Roman Catholic Church, convinced through its divine prerogatives, of being the only true church, must demand the *right to freedom for herself alone*, because such a right can only be possessed by truth, never by error. As to other religions, the Church will certainly never draw the sword, but she will require that by legitimate means they shall not be allowed to propagate false doctrine. Consequently, in a State where the majority of the people are Catholic, the Church will require that legal existence be denied to error, and that if religious minorities actually exist, they shall only have a *de facto* existence, without *opportunity* to spread their beliefs (my emphasis).

The right of the Catholic State to restrict the propagation of heresy derives from a principle firmly established in Catholic theology that "error has no rights". Pope Leo XIII had taught in *Immortale Dei* that it is not lawful to grant false religions the same rights as the true religion.

Pope Pius XII taught in his discourse *Ecco che già un anno*, of 6 October 1946, that:

The Catholic Church, as We have already said, is a perfect society

and has as its foundation the truth of Faith infallibly revealed by God. For this reason, that which is opposed to this truth is, necessarily, an error, and *the same rights which are objectively recognized for truth cannot be afforded to error*. In this manner, liberty of thought and liberty of conscience have their essential limits in the truthfulness of God in Revelation (my emphasis).

Msgr. Ryan explained:

Since the profession and practice (of error) are contrary to human welfare, how can error have rights? As we have already pointed out, the men who defend the principle of toleration for all varieties of religious opinion, assume either that all religions are equally true (religious indifferentism) or that the true cannot be distinguished from the false (relativism). On no ground is it logically possible to hold the theory of indiscriminate and universal toleration.¹⁴

Fr. Murray accepted this teaching in 1945 and stated it correctly:

An erroneous conscience creates no rights, as against a legitimate order of law. It is a valid principle of liberty only in the internal forum of private morality, where the law is simply that conscience must be obeyed. But it is not a valid principle in the external forum of the social and juridical order, where there is also another law to be considered.¹⁵

Fr. Murray is here explaining with admirable clarity a principle firmly established in Catholic theology, that a person has an obligation to act in accordance with what he sincerely believes to be the truth. The obligation to follow an invincibly ignorant conscience is as binding as that of following an objectively correct conscience. Thus a Protestant who was honestly convinced that the doctrine of Christ's Real Presence in the Eucharist was false, and that those who adored the Blessed Sacrament committed idolatry, would actually sin if, for example, he attended Mass to win the approval of his Catholic neighbours. He would be obliged in conscience not to be present at Mass or Benediction. But, as Fr. Murray explained, this is a personal obligation binding only the

person concerned "in the internal forum of private morality". The Protestant's concept of the truth is purely subjective. It is erroneous, and although creating rights and obligations within the sphere of subjectivity, it does not extend beyond this sphere. It does not extend, as Fr. Murray stated: "to the external forum of the social and juridical order, where there is another law to be considered." Our Protestant has the right not to be coerced into attending Mass, but he has no right, in a Catholic country, to stand up in public and outrage his Catholic neighbours by accusing them of the sin of idolatry whenever they assist at Mass. This is a principle which no one would contest in the secular sphere. A teacher who believed that the earth was flat would soon find himself in trouble if he began teaching this to his pupils. Partisans of racial prejudice may sincerely believe in their pernicious theories, but in Britain they can rightly be prosecuted for preaching racial hatred in public.

Msgr. Ryan pointed out that:

The fact that an individual may in good faith think that his false religion is true gives no more right to propagate it than the sincerity of the alien anarchist entitles him to advocate his abominable political theories in the United States, or the perverted ethical notions of the dealer in obscene literature confer upon him the right to corrupt the morals of a community.¹⁶

Commenting upon *Immortale Dei*, Msgr. Ryan insisted that the propagation of false doctrine among Catholics "could become a source of injury, a positive menace, to the religious welfare of true believers". He concluded that "against such an evil they have a right of protection by the Catholic State" on the grounds that "this propaganda is harmful to the citizens and contrary to public welfare," that "it is not among the natural rights of the propagandists" because "rights are means to rational ends," and "no rational end is promoted by the dissemination of false doctrine."¹⁷

Thus in Malta before Vatican II, Jehovah's Witnesses were not allowed to proselytise. Now Maltese who have apostatized in such countries as Australia and the U.S.A. are coming back in large

numbers and systematically visiting every home on the island, persuading thousands of Catholics to join this pernicious sect.

Fr. Connell has commented upon what is probably the most important statement on the repression of public heresy made since the Second World War, the discourse *Ci riesce* which Pope Pius XII delivered to the National Convention of Italian Catholic Jurists on 6 December 1953. Fr. Connell noted that in this discourse the Pope made the crucial distinction between what a state has a right to do and what it has an obligation to do:

The Pope did not say that it is *always wrong* for a government to repress religious error, though he condemned the view that it is *always obligatory* for a government to adopt the policy of repression. In other words, in certain circumstances, when a greater good can thus be procured, toleration of false religions will be advisable, even when restrictions of them could be *per se* exercised. This point the Sovereign Pontiff then added: "The duty of repressing moral and religious error cannot therefore be the ultimate norm of action. It must be subordinated to higher and more general norms, which in some circumstances permit, and even perhaps seem to indicate as the better policy, toleration of error to promote a greater good."¹⁸

Fr. Connell is explaining here that, in accordance with the traditional view, Pope Pius XII is making the common good the ultimate norm by which the State must regulate itself. Sometimes the common good will be advanced by the repression of public heresy, sometimes it could be harmed. But the toleration of error on grounds of expediency does not affect the principle that the State has *the right* to repress heresy in the external forum.

It would be useful here to deal with an objection raised by Fr. Murray against the principle that "Error has no rights". He pointed out that error is an abstraction and hence cannot have rights, "rights are predicated only of persons or of institutions". He claimed that the formula "Error has no rights" is meaningless.¹⁹

This is very specious reasoning. The formula is just a convenient way of stating that persons holding erroneous beliefs do not possess a natural right to propagate them in public. Fr. Connell

dealt with this argument in 1964 in an article in the AER in which he expressed his firm conviction that Vatican II would *not* reverse the traditional teaching that a Catholic State has the right to restrict the propagation of error in the external forum. Referring to the discourse *Ci riesce* of Pope Pius XII, he commented:

The Pope made no mention of any *rights* on the part of non-Catholic citizens to enjoy complete religious liberty in a Catholic land. On the contrary he said: "That which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread, or to be activated." Some have tried to argue that while error has no rights, persons inculpably holding erroneous doctrines have the right to hold them. But it must be borne in mind that error can be believed, spread, and activated only by persons, and so it is difficult to see what it would mean to say "Error has no right to be spread" if one held at the same time "Persons can have a right to spread error"—that is if "right" be taken in the same sense in both statements . . . How can one have a genuine right to believe, to spread or to practise what is objectively false or morally wrong? For a genuine right is based on what is objectively true and good.²⁰

Father Connell could hardly have made it more clear that no genuine right to spread error can possibly exist since the object of a genuine right must be something that is objectively good. It was made clear in Chapter III that no genuine right can exist in the face of a moral constraint, and the spreading of religious error must inevitably be subject to such constraint. No Pope has ever so much as suggested that any right not to be prevented from spreading error could possibly exist in the case of the person spreading it. Every encyclical of every Pope who has written on the subject can be searched, and no hint of such a suggestion will be found.

There is a right to tolerate error in the external forum, but there is no right to be tolerated. Let us examine this distinction in the light of the explanation of a right given in Chapter III.

In the case of toleration the subject of the right is the governing authority within the Catholic State, the term ruler will be used for the sake of convenience. The object of the right to tolerate is the public good, the temporal welfare of the citizens, but, as was

made clear in Chapter IV, the State has a duty to do all in its power to help the citizens attain their ultimate purpose, eternal happiness in heaven. Pope Leo XIII explained in *Libertas humana*:

For public authority exists for the welfare of those whom it governs; and although its proximate end is to lead men to the prosperity found in this life, yet, in so doing, it ought not to diminish, but rather to increase, man's capability of attaining to the supreme good in which his everlasting happiness consists: which never can be attained if religion be disregarded.

The ruler must, then, decide whether the common good will be best served repressing or tolerating the spread of heresy. He will bear in mind the teaching of *Libertas humana* that "lying opinions . . . should be diligently repressed by public authority, lest they insidiously work the ruin of the State," and that:

To judge aright, we must acknowledge that the more a state is driven to tolerate evil the further is it from perfection; and that the tolerance of evil which is dictated by political prudence should be strictly confined to the limits which its justifying cause, the public welfare, requires.

The words "political prudence" are the essential ones. The subject of the right to tolerate, the ruler, will decide whether to exercise *his* right to do so on the grounds of political prudence. He may conclude that the decision to repress the spread of error could result in serious breaches of the public peace and that, therefore, the public good, the object of the right, will be better served by toleration. But the ruler will not make his decision in response to some so-called right to be tolerated on the part of those spreading error as no such right can possibly exist. A simple analogy should make this clear. In England, magistrates frequently do no more than caution first offenders who have been found guilty of a minor crime, but this does not mean that any right not be fined or sent to prison exists on the part of the felons. The right to punish or caution belongs solely to the magistrate.

The criterion most likely to influence the ruler of a Catholic

State to tolerate the public diffusion of error would be that its repression could lead to a breach of the public peace (public order). There is no justification whatsoever for transposing this criterion to claim that if the public diffusion of error was not likely to lead to a breach of the public peace, then the ruler would have a duty to tolerate it. The opposite is true. If the probability of a breach of public order justifies toleration, then the absence of such a probability must evidently justify repression, bearing in mind the teaching of Pope Leo XIII that the overriding criterion in the question of toleration is the common good ("public welfare"), and that "the more a state is driven to tolerate evil the further is it from perfection."

NOTES

- ¹ AER, 123, 1950, pp. 167-8.
- ² *Ibid.*, p. 168.
- ³ AER, 119, 1948, p. 250.
- ⁴ *Ibid.*
- ⁵ AER, 123, 1950, p. 161.
- ⁶ ST, II, II, Q. 10, art. 12.
- ⁷ *Ibid.*, art. 11.
- ⁸ DTC, vol. IX, col. 701.
- ⁹ "Discussion of Governmental Repression of Heresy", *Proceedings of The Catholic Theological Society of America*, III (March 1949), pp. 98-101.
- ¹⁰ AER, 123, 1950, pp. 168-9.
- ¹¹ CPP, p. 319.
- ¹² TS, VI, June 1945, p. 267.
- ¹³ *Ibid.*
- ¹⁴ CPP, p. 36.
- ¹⁵ TS, VI, p. 262.
- ¹⁶ CPP, pp. 317-18.
- ¹⁷ *Ibid.*
- ¹⁸ AER, 151, 1964, p. 128.
- ¹⁹ *Proceedings*, III, (June 1949), p. 33.
- ²⁰ AER, 151, 1964, p. 128.

VII

THE POPES SPEAK

The fidelity with which the authors cited in the previous chapter have interpreted papal teaching can be demonstrated by citing some further statements by the Popes themselves. It will be seen that, if anything, these theologians have explained the papal teaching in somewhat muted tones.

In 1814, Pope Pius VII wrote to Msgr. de Boulogne, Bishop of Troyes, expressing his pleasure at the fact that King Louis XVIII had been restored to the throne of his ancestors. But the Pope was profoundly shocked by Article 22 of the new Constitution:

Our heart is even more deeply afflicted by a new cause of sorrow which, We admit, torments Us, and gives rise to profound dejection and extreme anguish: it is Article 22 of the Constitution. Not only does it permit the liberty of cults and of conscience, to cite the very terms of the article, but it promises support and protection to this liberty and, moreover, to the ministers of what are termed the cults. When addressing a bishop of your qualities it will certainly not require a lengthy explanation to make clear the mortal nature of the wound which this article will impart to the Catholic religion in France. This law does more than establish liberty for all the cults without distinction, it mingles truth with error and places heretical sects and even Judaism on equal terms with the holy and immaculate Bride of Christ outside which there can be no salvation. In addition to this, in promising favour and support to heretical sects and their ministers it is not simply their persons but their errors which are favoured and tolerated. This is implicitly the disastrous and ever to be deplored heresy which St. Augustine describes in these terms: "It claims that all heretics are on the right path and speak the truth. This is so monstrous an absurdity that I cannot believe that any sect could really profess it."¹

In his encyclical *Mirari vos* (1832), Pope Gregory XVI warned against the danger of indifferentism:

We come now to another cause, alas! all too fruitful of the deplorable ills which today afflict the Church. We mean indifferentism, or that widespread and dangerous opinion sown by the perfidy of the wicked, according to which it is possible, by the profession of some sort of faith, to procure the soul's salvation, provided that one's morals conform to the norms of justice and probity.

The Pope went on to explain that:

From this poisoned source of indifferentism springs that false and absurd maxim, better termed the insanity (*deliramentum*), that liberty of conscience must be obtained and guaranteed for everyone. This is the most contagious of errors, which prepares the way for that absolute and totally unrestrained liberty of opinions which, for the ruin of Church and State, is spreading everywhere and which certain men, through an excess of impudence, do not fear to put forward as advantageous to religion. Ah, "What more disastrous death for souls than the liberty of error," said St. Augustine. In seeing thus the removal from men of every restraint capable of keeping them on the paths of truth, led as they already are to their ruin by a natural inclination to evil, We state in truth that the pit of hell is opened from which St. John depicted a smoke which obscured the sun and from which locusts emerged to devastate the earth. This is the cause of the lack of intellectual stability; this is the cause of the continually increasing corruption of young people; this is what causes people to despise sacred rights, the most holy objects and laws. This is the cause, in a word, of the most deadly flail which could ravage states; for experience proves, and the most remote antiquity teaches us, that in order to bring about the destruction of the richest, the most powerful, the most glorious, and the most flourishing states, nothing is necessary beyond unrestricted liberty of opinion, that freedom of public expression, that infatuation with novelty.

In the second half of the twentieth century, the absolute liberty of expression condemned by Pope Gregory XVI has been elevated to the status of the supreme good in the so-called free countries, and the result is turning out to be exactly what he predicted. If Western civilization is destroyed it will have been from within, not from without.

In a defence of the encyclical *Quanta cura* of Pope Pius IX, Cardinal Newman referred specifically to Pope Gregory XVI's condemnation of the modern liberties as "the insanity" (*deliramentum*), the passage just cited having been quoted in *Quanta cura*. The Cardinal wrote:

The condemned proposition speaks as follows: "1. Liberty of conscience and worship is the *inherent right* of all men. 2. It ought to be proclaimed in *every* rightly constituted society. 3. It is a right to *all sorts of liberty* (*omnimodam libertatem*) such, that it ought not to be restrained by any authority, ecclesiastical or civil, as far as public speaking, printing, or any other public manifestation of opinions is concerned."

Now, is there any government on earth that could stand the strain of such a doctrine as this? It starts by taking for granted that there are certain Rights of Man; Mr. Gladstone so considers, I believe; but other deep thinkers of the day are quite of another opinion; however, if the doctrine of the proposition is true, then the right of conscience, of which it speaks, being inherent in man, is of universal force—that is, all over the world—also, says the proposition, it is a right which must be recognized by all rightly constituted governments.

Lastly, what is the right of conscience thus inherent in our nature, thus necessary for all states? The proposition tells us. It is the liberty of *every* one to give *public* utterance, in *every* possible shape, by *every* possible channel, without *any* let or hindrance from God or man, to *all* his notions *whatsoever*.

Which of the two in this matter is peremptory and sweeping in his utterance, the author of this thesis himself, or the Pope who has condemned what the other has uttered? Which of the two is it who would force upon the world a universal? All that the Pope has done is to deny a universal, and what a universal! a universal liberty to all men to say out whatever doctrines they may hold by preaching, or by the press, uncurbed by Church or civil power. Does not this bear out what I said in the foregoing section of the sense in which Pope Gregory denied a "*liberty of conscience*"? It is a liberty of self-will. What if a man's conscience embraces the duty of regicide? or infanticide? or free love? You may say that in England the good sense of the nation would stifle and extinguish such

atrocities.* True, but the proposition says that it is the very right of every one, by nature, in *every* well constituted society. If so, why have we gagged the press in Ireland on the ground of its being seditious? Why is not India brought within the British Constitution? It seems a light epithet for the Pope to use when he calls such a doctrine of conscience *deliramentum*: of all conceivable absurdities it is the wildest and most stupid.²

In his encyclical *Qui pluribus*, Pope Pius IX condemned as a monstrous error the theory that equal rights in the public forum should be accorded to all cults. It was, he insisted, one of the "monstrous errors which the children of this century employ to wage so unrelenting a war against the Catholic religion, the divine authority of the Church and her laws, and to trample underfoot the rights of both civil and ecclesiastical authority."

The Pope added that:

Such is the objective of this appalling system of indifference towards all religion, which is absolutely opposed to the light of reason itself. In this fearful system, the apostles of error suppress every distinction between virtue and vice, between truth and error, between honesty and baseness. It alleges that men can obtain eternal salvation through any religion, whatever it is, as if there could ever be harmony between justice and iniquity, between light and darkness, between Christ and Belial.

The most authoritative papal pronouncement on freedom of conscience and the liberty of cults is the encyclical *Quanta cura* of Pope Pius IX (1864). A consensus of sound theological opinion has not hesitated to classify this encyclical as an infallible pronouncement. This is demonstrated in Appendix II. However, even if not infallible, the authority of this encyclical is such that no Catholic could reject its teaching without the greatest temerity. This is also the case with the *Syllabus of Errors* which it had accompanied. It is even more the case in view of the fact that in this

*Not even the realist Newman anticipated that within little more than a century the British Government would provide free contraceptives even for schoolgirls and have an Abortion Act making infanticide respectable.

encyclical Pope Pius IX was reiterating the consistent teaching of his predecessors and that, in turn, the teaching of *Quanta cura* was endorsed by subsequent popes. As is shown in Appendix I, doctrinal teaching can attain infallible status simply by being repeated by successive popes within the scope of their Ordinary Magisterium.

The key section of *Quanta cura* condemns those holding the following propositions:

Contrary to the teachings of the Holy Scriptures, of the Church, and of the holy Fathers, these persons do not hesitate to assert, that "the best condition of human society is that wherein no duty is recognized by the government of correcting, by enacted penalties, the violators of the Catholic Religion, except when the maintenance of the public peace requires it." From this totally false notion of social government, they fear not to uphold that erroneous opinion most pernicious to the Catholic Church, and to the salvation of souls, which was called by Our Predecessor, Gregory XVI (lately quoted) the insanity (*deliramentum*): namely, "that the liberty of conscience and of worship is the peculiar (or inalienable) right of every man, which should be proclaimed by law, and that citizens have the right to all kinds of liberty, to be restrained by no law, whether ecclesiastical or civil, by which they may be enabled to manifest openly and publicly their ideas, by word of mouth, through the press, or by any other means."

Quanta cura was issued together with the *Syllabus of Errors*. There is certainly no document more relevant to the present situation of the Church than the *Syllabus* regarding contemporary errors in theology, Scripture studies, or social teaching. The following are among the propositions condemned by the *Syllabus*:

15. Every man is free to embrace and profess that religion which, guided by the light of reason, he shall consider true.
55. The Church ought to be separated from the State, and the State from the Church.
77. In the present day it is no longer expedient that the Catholic religion should be held as the only religion of the State, to the exclusion of all other forms of worship.

78. Hence it has been wisely decided by law, in some Catholic countries, that persons coming to reside therein shall enjoy the public exercise of their own peculiar worship.

79. Moreover, it is false that the civil liberty of every form of worship, and the full power, given to all, of overtly and publicly manifesting any opinions whatsoever and thoughts, conduce more easily to corrupt the morals and minds of the people, and to propagate the pest of indifferentism.

There is a fashionable opinion that the *Syllabus* can be ignored today. Nothing could be further from the truth. The precise nature of its authority is discussed together with that of *Quanta cura* in Appendix II. What is quite certain is that, whether infallible or not, all Catholics are bound to assent to the *Syllabus*, holding the opposite of the condemned propositions. Exteriorly they may neither in word nor in writing oppose its content and they must also assent to it interiorly.³

In his encyclical *Libertas humana*, Pope Leo XIII condemns:

. . . that liberty in individuals which is so opposed to the virtue of religion, namely, the *liberty of worship*, as it is called. This is based on the principle that every man is free to profess as he may choose any religion or none. . . . This kind of liberty, if considered in relation to the State, clearly implies that there is no reason why the State should offer any homage to God, or should desire any public recognition of Him; that no one form of worship is to be preferred to another, but that all stand on an equal footing, no account being taken of the religion of the people, even if they profess the Catholic faith. . . . Civil society must acknowledge God as its Founder and Parent, and must obey and reverence His power and authority. Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges.

The view that the State does not have the right to suppress heresy in the external forum (except in the interests of public peace) has then, no support at all in papal teaching. Indeed, the

liberty of cults, the belief that the State must accord equal freedom to truth and error, has been condemned frequently and forcefully. Pope Pius VII termed it "a disastrous and ever-to-be-deplored heresy" (Letter to Msgr. de Boulogne); Pope Gregory XVI termed it "the insanity" (*Mirari vos*); Pope Pius IX termed it "a monstrous error" (*Qui pluribus*); "most pernicious to the Catholic Church, and to the salvation of souls" (*Quanta cura*); "the liberty of perdition" (*Quanta cura*); something which will "corrupt the morals and minds of the people" (*Syllabus*); something which propagates "the pest of indifferntism" (*Syllabus*); Pope Leo XIII termed it "a public crime" (*Immortale Dei*); "atheism, however it may differ from it in name" (*Immortale Dei*); "contrary to reason" (*Libertas humana*).

NOTES

¹ H. Hello, *Les Libertés Modernes d'après les encycliques* (Brussels, 1911), pp. 30-1.

² J.H. Newman, *Certain Difficulties felt by Anglicans in Catholic Teaching* (London, 1876), pp. 273-5.

³ CE, vol. XIV, p. 368, col. 2.

VIII

THE COMMON GOOD

During the course of this study it will be necessary to make an important distinction between “public order” and “the common good”. It has been the consistent teaching of the Popes that the common good is the ultimate norm by which states must be regulated. The common good is sometimes referred to as the public good or public welfare. Fr. Connell writes:

To avoid difficulties based on the accepted doctrine as to the end of civil society, we must distinguish carefully between the *natural* good of the citizens and their *temporal* good . . . that is, the good of the citizens in the present life. But in view of the elevation of all men to the supernatural order, their temporal good embraces the practice of the supernatural virtues, as well as of the natural virtues. Hence, to promote the welfare of its citizens, a government must concern itself with their observance of the supernatural law of Christ as well as of the natural law.¹

Thus the general well-being is the highest end of a political society, and this general well-being involves the establishment and maintenance of the general welfare—the peaceful ordering of human affairs according to the common good of the body politic. The common good of the citizens includes their spiritual as well as their temporal welfare and in Catholic States this includes the right to protection against false ideas which endanger souls. Everyone accepts that the State should restrict the circulation of dangerous drugs which destroy the body—how much more important it is to restrict the circulation of false teaching which can destroy the soul.

St. Thomas Aquinas summed up the fundamental principle upon which the traditional Catholic teaching on Church and State is based when he wrote: *Finis autem humanae vitae et societatis est Deus*—“Now the end of human life and society is God.”² The State, therefore, has no right to be “secular”. It must, as a State, recognize the Kingship of Jesus Christ and do Him homage; and, of

course, so act that there is no contradiction between the laws it passes and the laws of God. Once it has been accepted that the end of the State involves more than the temporal welfare of the citizens, "one must also accept that it is bound to embrace and profess a particular religion, and it must conform its social acts to its prescriptions All the rulers and members of a society have obligations towards God not simply as private persons but as public persons, and in consequence are bound to offer to God in public the worship which is due to Him."³

Pope Leo XIII teaches in *Libertas humana* that the one religion that the State must profess must be the one religion which is true, and which can be recognized easily, especially within Catholic States. Pope Leo insisted that:

Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges.

St. Pius X termed the separation of Church and State "an absolutely false and most pernicious thesis" (see page 36). In *Quas primas*, Pope Pius XI insisted that:

Nor is there any difference in this matter between the individual and the family or the State; for all men, whether individually or collectively, are under the dominion of Christ.

However, as was shown earlier when citing the discourse *Ci riesce* of Pope Pius XII, the right to repress heresy does not entail an obligation to do so. Just as the common good can demand that the State acts in this way it can also demand that it does not. Less harm may accrue through tolerating the public expression of heresy than by repressing it. At the present day this would be the case in most countries. It has also been the case in the past. The revocation of the Edict of Nantes by Louis XIV was a step which he had the legal right but not the obligation to take. The persecution of Protestants which followed was certainly injurious to the common good, and permanently damaged the French Church. The rise of Liberal Catholicism in France is directly related to some of the unfortunate results of the revocation.

It is worth repeating that, as Msgr. Ryan stressed, the Catholic doctrine on Church and State has full relevance "only to the completely Catholic State."⁴ He defined such a state to be "a political community that is either exclusively, or almost exclusively, made up of Catholics."⁵

The Church has always been aware that in politics the ideal is not always possible. The ideal situation, often referred to as the thesis (*in thesi*), i.e. when pure Catholic principles can be applied, involves a legal form of Church-State relation, often characterized as the union of Church and State. The Catholic Church is recognized as the one true Church, she is accorded privileges, all public religious ceremonies are conducted according to her rites, and members of sects can practise their religion only in private. This can involve what Msgr. Shea terms "the private external exercise of their religion,"⁶ i.e. they can meet together for corporate religious worship and possess their own schools, providing that this is done with discretion and involves no public display or attempts at proselytizing among the Catholic population. This was the practice in Spain and Malta until the traditional position was abandoned after the Second Vatican Council. Msgr. Ryan explained that a Catholic State could allow sects only such worship as is "carried on within the family, or in such an inconspicuous manner as to be an occasion neither of scandal nor of perversion to the faithful."⁷

When pure Catholic principles cannot be applied, i.e. in *hypothesi*, various less than ideal Church-State relations may be tolerated as a lesser evil. Error can be tolerated only because overt attempts to suppress it could entail an even greater evil. In order to avoid civil war, King Henry IV of France conceded to French Protestants the right to practise their religion publicly. His wisdom in doing so was made clear by the harm done when Louis XIV revoked the concession. The Church sometimes considers it expedient to permit in practice what cannot be condoned in principle. This does not compromise the principle that, as the one true Church founded by Jesus Christ, the Catholic Church alone has the right to full religious liberty. The Church does not abandon this right, but

simply acquiesces to situations of fact until a more opportune time. The teaching of the Church as regards the toleration of error is explained very clearly by the papal teaching cited in Chapter VI.

In states where Catholics are in a minority they are to ask for complete religious liberty in the internal and external fora. This has led to a charge that the Church applies double standards. On the contrary, as the one true Church, and the only religion entitled to unrestricted public religious freedom, her position is entirely reasonable. Cardinal Ottaviani dealt with this point in the AER in May 1953:

But now it is time to answer another question, or rather, a difficulty, so specious that at first sight it may seem insoluble.

At this point the objection is raised: you maintain two different standards or norms of action according to what is expedient for you. In a Catholic country you uphold the idea of a confessional state, with a duty of exclusive protection for the Catholic religion. On the other hand, where you constitute a minority, you claim the right to tolerance or frankly to the equality of cults. Hence for you there are two standards or two measures. This is proposed as a truly embarrassing duplicity from which those Catholics who take the actual developments of civilization into account want to be freed.

But it is not a question of that. It is a question of a different situation.

Men who perceive themselves to be in sure possession of the truth and of justice are not going to compromise. They demand full respect for their rights. How, on the other hand, can those who do not perceive themselves secure in the possession of truth claim to hold the field alone, without giving a share to the man who claims respect for his own rights on the basis of some other principle?

The concept of equality of cults and of tolerance is a product of free-thinking and of the multiplicity of religious professions. It is a logical consequence of the opinions of those men who hold, on the matter of religion, that there is no place for dogmas and that only the conscience of individual persons may give the criterion and standard for the profession of faith and the exercise of worship. In that case, in those countries where such theories flourish, what wonder is it that the Catholic Church seeks to have an opportunity to carry out its divine mission and strives to have recognized those

rights which it can claim as a logical consequence of the principles inherent in the legislation of those countries?

It would prefer to speak and to advance its claims in the name of God. But, among those peoples, the exclusiveness of its mission is not recognized. In such a case it is content to advance its claims in the name of that tolerance, of that equality, and of those common guarantees by which the legislation of the countries in question is inspired.

It ought not to be considered strange that the Church appeals at least to the rights of man, when the rights of God are not recognized.

It did this in the first centuries of Christianity, in the face of the empire and of the pagan world. It continues to do this today, especially where every religious right is denied, as in the nations under Soviet domination.⁸

NOTES

¹ AER, 119, 1948, p. 248.

² ST, II, I, Q. 100, art. 6.

³ DTC, vol. IX, col. 700.

⁴ CPP, p. 319.

⁵ *Ibid.*

⁶ AER, 123, 1950, p. 168.

⁷ CPP, p. 317.

⁸ AER, 128, 1953, pp. 329-30.

IX

THE LIBERAL POSITION

The Liberal position could be more accurately termed the anti-Catholic position. In his encyclical *Humanum genus*, Pope Leo XIII wrote:

After the human race, through the envious efforts of Satan, had had the misfortune to turn away from God, Who had created it and bestowed on it the Supernatural Life of Grace and other heavenly gifts, it became divided into two distinct and mutually hostile camps. One of these steadily combats for truth and virtue, the other for all that is opposed to virtue and truth. The former is the Kingdom of God on earth, namely the True Church of Jesus Christ, and all who wish to belong to it sincerely and in a manner worthy of salvation must serve God and His Only-Begotten Son with all the vigour of their minds and all the strength of their wills. The latter is the kingdom of Satan, under whose sway and in whose power are all those who, following the baneful example of their leader and of our first parents, refuse to obey the divine and eternal law, and in many ways either show contempt for God or openly revolt against Him.

The Pope warned that "the partisans of evil" were drawing closer together and "planning the utter destruction of Holy Church publicly and openly, with the intention of completely despoiling the Christian nations of the benefits procured for them by Jesus Christ, Our Saviour, if that were possible."

Pope Leo noted that the fundamental axiom animating those who are consciously or unconsciously promoting the kingdom of Satan (Liberals, Rationalists, Naturalists) is the deification of human reason. There was no more logical act than the enthronement of the Goddess of Reason in the Cathedral of Notre Dame to symbolize the triumph of the principles of the French Revolution. "The fundamental doctrine of the Naturalists," Pope Leo wrote, "is that human

nature and human reason must be in all things mistress and guide.”

Once this principle is accepted there can be no justification for restraining any individual from practising or professing any acts or beliefs in private or public, providing public order is not threatened. There is no place at all for a divinely constituted teaching authority able to legislate on moral and religious matters, and whose teaching must be accepted as true simply because it teaches it. Pope Leo explains:

They deny the existence of any teacher who ought to be believed by reason of the authority of his office. Since, however, it is the special and exclusive function of the Catholic Church to preserve from any trace of corruption and to set forth in their integrity the truths divinely entrusted to her keeping, including her own authority to teach them to the world, and the other heavenly aids to salvation, it is against the Church that the rage of the enemies of the supernatural and their most ferocious attacks are principally directed.

In theory at least, the Liberals are prepared to accord the Catholic Church equal rights with other religious bodies, but insist upon denying it any special privileges. If Catholics do not wish to be divorced they are free not to be, but they have no right to demand that the State shall legislate to forbid divorce to those who wish it. The ultimate aim of the Liberals is the total separation of Church and State, even in Catholic countries. Pope Leo XIII warns us in *Humanum genus* that:

By lengthy and persevering labour they strive to bring about a condition of affairs in which the teaching office and authority of the Church shall count for nothing in the eyes of the State. It is for this reason that they continually proclaim and contend that Church and State should be completely separated and divorced. By this means they exclude the exceedingly beneficent influence of the Catholic Church from the making of laws and from State administration, and logically conclude that states must be constituted with complete disregard for the laws and precepts of the Church.

Once the Church has been totally separated from the State, particularly in a predominantly Catholic country, and no further

distinction is made between one religion and another, and Catholic teaching is not reflected in the laws of the State, then the prevailing attitude of indifference is bound to affect the Catholic population—and permissive moral legislation must inevitably provide a broad path which leads many from the Church. Whenever divorce has been legalized the number of Catholics availing themselves of it has increased steadily. The same has proved true of abortion. Most serious of all is that the placing of all religions on an equal footing, particularly in a Catholic country, must inevitably lead to indifferentism. Pope Leo XIII warned in *Humanum genus* that the great error of the age which Freemasons, the motivating force behind Liberalism, were striving *successfully* to inculcate was:

. . . that religion is a matter of indifference and that one religion is as good as another. Such an attitude of mind spells the ruin of all religions, especially of the Catholic religion, which, since it is the one true religion, is treated with the gravest injustice and offered the worst form of insult, when it is placed on the same level as other forms of worship.

Bearing in mind that the ultimate aim of Liberalism is the total separation of Church and State, its principal objectives can best be examined by abstracting them from their condemnation by the Popes. They are:

1. The Church ought to be separated from the State, and the State from the Church.
2. Freedom of conscience and worship in the external forum is the natural right of every man.
3. This right should be proclaimed by law, i.e. established as a civil right.
4. The only restraint to be placed upon the exercise of this civil right is the maintenance of public order.
5. The Catholic Church should not be accorded privileges denied to other religious bodies.
6. The State is not bound to make its laws conform to the law of Christ the King.

These propositions were condemned consistently by the Popes, and this condemnation is reflected in the consensus of approved authors up to the time of Vatican II. Although the Church accepted that in most countries in the twentieth century it had no alternative to conceding some or all of these Liberal demands as a matter of practical policy, it never conceded that they could be considered acceptable in principle. A Catholic is bound to affirm the opposite of all six propositions.

Chapters XVII to XXII will make clear the extent to which these Liberal propositions influenced the teaching of *Dignitatis humanae*, largely, as the next chapter will show, through the influence of Father Murray.

FATHER MURRAY—A LIBERAL CATHOLIC

As has been shown on several occasions in this study, Father Murray once accepted the traditional Catholic doctrine on Church and State, and taught it with great clarity. His conversion to Liberalism was a steady process which can be traced in his writing from the mid-forties until its final synthesis was presented in a celebrated article entitled *The Problem of Religious Freedom*, which appeared in *Theological Studies* (XXV), December 1964.

This article was reproduced as a book in 1965, was translated into several languages, widely diffused, and praised by the Liberal Establishment as virtually beyond criticism.¹ It exerted considerable influence upon the formulation of *Dignitatis humanae*, and, as will be shown in later chapters, it is possible to recognize passages from the article incorporated virtually without change into the Declaration.*

It is not my purpose to trace the development of Fr. Murray's thought, I shall simply present his final conclusions. Those who wish to trace this development can do so in *John Courtney Murray: Contemporary Church-State Theory* by Thomas T. Love, a Methodist minister, and a book mentioned in Chapter II, *John Courtney Murray: Theologian in Conflict* by Father Donald E. Pelotte. The first book is far more valuable as it submits Fr. Murray's theories to critical evaluation, while the second tends to accept them as self-evident truths.

1. *The Church ought to be separated from the State and the State from the Church.*

Fr. Murray overthrew the traditional papal teaching on the ideal union between Church and State in a Catholic country, i.e. the *thesis*, by making a distinction between society and State. He had reached this position by 1948-49. It was shown in Chapter IV that the great modern popes, when using the term "state", referred to the highest

* See, for example, in Chapter XX the extent to which his definition of public order as the criterion for restricting the public expression of religious belief was incorporated into the Declaration with only one modification which I have mentioned on pages 194-5.

and most inclusive organized group of persons, with the common good as its concern. Fr. Murray had correctly defined it in 1945 as "the organized society with its agencies of government".² It was also shown that the Popes considered the State to be a corporate personality, that it comes under the dominion of Christ the King no less than an individual person, that it has an obligation to offer public worship to God, and to conform its legislation to the positive divine law. The Popes tended to use the terms "society" and "state" synonymously.

Fr. Murray eventually claimed that the people, or body politic, constituted society, and that society was distinct from the State, which was no more than a subsidiary organization within society, an agency playing a limited role — that of public law and administration.

Today, in the developed constitutional tradition, the State is an agency that plays a role within society — a limited role. The purposes of the State are not coextensive with the purposes of society. The State is only one order within society — the order of public law and political administration. The public powers which are invested with the power of the State, are charged with the performance of certain limited functions for the benefit of society — such functions as can and must be performed by the coercive discipline of law and political power. These functions are defined by constitutional law, in accord with the consent of the people. In general, "society" signifies an area of freedom, personal and corporate, whereas "state" signifies the area in which the public powers may legitimately apply their coercive powers. To deny the distinction is to espouse the notion of government as totalitarian.³

Thus the substantive notion of the State as understood in papal teaching (i.e. as a corporate person) is completely undercut by transforming it to no more than a function within society. Thomas T. Love notes that if the State is no more than a function there can be no justification for such a traditional formula as "The State is a creature of God."⁴ Nor, of course, can such concepts as "the union of Church and State" or even "the separation of Church and State" have any meaning as there is nothing substantive for the Church to unite itself with, or from which to be separated.

This distinction between society and State forms the basis of Fr. Murray's theory of Church and State. It is worth considering how it can be reconciled with the traditional papal teaching. The short

answer is that it cannot be. Fr. Murray's Catholic disciples tend to accept his ideas quite uncritically as self-evident truths. Professor Love does not take this attitude. He accepts the Liberal thesis himself, and is happy that Fr. Murray came to do so—but he cannot accept that Fr. Murray's thesis is consistent with, or a development of, previous papal teaching.

Professor Love points out that Fr. Murray had accepted that the Popes spoke of the "State", "society", or "government" being subject to the law of Christ. He notes that Fr. Murray claimed that these papal statements were aimed at a false doctrine of laicism being proclaimed at the time, and that within this context the "meaning of such papal statements is luminous". Professor Love comments:

Murray's attempt here is extremely important. He defined the terms "society", "State", and "government" in his own manner and then argued that obviously the Popes did not intend their terminology to imply a meaning different from what he now claims to be the categories required by actual facts and hence for accurate analysis and comprehension. Surely Murray is wrong when he asserts that the meaning of such papal statements is "luminous". If it were luminous, it is difficult to understand why so many Catholic thinkers (and even Murray himself only a few months before) remain so unenlightened.*⁵

Professor Love is particularly critical of the manner in which Fr. Murray attributes to Pope Leo XIII his own novel theories of the State, theories which cannot be supported from the writings of the Pontiff himself and which would have been quite alien to him.

Murray actually reads his own modern notion back into Leo's writings and attributes to Leo an implicit understanding of government which Murray himself had not begun to grasp clearly until approximately 1946 . . . Leo's usage of "ideal" in referring to relations of Church and State and his acceptance of the term "Catholic State" count against Murray's claim for Leo's authoritative support for his own restatement, despite the fact that Leo did not employ the terms "thesis" and "hypothesis" in his writings.⁶

Professor Love notes the importance of the word "implicit" in Fr. Murray's attempts to reconcile his own theories with papal teaching.

* Professor Love is speaking of Fr. Murray's position in 1949.

He remarks that as Fr. Murray does not point out anything contained in this teaching to support his views "what is implicit remains indeterminative. It is for this reason, perhaps, that one often seems compelled to argue that Murray reads back into a source his own modern notions."⁷

2. *Freedom of conscience and worship in the external forum is the natural right of every man.*

As was explained in Chapter III (pages 18–19), Father Murray did not teach that man could have a natural right to believe or propagate error. By freedom of conscience and worship, Murray must be understood as referring to a civil right for every citizen not to be prevented from believing and propagating his chosen religion (subject to the requirements of a just public order), and not to a moral right to believe and propagate it. But, as will now be demonstrated, Murray maintained that this civil right was in itself a natural right which existed *sui generis*.

Professor Love summarizes Murray's view on this point succinctly and exactly. Religious freedom ". . . is an affair of the social and civil order; it is guaranteed by civil law; it involves both 'freedom of conscience' and 'the free exercise of religion' in the public forum."⁸

Fr. Murray, under the heading "Freedom of religious expression" summarizes his finalized view as follows:

This is the right, both of individuals and of religious bodies, to immunity from coercion in what concerns the public worship of God, public religious observances and practice, the public proclamation of religious faith, and the public declaration of the implications of religion and morality for the temporal affairs of the community and for the action of the public powers.⁹

Fr. Murray could hardly have been more explicit or more comprehensive. He makes it equally clear that these freedoms are not merely a question of toleration, something conceded by the Church as a lesser evil. They are natural rights, or, as he puts it, they exist *sui generis*: "Freedom of conscience and its corporate equivalent, ecclesial freedom, are freedoms *sui generis*."

Fr. Pelotte sums up Fr. Murray's view as follows:

Murray saw religious freedom as located in the social and civil orders, that is, as a constitutional guarantee to "the people", taken individually, collectively and in assembly, of immunity from all external coercion in religious matters. As we noted earlier, this liberty, as it is found in a constitutional democracy, is essentially comprised of "freedom of conscience" and "the free exercise of religion".

Freedom of conscience refers to the individual's human and civil right to be unhindered by any external restraining or constraining force in matters religious. "It is the freedom of personal religious decision." And no individual or group within society has the right to exert coercion in any form whatsoever to influence such religious decisions The free exercise of conscience means that an individual cannot be coerced to act against his conscience *nor be restrained from acting in accord with it* (my emphasis).¹⁰

This does not develop but contradicts a consistently reiterated corpus of papal teaching, which may well be infallible. The Church is reduced to the status of "a group within society"; the rights of Christ the King are denied. Even if the papal teaching that the State has the right to restrain the expression of non-Catholic beliefs in the external forum is not infallible, it has been taught so clearly and so frequently that it must continue to hold the field when opposed by the contradictory novelty espoused by Fr. Murray—a novelty within Catholic belief, but a prime tenet of Liberalism. The Masonic origin of this theory will be documented below.

3. *This right should be proclaimed by law, i.e. established as a civil right.*

Fr. Murray writes:

The adequate subject of religious freedom in its proper juridical sense as a human and civil right, guaranteed by constitutional law, is the body politic as such, the People Temporal—collectively, individually, and in their corporate associations.¹¹

And again:

The personal or corporate free exercise of religion, as a human and civil right, is evidently cognate with other more general

human and civil rights—with the freedom of corporate bodies and institutions within society, based on the principle of subsidiary function; with the general freedom of association for peaceful human purposes, based on the social nature of man; with the general freedom of speech and of the press, based on the nature of political society. The exercise of these more general human and civil rights, whether personal or corporate, takes place in the public domain, and therefore it becomes amenable to regulation by the public powers, in accord with recognized and reasonable criteria. The same is true of the free exercise of religion, inasmuch as it is a civil right cognate with other more general civil rights. The question is to know the criteria which must govern the action of the public powers in limiting the free exercise of religion. This is the crucial issue in the constitutional question of public care of religion.¹²

4. *The only restraint to be placed upon the exercise of this civil right is the maintenance of public order.*

As was explained in Chapters IV to VIII, papal teaching was that restrictions upon the public expression of religious and moral beliefs should be regulated by the common good. It is contrary to the public good to permit divorce, abortion, or public attacks upon Catholic dogma. The public good is harmed even where these abuses do not provoke a breach of public order. It has been made clear in recent years that any and every principle of traditional belief and morality can be violated in public without occasioning a breach of public order—the open display of pornography provides a case in point.

The French Revolutionary *Declaration of the Rights of Man* (1789) includes the following:

Article 10: No one must be troubled regarding his opinions, even religious ones, providing that their manifestation does not trouble public order as established by law.*

Thus public order rather than the public good is to be the criterion by which the expression of religious belief in the external forum is to be regulated. No precise definition is available of what

* Nul ne doit être inquiété pour ses opinions, mêmes religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la loi.

those who framed the *Declaration* meant by public order, but it was probably similar to the sense in which the term is used in English law today where it is virtually synonymous with public peace. Pope Pius IX in his encyclical *Quanta cura*, condemned specifically the concept of using the public peace (*pax publica*) as the criterion for regulating religious liberty in the external forum. It seems probable that what he meant by this term was identical to the "public order" of the *Declaration of the Rights of Man*.

Professor Love states correctly that Fr. Murray's theory is that:

Society's end—the common good—must be distinguished from the State's end—the public order—and the State may only seek to maintain the public order.¹³

Fr. Murray writes:

Hence the public powers are authorized to intervene and to inhibit forms of religious expression (in public rites, teaching, observance, or behaviour), only when such forms of public expression seriously violate either the public peace or commonly accepted standards of public morality, or the rights of other citizens. The public powers are competent to make judgements only with regard to the essential exigencies of the public order and with regard to the necessity of legal or police intervention in order to protect the public order In what concerns religious freedom, the requirement is fourfold: that the violation of the public order be really serious; that legal or police intervention be really necessary; that regard be had for the privileged character of religious freedom, which is not simply to be equated with other civil rights; that the rule of jurisprudence of the free society be strictly observed, *scil.*, as much freedom as possible, as much coercion as necessary.¹⁴

It will be noted that Father Murray has defined precisely what he means by "public order", and his use of the term may be wider than that intended in the *Declaration of the Rights of Man*, but this is by no means certain. There is nothing in the Murray definition which is incompatible with the principles of the French Revolutionaries. He certainly appears to contradict Pope Pius IX by making a breach of the public peace necessary before the State can intervene: the violation of public order must be "really serious" and "legal or police intervention be really necessary". Note carefully that even where he does seem to give his definition of public order a

wider scope than that of the French Revolution, by including within it the concept of public morality, he does not refer to the objective moral order, taught by the Catholic Church, but to “commonly accepted standards of public morality”, a phrase which excludes the possibility of the permanent and objective standards upheld by the Church. The immorality of abortion or homosexual acts was “commonly accepted” in the United States until the nineteen-sixties, and these acts were punishable by law. This is no longer the case. There were, presumably, offences in Revolutionary France the immorality of which was commonly accepted, incest perhaps. Father Murray’s words were evidently chosen with great care, and his concept of public order, although appearing to be wider on a first reading than that of the *Declaration of the Rights of Man*, appears, after close scrutiny, to be perfectly compatible with it.

The Declaration of the Rights of Man

Few English-speaking Catholics are familiar with the Revolutionary *Declaration* or with its background. The Rights of Man were discussed by the French National Assembly during the meetings of August 1789 and adopted in October of the same year. The first text of the *Declaration* was inscribed at the head of the Constitution of 1791. Two years later the National Convention voted for certain modifications but the two versions correspond on all fundamental points.

Some of the articles are quite acceptable, e.g. Article 7 concerning the detention of citizens; Article 8 stating that laws cannot have a retroactive effect; and Article 9 concerning the treatment of those who have been arrested but whose guilt has not been proven. Other articles are ambiguous, while others are quite unacceptable to Catholics, particularly Article 6 which begins by stating that the law is the expression of the general will. This is a complete negation of the Catholic teaching that all authority comes from God, as was explained in Chapter IV.¹⁵ Pope Pius VI had no hesitation in condemning the *Declaration* as “contrary to religion and to society”.¹⁶

Where the Rights of Man are accepted there can be no Catholic State, no social reign of Christ the King. This is hardly surprising in view of their Masonic origins. Father Fahey explains:

That the preparation and the triumph of the French Revolution were the work of Freemasonry does not need proof since the Masons themselves boast of it. Accordingly, the *Declaration of the Rights of Man* is a Masonic production. "When the Bastille fell," said Bonnet, the orator at the Grand Orient Assembly in 1904, "Freemasonry had the supreme honour of giving to humanity the chart which it had lovingly elaborated. It was our Brother, de la Fayette, who first presented the project of a declaration of the natural rights of the man and the citizen living in society, to be the first chapter of the Constitution. On 25 August 1789 the Constituent Assembly, of which more than 300 members were Masons, definitively adopted almost word for word, in the form determined upon in the Lodges, the text of the immortal *Declaration of the Rights of Man*." Given the naturalism of Freemasonry, the Declaration, then, is simply a formal renunciation of allegiance to Christ the King, of supernatural life, and membership of His Mystical Body. The French State thereby officially declared that it no longer acknowledged any duty to God through Our Lord Jesus Christ, and no longer recognized the dignity of membership of Christ in its citizens. It thus inaugurated the attack on the organization of society under Christ the King which has continued down to the present day.¹⁷

5. *The Catholic Church should not be accorded privileges denied to other religious bodies.*

6. *The State is not bound to make its laws conform to the law of Christ the King.*

Professor Love notes that by 1949 Fr. Murray had rejected the traditional position:

The State, Murray argued, has no obligation to endorse the divine positive law or the mode of worship of the Roman Catholic Church. It "knows nothing" of such things; they are beyond its competence as a "lay" State.¹⁸

Fr. Murray made a rigid distinction "between the sacred and secular orders of human life". The government (i.e. state) has no role whatsoever in the religious sphere. "Its powers are limited to the affairs of the temporal and terrestrial order of man's existence. And they are not to be used as instruments for the spiritual purposes of the Church—the maintenance of her unity or the furtherance of her mission."¹⁹

Those who are familiar with the Integral Humanism of Jacques Maritain will have noticed how closely Fr. Murray's theories correspond with his. I have explained the theory of Integral Humanism at some length in *Pope John's Council*. Maritain concluded that it was no longer a practical possibility for the Church to demand a privileged position in society. Catholics should be prepared to work on equal terms with all men of good will, of any belief or none, in order to build a better society. The Church would demand no special privileges and would be content to act as a leavening influence within society without demanding recognition as the one true Church. The cement of this universal fraternity would be the virtue of doing good, and understanding grounded in respect for human dignity.

It seems hard to believe that a man of Maritain's intellectual stature could have propagated such a naive and utopian thesis, but such cases are not rare among men of genius. The great weakness of his thesis is the failure to attach due weight to the fact that life on earth is an unending struggle between the Kingdom of Light and the Kingdom of Darkness, and that those in the service of the Kingdom of Darkness have but one objective—to undermine and then totally destroy the Kingdom of God on earth.

Maritain believed that Integral Humanism would bring about a "vitality and truly Christian political society":

A vitality and truly Christian political society would be Christian by virtue of the very spirit that animates it and that gives shape to its structures, which means that it would be evangelically Christian. And because the immediate object of the temporal community is human life with its natural activities and virtues, and the human common good, not divine life and the mysteries of grace, such a political society would not require of its members a common religious creed and would not place in a position of inferiority or political disadvantage those who are strangers to the faith that animates it. And all alike, Catholics and non-Catholics, Christians and non-Christians—from the moment that they recognize, each in his own way, the human values of which the Gospel has made us aware, the dignity and the rights of the person, the character of moral obligation inherent in authority, the law of brotherly love and the sanctity of natural law—would by the same token be drawn into the dynamism of such a society and would be able to co-operate for its common good.²⁰

Maritain truly believed in the possibility of the emergence of a pluralist society inspired by the common good—"a common task inspired by the ideal of liberty and fraternity, tending, as its ultimate goal, towards the establishment of a brotherly city wherein the human being will be freed from servitude and misery."²¹

The advocacy of Integral Humanism by Maritain or his disciples did not imply that their devotion to the faith was less than that of the integralists who opposed them. Indeed, it is evident that Maritain, like Fr. Murray, was convinced that his theories were in the best interests of the Church. But clearly, the acceptance of Integral Humanism could not be reconciled with the concept of the Catholic State. It allowed, for practical purposes, the Church to be put on equal terms with the sects, which was tantamount to admitting, implicitly at least, that the Church was no more than another (if very large) sect. Another practical consequence is that attempts to make the Church acceptable to those outside her boundaries inevitably lead to a glossing over or watering down of her harder teachings.

The debt which Fr. Murray owed to Maritain is clear to all who study his theories in detail. Fr. Pelotte mentions that Maritain "influenced Murray's writings, and secular thinkers like Mortimer Adler and President Robert M. Hutchins, of the University of Chicago, found Maritain's thought attractive."²²

Professor Love has studied this influence in some detail, even specifying pages in various of Maritain's works which are clearly reflected in Fr. Murray's writing. Professor Love explains:

From the brief selection of Maritain's which was cited, Murray emphasized the historical fact of irreducible religious heterogeneity. It is a political reality that there is a plurality of religious creeds and this political reality must be recognized and accepted, not simply cited in order to be dismissed. When actual diversity is genuinely recognized, then charity appears as civic friendship in the common pursuit of concrete purposes. Maritain attempted to overcome the threat of indifferentism by asserting that political cooperation of Catholics and non-Catholics did not require some minimal doctrinal agreement. The principles motivating Catholics and non-Catholics are analogous, not identical or absolutely different.²³

Professor Love claims that:

Murray agrees basically with Maritain's view, although they employ their terms differently.

And again:

Murray's view of the State is essentially identical with Maritain's.²⁴

I have also shown in *Pope John's Council* that Pope Paul VI was profoundly influenced by Maritain. It is hardly surprising, therefore, that he was so receptive to the ideas of Fr. Murray. Thus, in the message which he addressed to the rulers of the world at the close of the Council, Pope Paul stated that all the Church asked of them was "freedom, the freedom to believe and to preach her faith, the freedom to love God and to serve Him". This message was straightforward Integral Humanism and is quoted at greater length on page 184.

It is quite probable that some readers will fail to see precisely what is wrong with this attitude, but if it is accepted as correct in principle, it cannot be reconciled with the existence of a Catholic State, and the Popes have taught that the Catholic State must be the ideal. In a state where Catholics form a minority they will clearly have to co-operate with those outside the Church in the interests of the common good, but they will do this in their capacity as citizens and not as Catholics. Catholics belong to the major political parties in Britain and the U.S.A., not as representatives of the Church, but in their private capacity as individual citizens. They can thus support anything in the objectives of their chosen party that does not conflict with Catholic teaching. But, because their party membership is simply in their capacity as citizens, the Church is in no way involved or compromised by their activities.

Jacques Maritain and the Body Politic

As Maritain's theory of the State corresponds so closely with that of Fr. Murray it is worth examining the manner in which he explains it in his book *Man and the State*. Maritain also uses the term "body politic" to describe society as a whole.

The State is only that part of the body politic especially concerned

with the maintenance of law, the promotion of the common welfare and public order, and the administration of public affairs. The State is a part which *specializes* in the interests of the *whole*. It is not a man or a body of men; it is a set of institutions combined into a machine at the summit of society . . . ²⁵

It should be pointed out that in Maritain's theory the body politic is not equivalent to the people and the State to the government. He writes:

Let me emphasize once again that the basic political reality is not the State, but the body politic with its multifarious institutions, the multiple communities which it involves, and the moral community which grows out of it. The body politic is the people organized under just laws. The State is the particular agency which specializes in matters dealing with the common good of the body politic, it is therefore the supreme political agency, but the State is a part, not the whole, and its functions are merely instrumental. It is for the body politic and for the people that it attends to the public order, enforces laws, possesses power; and being a part in the service of the people, it must be controlled by the people.

What is called in French *le gouvernement* and in the U.S. the Administration or the administrative officials, that is, the men who are in charge of the common good, are part both of the body politic and of the State; but because they are the head of the people, and deputies for the people in regard to whom they exercise a vicarious function, and by whom, in a democratic régime they are chosen, their governing function is rooted in the body politic, not in the State. It is not because their function is rooted in the State that they are part of the body politic; it is because their function is rooted in the body politic that they are part of the State.²⁶

Clearly, a set of institutions cannot be regarded as a corporate person.

To sum up, the common good of the body politic demands a network of authority and power in political society, and therefore a special agency endowed with supreme power, for the maintenance and the promotion of justice and of the law. The State is that supreme political agency. *But the State is neither a whole nor a*

subject of rights, nor a person. It is a part of the body politic, and, as such, inferior to the body politic as a whole, subordinate to it, and at the service of its common good (my emphasis).²⁷

Maritain specifically condemns what he terms:

The *despotic* notion of the State, based on a “substantialist” or “absolutist” theory. According to this theory the State is a subject of rights, i.e. a moral person, and consequently a whole; as a result it is either superimposed on the body politic or made to absorb the body politic entirely.²⁸

The “despotic” theory of the State to which Maritain refers is the very concept accepted by the Popes and explained in Chapter IV. What the Popes refer to as “the State” is equivalent to Maritain’s body politic. Maritain himself admits that the body politic can be considered as a collective person:

Accordingly, the notion of moral or collective personality applies in a genuine manner to the *body politic*, which is the organic whole, composed of the people . . . But that same notion of moral personality does not apply to the State (which is not a whole but a part or special agency of the body politic), except in a *purely metaphorical* way and by virtue of a legal fiction.²⁹

In the sense that the Popes use the term State, and Maritain is using the term body politic, it is clear that the terms are synonymous, and so on this precise point the difference between Maritain and the Popes is basically semantic. Maritain admits that his own definition of the State is no more than a theory. He describes it as “an ‘instrumentalist’ theory”, i.e. the State is an instrument of the body politic.³⁰ He also accepts that his notion of the State has not been generally accepted. His notion, “the genuine notion”, has yet to be recognized.³¹

Maritain even goes as far as admitting that the terms State and body politic are now generally regarded as synonymous: “In our modern age the two terms are used as synonyms, and the second tends to supersede the first.”³²

He uses the term body politic where most writers would use

State, e.g. "The full external autonomy of the body politic means also that in the external order it can exert supreme power in making war on another body politic."³³

No one would question the right of Maritain, Murray, or anyone else to devise their own political theories and to define the meaning of the terms they use. What is obviously illegitimate is for Fr. Murray to devise his own theory of the State (which, as has been shown, relied heavily on Maritain), and then to apply this definition to the same term when used by the Popes who had invested it with a completely different meaning.

It is absurd for Maritain to claim that the State cannot be the subject of rights and duties as it is simply a function. He must certainly have known that the Popes and theologians who described the State as a corporate person meant by State what he means by body politic.

As was shown in discussing his system of Integral Humanism, Maritain rejects the possibility of a Catholic State, or Catholic body politic to use his own terminology. He accepts that there are political societies in which the majority of citizens are Catholics, but denies that this entitles the Church to a privileged position. ". . . supposing that the faith to which the majority of the citizens belonged were the Catholic faith . . . Christian citizens (with the collective activities they and their multifarious institutions freely and openly exert in the national community) are no more legally privileged than any other citizens."³⁴ The Church will exert an influence but it can only be "in the full exercise of her *superior strength of all-pervading inspiration*."³⁵

Finally, Maritain does not have the least doubt that his theories are correct: "I am fully convinced that my particular way of justifying the belief in the rights of man and the ideal of freedom, equality, and fraternity is the only one which is solidly based on truth."³⁶ His ultimate ideal was the establishment of a "World State" to which particular states would surrender their legislative, executive, and judicial powers, "with the coercive power necessary to enforce the law."³⁷

NOTES

- ¹ TIC, p. 197.
- ² TS, VI, June 1945, pp. 250-1.
- ³ Ibid., XXV, December 1964, p. 520. PRF, p. 29.
- ⁴ L, p. 153.
- ⁵ Ibid., pp. 79-80.
- ⁶ Ibid., p. 207.
- ⁷ Ibid., p. 225.
- ⁸ Ibid., p. 213.
- ⁹ TS, XXV, p. 518. PRF, p. 26.
- ¹⁰ TIC, pp. 132-3.
- ¹¹ TS, XXV, p. 517. PRF, pp. 23-4.
- ¹² Ibid., pp. 518-19. PRF, pp. 26-7.
- ¹³ L, p. 214.
- ¹⁴ TS, XXV, p. 530. PRF, p. 43.
- ¹⁵ An important article on the Rights of Man appeared in the March 1965 issue of *Permanences*.
- ¹⁶ Encyclical Letter *Adeo nota*, 23 April 1791.
- ¹⁷ G. Dillon, *Grand Orient Freemasonry Unmasked*, with an introduction by Father Denis Fahey (London, 1965), pp. 16-17.
- ¹⁸ L, p. 81.
- ¹⁹ TS, XXV, December 1964, p. 520. PRF, p. 28.
- ²⁰ J. Maritain, *The Rights of Man* (London, 1965), pp. 16-17.
- ²¹ Ibid., p. 32.
- ²² TIC, p. 5.
- ²³ L, p. 35.
- ²⁴ Ibid., p. 163.
- ²⁵ J. Maritain, *Man and the State* (London, 1954), pp. 10-11.
- ²⁶ Ibid., pp. 185-6.
- ²⁷ Ibid., p. 21.
- ²⁸ Ibid., p. 12.
- ²⁹ Ibid., p. 14.
- ³⁰ Ibid., p. 12.
- ³¹ Ibid., p. 152.
- ³² Ibid., p. 8.
- ³³ Ibid., p. 36.
- ³⁴ Ibid., p. 162.
- ³⁵ Ibid., p. 148.
- ³⁶ Ibid., p. 71.
- ³⁷ Ibid., p. 182-3.

FATHER MURRAY AND THE *ZEITGEIST*

It has been shown quite clearly that Father Murray rejected what he himself admitted was the accepted Catholic position regarding religious liberty (a position which he had once held himself). He came eventually to endorse tenets of Liberalism which had been the subject of papal condemnations. The obvious problem is how he justified this to himself, let alone to anyone else. The justification which he provided for his views is even more astonishing than the views themselves. Professor Love discovers them to be as follows:

In the present historical moment, Murray takes two "signs of the times" to be decisive: (1) "the growth of man's personal consciousness" and (2) "the growth of man's political consciousness". These two factors are correlates; they cannot, Murray argues, be separated in the present day. The historical emergence of personal and political consciousness creates a new perspective and hence a new problem, because the structures of any former perspective and its correlative problem have been dissolved or shattered. Consequently, the question of religious freedom must be cast in terms of contemporary history; the question must be formulated in its "new historical and doctrinal state". For Murray, the doctrinal state is new precisely because the historical state of the question is new; i.e. "growth" in the understanding of Catholic tradition corresponds to the "growth" of personal and political consciousness of men of today.¹

This passage which, as will be shown, correctly presents Fr. Murray's view, is so astonishing that it needs to be read and re-read before his audacity can be grasped. He takes it upon himself to read "the signs of the times", to interpret the personal and political consciousness of modern man; and, on the basis of his reading and interpretation, to put forward theories which have been condemned by the great modern Popes. His position can be summarized as follows: the traditional view must be wrong because Fr. Murray feels that it is wrong. Let him speak for himself:

For the theologian, the instant conceptual question is to understand what religious freedom means today, in so far as it presents itself as an exigence of the personal and political consciousness of contemporary man.²

Nothing could be clearer. Unlike Msgr. Fenton and the other theologians who criticise him in the AER, Fr. Murray does not ask what the Popes teach but what contemporary man thinks. It will be shown on pages 94–5 that the entire concept of the “consciousness of contemporary man” is devoid of any objective reality.

And again:

The common legal and civic consciousness today recognizes that freedom of conscience and its corporate equivalent, ecclesial freedom, are freedoms *sui generis*.³

Fr. Murray posits:

. . . as the basis for a systematic doctrine of religious freedom, the concrete exigences of the personal and political consciousness of contemporary man—his demand for religious freedom, personal and corporate, under a limited government. This demand is approved by reason; it ought to be approved by the authority of the Church.⁴

What Fr. Murray means by “approved by reason” is that it strikes him as a good idea. The extent to which reason can be misled was noted in Chapter III.

And again:

The common consciousness of men today considers the demand for personal, social, and political freedom to be an exigency that rises from the depths of the human person. It is the expression of a sense of right approved by reason. It is therefore a demand of natural law in the present moment of history.⁵

He is also able to note with great satisfaction:

Moreover, the foregoing understanding of religious freedom is substantially in accord with the understanding contained in the pertinent declarations of the World Council of Churches. The fact is of some importance for the ecumenical dialogue.⁶

Some readers will find it hard to understand how a man of such intellect, learning, and obvious good will as Fr. Murray could place himself in so untenable a position. They will find it even harder to understand how this position could have been adopted so uncritically by his legion of admirers and many of the Fathers of Vatican II. There is no problem for those who are familiar with the history of the Church. The answer is simple, Fr. Murray was a victim of the *Zeitgeist*. The *Zeitgeist* can best be defined as the prevailing consensus within the intellectual circles of a particular society. It is often described as "the spirit of the times". Certain beliefs, certain attitudes, certain positions *vis-à-vis* important events, must be adopted by those wishing to be accepted as members of the intellectual *élite*. The members of this *élite*, "trendies" as they are known in Britain, invariably have an advanced, a progressive, a Liberal outlook.

In *A Popular History of the Catholic Church*, Msgr. Philip Hughes noted that by the end of the second century the Church had already suffered from the emergence of *élite* groups such as the Gnostics or Montanists, who considered themselves emancipated from the authority to which the ordinary believer had to submit. He comments that:

Already we are seeing the appearances of types that will never cease to reappear throughout two thousand years: Catholics who propose to explain Catholicism by synthesis with the intellectual life of the time . . . In one sense Church History is a web where threads such as these do but cross and recross.⁷

Msgr. Hughes could have been referring specifically to Fr. Murray and his "consciousness of contemporary man". Dietrich von Hildebrand warned time and again of those for whom "the fight against the spirit of the world has been replaced with swimming along with the spirit of the times in the name of *aggiornamento*."

There are, he warns, those dedicated to the destruction of the Church some of whom have infiltrated her to destroy her from within. He stresses that a distinction must be made between these infiltrators and:

. . . those who do not want to destroy the Church as such, i.e. who do not seek the disappearance of the Church, but who rather want to transform the Church into something which completely contradicts her meaning and essence. This includes all those who wish to make the Church of Jesus Christ into a purely humanitarian society, to rob her of her supernatural character, to secularize and desecralize her. They share that camouflage of the enemies of the Church which comes from using the shibboleths of "reform", "progress", and "adaptation to modern man". But they do not want to eliminate the Church. The catchwords "reform" and "progress" are not mere tricks which they use; they really believe them.⁸

This is clearly the case with Fr. Murray. He obviously loved the Church and wished to serve her. He imagined that he would do so by "bringing her up to date", by conforming her teaching to the spirit of the times, by making her acceptable to the Liberal *élite*.

In October 1948, Msgr. Fenton published a review of a Pastoral Letter by Cardinal Suhard. The review was entitled *Two Currents in Contemporary Catholic Thought*. Ostensibly, the review examined the Cardinal's assessment of the integralist (traditionalist) and progressive factions within the French Church. The fact that the review was really a critique of Fr. Murray's views was obvious even to a Protestant observer such as Professor Love. He writes: "For Fenton, the point is that even the well-meaning progressive Catholic does more harm than good in the attempt to make Catholic teaching 'appear more acceptable'. Attitudes and writings such as Murray's endanger the very faith of Catholics."⁹ Fr. Pelotte also recognizes that this review was really a criticism of Fr. Murray.¹⁰

An extensive quotation from Msgr. Fenton's review will show how applicable his critique was to the attitude personified by such theologians as Fr. Murray. It will be noted that there is not one word in Msgr. Fenton's critique to suggest that the Murray brand of "progressive" is not sincere, or that theologians such as Fr. Murray do not think they are rendering a service to the Church by making her message more acceptable to the world. What these well-meaning but dangerous individuals do not realize is that any

message which the world is prepared to accept cannot possibly come from Christ. Msgr. Fenton writes:

The progressive is concerned primarily with the idea of presenting the Catholic doctrine effectively to the people of our age. He must always be on the alert against the temptation to modify the Catholic teaching or to leave out some of its essential constituents so as to make it appear more acceptable. The world, using the term in its basic theological sense, as the congregation basically opposed to the Kingdom of God on earth, has always shown a definite hospitality to deformations of the Catholic doctrine. The history of Modernism, with its account of the sympathy given to the teachings of the Modernists by those outside the fold, is only one example of this tendency. A great deal of the Catholic Church's teaching would be highly acceptable to the world, if it were presented other than what it really is, the one divine and supernatural public revelation which is necessary for all men because God Himself has raised mankind to a supernatural destiny. The Catholic Church itself would be quite a popular institution were it not for the fact that it insistently proclaims itself for what it really is, the society of Christ, necessary to all men for salvation.

The crass Modernism of the early days of this century does not represent any immediate threat. The teaching condemned by Pope Pius X was so manifestly a contradiction of Catholic dogma that no one could slip into it under the impression that he was forwarding the welfare of the Church. But, in attempting to popularize the presentation of Catholicism in a world impregnated with secularism, it is possible for a well-meaning progressive to adopt the false tactics of "adaptation" or of "minimizing".

Because the secularist is exclusively concerned with this world, there is always the danger that an over-zealous and under-instructed Catholic apologist may fall into the danger of leaving out the supernatural and other-worldly content of Catholic teaching when he appeals to the modern mentality. In his *Testem benevolentiae* (1899), Pope Leo XIII expresses himself strongly on the tactic of presenting the Catholic message without including those elements which may appear to be opposed to modern tendencies.

Pope Leo's words on this subject are of tremendous importance to theologians of our own day. He is speaking of certain "new

opinions", against which he deems it his duty to protest "in order to provide for the integrity of the faith, and to guard the security of the faithful."

"The principles upon which the new opinions We have mentioned are based may be reduced to this: that, in order the more easily to bring over to Catholic doctrine those who dissent from it, the Church ought to adapt herself somewhat to our advanced civilization, and, relaxing her ancient rigour, show some indulgence to modern popular theories and methods. Many think that this is to be understood, not only with regard to the rule of life, but also to the doctrines in which the deposit of faith is contained. For they contend that it is opportune, in order to work in a more attractive way upon the wills of those who are not in accord with us, to pass over certain heads of doctrines, as if of lesser moment, or so to soften them that they may not have the same meaning which the Church has invariably held. On that point the Vatican Council says: 'The doctrine of faith which God has revealed is not proposed like a theory of philosophy, which is to be elaborated by the human understanding, but as a divine deposit delivered to the Spouse of Christ to be faithfully guarded and infallibly declared . . . That sense of the sacred dogmas is to be faithfully kept which Holy Mother Church has once declared, and is not to be departed from under the specious pretext of a more profound reasoning'."

The "softening" of doctrine to which Pope Leo referred comes as an inevitable consequence of the system of "minimizing". Originally a man was supposed to "minimize" Catholic dogma legitimately if, to avoid making undue difficulties for prospective converts or for educated Catholics of extraordinary sensibility, he set forth the least possible amount of dogma consistent with divine truth. The term itself was always a source of trouble, since the preaching of Catholic truth was never anything to be judged in terms of either a minimum or a maximum. As the ambassadors of Christ, it is our business to see not how much or how little we can preach as divinely revealed. It is our affair to see to it that our teaching is exactly and only what Our Lord has prescribed for us in and through His Church.

Pope Leo has given, in the *Testem benevolentiae*, a teaching upon which the necessary reconciliation of the two viewpoints mentioned in Cardinal Suhard's pastoral must be based. He insists upon the

effective preaching of the entire Catholic message. Above all, he stresses the fact that men must be brought to Our Lord only in the way which He has prescribed.

"Far be it, then, from any one to diminish or for any reason whatsoever to pass over anything of this divinely revealed doctrine. Whosoever would do so would rather wish to alienate Catholics from the Church than to bring over to the Church those who dissent from it. Let them return; indeed nothing is dearer to Our heart; let all those who are wandering far from the sheepfold of Christ return; but let it not be by any other road than that which Christ has pointed out."

Pope Leo spoke of one effect of false doctrine upon the Church of Christ. He said that such teaching would tend to drive Catholics out of the Church rather than to bring new converts into the fold. He thus adverted to the fact that heresy, considered not merely as a sin but as a teaching, has ever been the cause of schism, of disunity in the company of Christ. The unity among Catholics which he desired and which is the result of Christ's prayer for His Church comes only in and through the true presentation of the divine revelation.¹¹

In his book *The Devastated Vineyard*, Dietrich von Hildebrand shows that the concept of contemporary man is a myth. In his essence the man of today is no different from his predecessors and, if anything, there has been a definite regression in his moral sensibilities. Our era, he insists, is not one of progress in anything but the technological sphere:

What we have said may suffice to show how bizarre it is to regard our age as one of progress in comparison with former times, unless one limits oneself to the immanent progress in certain spheres such as natural science, technology, and above all, medicine. But nobody can overlook the awful decay from a human viewpoint: the shocking depersonalization, the victory of collectivism, the progressive dehumanization, the decline of true happiness, and the sealing off of the true sources of happiness. What is the importance of immanent progress in certain areas in comparison with the decay of human life, with the moral, spiritual, and human deterioration of mankind?¹²

The "common consciousness of contemporary man" today is prepared to accept unrestricted divorce, abortion, pornography, and the legalization and glorification of sexual perversion. The common consciousness of contemporary man, or the consensus of the trendy *élite* (it comes to the same thing), gave uncritical support to the neo-Nazi storm troopers of Ho Chi Minh in their subjugation of the people of South Vietnam. Von Hildebrand warns that "the poison of our epoch is slowly seeping into the Church herself, and many have failed to recognize the apocalyptic decline of our time."¹³

It was shown in Chapters IV and V that papal teaching on the religion of the State was based on doctrinal reasons of permanent validity. Father Murray claimed that it was conditioned by particular historical circumstances which no longer apply. There is no little irony in the fact that his own theories were conditioned by the particular historical circumstances which influenced the thinking of the Liberal milieu, whose approval was the pearl of great price for which he was willing to make any sacrifice.

NOTES

¹ L, p. 212.

² TS, XXV, December 1964, p. 516. PRF, p. 23.

³ *Ibid.*, p. 518. PRF, p. 26.

⁴ *Ibid.*, p. 522. PRF, pp. 31-2.

⁵ *Ibid.*, p. 513. PRF, pp. 18-19.

⁶ *Ibid.*, p. 519. PRF, p. 28.

⁷ P. Hughes, *A Popular History of the Catholic Church* (London, 1946), p. 11.

⁸ D. von Hildebrand, *The Devastated Vineyard* (Chicago, 1973), pp. xii-xiii.

⁹ L, p. 122.

¹⁰ TIC, p. 158.

¹¹ AER, 119, 1948, pp. 299-301.

¹² *Op. cit.* note 8, p. 33.

¹³ *Ibid.*, p. 35.

FATHER MURRAY THE AMERICANIST

The name of the *Zeitgeist* served by Fr. Murray is Americanism. It is never easy to be a member of a minority group within a pluralistic society, particularly when the minority bases its beliefs and attitudes on principles which are radically incompatible with those of the majority. Any sociologist would confirm that the inevitable tendency is for the minority gradually to adapt its beliefs and attitudes to those of the majority. The most effective means of preventing this is to live in a "ghetto" and reduce contact with the majority to a minimum. This is the means adopted by such groups as the Amish sect in the U.S.A. But for most people in a modern industrial society this is not a practical proposition. Unless the minority group has its own schools its children must be educated with those of the majority—and young people tend to take their values from their own age-group rather than their parents. Even where the group has its own schools, once the children leave them to begin work there is no way of insulating them against the majority attitude.

The temptation to conform is particularly great for those in the academic world. When "intellectuals" have established a consensus on a particular topic, life becomes very awkward for anyone who insists upon remaining outside it. The worst penalty is that of not being taken seriously. The temptation to conform is an ever present one and poses serious problems to members of minorities who wish to be accepted as intellectually respectable, and at the same time continue to be regarded as loyal members of their group. Their response is to try to reconcile the two positions. In my book *Pope John's Council*, I quoted Cardinal Manning on the extent to which Catholic academics in nineteenth century Germany were drawn into the orbit of the all pervading rationalism. It is hard for a Catholic biblical scholar today to avoid being drawn into the heretical consensus long espoused by his Protestant

confrères, in the direct tradition of German rationalism, and which ultimately removes the entire divine foundation from Christianity. These scholars try to prove that the heretical position they have espoused is, in fact, perfectly orthodox and compatible with Catholicism. As men of great intellect and learning they are often able to present a plausible case, and even to make their opponents appear prejudiced and ignorant. Once they adopt the consensus position they will be lauded by their non-Catholic *confrères*. Their writings will be praised as marking the emergence of intellectually respectable Catholic scholarship. It is those who oppose them who will be on the defensive. It needs to be emphasized that conscious dishonesty will rarely feature in this process. Those concerned will imagine that their position is the right one. They will often feel sympathy for their brethren who have not yet seen the light.

The traditional Catholic teaching on Church and State has posed a dilemma for prominent American Catholics since the founding of the Republic. Catholics accepted the rights and protection accorded to them by the American Constitution, although official Church teaching permitted a denial of these same rights to Protestants where a Catholic State existed. Superficially, this appeared as the acceptance of double standards whereas, in reality, one single standard, the rights of truth, was observed. A tendency developed in the U.S.A., even among the hierarchy, to accept that in fact it was the American and not the traditional position which represented the ideal. Even where this was not stated explicitly, it was the obvious inference of some of the views expressed, a fact not lost upon some Liberal Catholics in Europe who wished to have the American situation adopted as the norm in Europe. In the United States, where Catholics were a minority, the situation was the best that could be hoped for; but this was not the case in a Catholic country such as Spain. In January 1895, Pope Leo XIII addressed his encyclical *Longinqua oceani* to the Archbishops and Bishops of the U.S.A. The crucial passage read:

For the Church amongst you, unopposed by the Constitution and government of your nation, fettered by no hostile legislation,

protected against violence by the common laws and the impartiality of the tribunals, is free to live and act without hindrance. Yet, though all this is true, it would be very erroneous to draw the conclusion that in America is to be sought the type of the most desirable status of the Church, or that it would be universally lawful or expedient for State and Church to be, as in America, dissevered and divorced.

On 22 January 1899, Pope Leo promulgated his encyclical *Testem benevolentiae*, addressed to Cardinal Gibbons and the American Church. The passage cited on page 93 could have been addressed specifically to Fr. Murray fifty years later, particularly the words:

For they contend that it is opportune, in order to work in a more attractive way upon the wills of those who are not in accord with us, to pass over certain heads of doctrines, as if of lesser moment, or to soften them that they may not have the same meaning which the Church has invariably held.

In his study of Fr. Murray, Father Pelotte writes:

Americanism grew out of the first genuine attempt to come to grips with the whole gamut of important American values: democracy, pluralism, cooperation between religions, State neutrality towards the churches, and the problem of the relationship of religion and culture. The Americanist crisis involved the question of the extent to which the Church should enter the mainstream of American political, economic, and social life.¹

Fr. Pelotte states that:

It took a man of Murray's stature to take up the scholarly task begun by the Americanists. As we have seen, he was himself familiar with their thinking, particularly through the influence of his friend John Tracy Ellis.²

And again:

If Murray is to be considered one of the major spokesmen of the Americanist tradition, his life-long difficulty at getting official Church approval for his position must be considered in the context of the Americanist heresy controversy . . . In fact, J.C. Fenton,

Francis Connell, and George Shea of *The American Ecclesiastical Review* clearly and publicly accused Murray of the errors reprovved in the condemnation of Americanism.³

Fr. Pelotte notes that these priests alleged that Fr. Murray's views were condemned in *Longinqua oceani* and *Testem benevolentiae*. He claims that they misunderstood Fr. Murray, and Fr. Murray himself claimed frequently that he was misunderstood or misrepresented.⁴ This was a tactic of the early Catholic Modernists. However, Fr. Murray's own writings, which were examined in Chapter X, make it quite clear that his theories are incompatible with the traditional Catholic teaching. It was also shown in Chapter X that, in proposing his theories as a legitimate development of previous papal teaching, he was simply imposing his own ideas onto what the Popes had written.

Msgr. Fenton had Father Murray in mind when he condemned those who took it upon themselves to question teaching which had been repeated in the encyclicals of successive popes. He explained that:

When a number of these documents deal with a certain individual subject, and when the more recent letters repeat and emphasize teachings which have been stressed in previous encyclicals, then some, at least, of the doctrines thus presented to the Church universal should be considered as taught infallibly by the Church's ordinary and universal Magisterium."⁵

Fr. Pelotte accepts that Msgr. Fenton was referring to Fr. Murray when he wrote:

There is, however, an attitude towards encyclicals which can be productive of doctrinal evil, and which can lead to a practical abandonment of their teaching. According to this attitude, it is the business of the theologian to distinguish two elements in the content of the various encyclicals. One element would be the deposit of genuine Catholic teaching, which of course, all Catholics are bound to accept at all times. The other element would be a collection of notions current at the time the encyclicals were written. These notions, which would enter into the practical application of

the Catholic teaching are represented as ideas which Catholics can afford to overlook.⁶

Msgr. Fenton designates this as an attitude "radically destructive of a true Catholic mentality".⁷ He also noted that the publication of the encyclical *Humani generis* on 12 August 1950 removed any credibility from Fr. Murray's position. In this encyclical, Pope Pius XII taught that:

When the Roman Pontiffs go out of their way to pronounce on some subject which has hitherto been controverted, it must be clear to everybody that, in the mind and intention of the Pontiffs concerned, this subject can no longer be regarded as a matter of free debate among theologians.

This passage was contained in the draft of the Vatican II Constitution on the Church, but was removed. Attempts to have it reinserted in the revised draft were not successful.⁸

Msgr. Fenton considered that the traditional teaching regarding Church and State certainly came into the category of doctrines upon which the mind of the Roman Pontiffs had been made clear, having been reiterated by successive popes on numerous occasions:

Consequently, despite the fact that the Church has issued no solemn definition on this point, Catholic writers and teachers can definitely not consider themselves free to state explicitly or even to suggest that a civil society composed of members of the true Church can act as God wills that it should by withholding an explicit and specific profession of the Catholic faith, and by refusing an explicit and specific recognition of the Catholic Church. The truth that the State, like every other human society, is objectively obligated to worship God according to the one religion He has established and commanded is so obviously a part of Catholic doctrine that no theologian has any excuse to call it into question.⁹

By 1955, Fr. Murray's unorthodox views had become so blatant that the Holy Office felt bound to intervene. Fr. McCormick, his superior, told him that he was to cease writing on the Church-State issue. The extent of the inroads of Liberalism into American

Catholicism by that date is illustrated in the fact that Fr. McCormick did not order Fr. Murray to stop writing because his views were heterodox, but because it would be prudent to drop the matter for the moment as times would change: "It seems to me a mistake to wish to carry on with this controverted question under present circumstances . . . Time will bring changes."¹⁰

Within ten years Msgr. Fenton had resigned, and Murray's ideas had influenced the Council to the extent that its teaching on the object or right to religious liberty conformed exactly to that of the American Constitution. Father Murray was able to celebrate his triumph with a champagne party after concelebrating Mass with the Pope himself. Time had indeed brought changes, and in one of a number of the commentaries which he wrote upon the Declaration Murray made it clear how this triumph had been achieved:

During the Council the schema on religious freedom was often called the "American schema". The adjective would be quite inappropriate with regard to the final form of the schema, the Declaration itself. It was approved by a definitive vote of 2,308 to 70. It was, therefore, an act of the universal Church, like all the other conciliar documents. However, during the long course of its legislative history, the schema had the solid and consistent support of the American bishops, and their numerous interventions had considerable influence in determining its substance and language. There were those who said that the American bishops supported the schema simply for pragmatic reasons. But this is an inadequate view. Undoubtedly, the support derived its basic inspiration from the American experience, from which the Church has learned the practical value of the free-exercise clause of the First Amendment . . . The object or content of the right to religious freedom, as specified both in the Declaration and in the American constitutional system, is *identical* (my emphasis).¹¹

In his book *American Participation in the Second Vatican Council*, Msgr. V. A. Yzermans writes:

During the ninth public session, on December 7, 1965, Pope Paul VI formally promulgated the Declaration on Religious Freedom after a final vote of 2,308 Council Fathers approving and 70 disapproving. It was a delightful victory for the American hierarchy. Richard Cardinal

Cushing of Boston summarized their collective sentiments when he wrote:

"I come home happy and satisfied that the voices of American Catholics have been heard and respected at the Ecumenical Council. We Americans, I feel, by the fact that we have lived in peace and harmony in a pluralistic society, offer to the world a practical lesson of the deeper significance of religious liberty."

The realization that the document was "*the American issue at the Council*" was verbalized by Archbishop Robert Lucey of San Antonio in the Spring of 1963: "It would be entirely appropriate that the American hierarchy should take the lead of a decree proclaiming authentic and universal freedom of religion, made permanent and unbreakable by constitutional guarantees." As a matter of fact, that lead had already been given in the second session of the Council through the pleas for a statement on religious freedom by the Americans who spoke during the discussions on ecumenism. That initiative, too, had been exhibited from the very beginning of the conciliar experience by the interventions submitted by Archbishop Karl Alter in 1959 and Francis Cardinal Spellman in 1960 for a clear conciliar declaration on religious freedom. Their sentiments were many times expressed by the American members and consultors of the unity secretariat . . . The American press also played no small role in fostering a healthy public opinion in favor of the document. From beginning to end, the press followed this document more closely than any other conciliar statement. It was, time after time, through every session of the Council, a constantly recurring subject for discussion at the American Bishops' Press Panel.¹²

In 1895, in *Longinqua oceani*, Pope Leo XIII had taught explicitly that "it would be very erroneous to draw the conclusion that in America is to be sought the type of the most desirable status of the Church, or that it would be universally lawful or expedient for State and Church to be, as in America, dissevered and divorced." In 1967 Father Murray was able to state with great satisfaction that the teaching of the Church on the object or content of the right to religious freedom had been made identical to that of the American Constitution thanks to the solid and consistent support given by the American bishops to the "American Schema".

Murray found nothing anomalous about this *volte-face*. The anomaly, he claimed, lay in the fact that the Church had failed to recognize that the position taken in the American Constitution was, in fact, her own tradition. The popes had failed to appreciate this because, it would appear, they were blinded to this fact by an obsession with what Murray recognized as the aberrations of the French Revolution. He explains:

Caught in the more disastrous aberrations derivative from the French Revolution, the Church long failed to recognize the validity of the American development of what was, in fact, her own tradition. The Declaration accords the belated recognition. The right to religious freedom is not the creature of expedience or even of history alone. It is not a gracious grant of government in concession to social circumstances. It is a requirement of the dignity of the human person.¹³

The Declaration on Religious Freedom, Murray assures us, "aligns the Church firmly and irrevocably with the movement of the historical consciousness of contemporary men—with 'those desires in the minds of men' which are 'greatly in accord with truth and justice' from which this epochal document takes its start."¹⁴ Murray could hardly have been more explicit, the Declaration is based not upon Catholic tradition and the teaching of the Popes, but upon "the movement of the historical consciousness of contemporary men"—in other words, with the *Zeitgeist* that was, to a considerable extent, the creation of the American press.

The "solid and consistent support of the American bishops", for the "American schema", which persuaded the Council Fathers to conform the teaching of the Declaration to that of the American Constitution, will be examined in detail in Chapters XIV to XVI.

NOTES

¹ TIC, pp. 146-7.

² Ibid., p. 145.

³ Ibid., p. 146.

⁴ Ibid., p. 157.

⁵ AER, 121, 1949, p. 213.

⁶ AER, 121, 1949, p. 217.

⁷ Ibid.

⁸ PJC, p. 54.

⁹ AER, 123, 1950, p. 218.

¹⁰ TIC, p. 52.

¹¹ APSVC, p. 668.

¹² Ibid., p. 623.

¹³ Ibid., p. 671.

¹⁴ Ibid., p. 676.

XIII

ON THE ROAD TO VICTORY

VATICAN II—THE FIRST SESSION

11 October—8 December 1962

The triumph of the Murray brand of Liberalism was assured when Pope John XXIII decided to convoke an Ecumenical Council. I have described the background to this decision in *Pope John's Council* and will not repeat it here. Pope John himself was no Liberal. In 1959 he had action taken against the French worker-priest movement which had become infected with Marxism. In 1961 the Holy Office warned against heterodox tendencies among Catholic biblical scholars. In June 1962 came the *monitum* condemning the works of Teilhard de Chardin. The fact that Pope John was personally very conservative, as is proved by the strict discipline he imposed upon priests both as Patriarch of Venice and later in Rome, is ignored by Liberal propagandists. Like the equally conservative Cardinal Newman, he has been installed in the Liberal Pantheon, whatever the facts might say. The Liberal explanation of Pope John's anti-Liberal acts is that, until liberated by the Liberal majority at the Council, he was "almost helplessly at the mercy of his curial advisers".¹

In the Spring of 1960 Father Murray published his Church-State thesis under the title *We Hold These Truths: Catholic Reflections on the American Proposition*. It earned him the Liberal equivalent of canonization—his portrait upon the cover of *Time* magazine.²

Murray is also credited with an important contribution to securing the election of John F. Kennedy. *Newsweek* magazine commented: "Murray demonstrated in theory what John F. Kennedy demonstrated in practice: that Americanism and Roman Catholicism need no longer fear each other."³

Murray was consulted by Theodore Sorensen in the writing of

⁶ AER, 121, 1949, p. 217.

⁷ *Ibid.*

⁸ PJC, p. 54.

⁹ AER, 123, 1950, p. 218.

¹⁰ TIC, p. 52.

¹¹ APSVC, p. 668.

¹² *Ibid.*, p. 623.

¹³ *Ibid.*, p. 671.

¹⁴ *Ibid.*, p. 676.

a crucial speech which Kennedy delivered on the Church-State issue to the Houston Ministerial Association on 12 September 1960. This was considered as "the best speech" of Kennedy's campaign and made certain that he would be acceptable to all but the most prejudiced of Protestants.⁴ A 9 June 1978 *Catholic Telegraph* article in praise of Father Murray commented: "The early 1960s were known in some circles as the Johannine Age, profoundly influenced as they were by Pope John XXIII in Rome, John F. Kennedy in Washington, and Jesuit Father John Courtney Murray."

While *Time* magazine, Protestants, and Catholic Liberals were euphoric about *We Hold These Truths*, Msgr. Fenton was not. He demonstrated that Murray's thesis could not be reconciled with orthodox doctrine and showed "sympathy for the Liberalism of the day".⁵

Msgr. Fenton was invited to the Council as the personal *peritus* (expert) to Cardinal Ottaviani. He was also a pontifical theologian with the privilege of attending general congregations of the Council.⁶ Father Murray had also been invited as a *peritus* but the Apostolic Delegate to the U.S.A. had had this invitation withdrawn.⁷ John Cogley of *Commonweal* spoke to Murray about the withdrawal of his invitation: " 'Do you feel bad about it?' I asked. 'I do,' he said. 'A man doesn't live long, and if something this big is going on, a man feels that he ought to be there.'"⁸

The First Session

11 October—8 December 1962

In *The Rhine Flows into the Tiber*, Father Ralph Wiltgen quotes Msgr. Vincenzo Carbone, an official of the General Secretariat of the Second Vatican Council, to the effect that no previous General

* As I show in *Pope John's Council*, John Cogley was one of the most influential Liberal propagandists who took part in fabricating the myth of Vatican II which now passes for reality among most Catholics. He later apostatized and was studying for the Episcopalian ministry when he died in March 1976. His departure from the Church is described in his last book, *A Canterbury Tale*, which was published in the same year.

Council had had a preparation "so vast, so diligently carried out, and so profound."⁹

The preparation for the Council had begun on 17 May 1959 when Pope John XXIII created an Ante-Preparatory Commission. A vast work of preparation was then initiated involving theologians and hierarchies from throughout the Catholic world. On 5 June 1960, Pope John established twelve preparatory commissions, with a Central Preparatory Commission to coordinate them. The Pope himself was president of this Commission.¹⁰

After two years' work, ending on the eve of the Council with the dissolution of most of these bodies, a total of seventy-five schemata had been prepared. Some were merely chapters of full schemata, some were later combined with others by the Central Preparatory Commission, and still others were considered too specialized for treatment by the Council, and were referred to the Pontifical Commission for the Revision of the Code of Canon Law. In this way, the seventy-five schemata were ultimately reduced to twenty On 13 July 1962, three months before the opening of the Council, Pope John decreed that the first seven schemata, officially called the "First Series of Schemata of Constitutions and Decrees", should be sent to the Council Fathers around the world.¹¹

What happened to these schemata when the Council began almost defies credibility. The story is told in full in Chapter V of my book *Pope John's Council*. Archbishop Marcel Lefebvre has given his personal testimony of the astonishing events. He mentions the fact that he was a member of the Central Preparatory Commission and knew how conscientiously and with what concern for perfection the work of compiling the preparatory schemata had been carried out. (He gives their total number as seventy-two, and states that he still possesses copies of all of them.) But the schemata were based so soundly on tradition that they were totally unacceptable to the Liberals who had taken over the key functions in the Council from its first day. The only schema that they found acceptable was the one on the liturgy, which Liberals had been influential in preparing in a commission guided by its secretary, Father Annibale Bugnini. Father Bugnini

was dismissed from his chair at the Lateran University, and from the Secretaryship of the Preparatory Commission, with the full approval of Pope John XXIII, shortly before the Council began, for reasons which have never been disclosed. But his schema was accepted, and was described by the ultra-liberal Father Edward Schillibeekx, O.P., as "an admirable piece of work". The Liberals were prepared to accept this one schema. And what of the rest? Archbishop Lefebvre relates:

Now you know what happened at the Council. A fortnight after its opening not one of the prepared schemata remained, not one! All had been turned down, all had been condemned to the wastepaper basket. Nothing remained, not a single sentence. All had been thrown out.¹²

The Archbishop went on to point out that 66% of the votes were needed for the rejection of a preparatory schema, but the Liberals could muster only 60%. The schemata could not, therefore, be rejected under the rules governing the Council. Pressure was then brought upon Pope John XXIII to intervene and use his upreme authority to ensure that the Liberals had their way, and that the preparatory schemata were, as Archbishop Lefebvre expressed it, "condemned to the wastepaper basket". Years of preparation had been obliterated. "After a fortnight", wrote Archbishop Lefebvre, "we were left without any preparation. It was really inconceivable."¹³

Pope John capitulated to the Liberals through weakness, and not through any ideological identity with their views. Cardinal Joseph Ratzinger has testified to this:

After Pope John XXIII had announced its (the Council's) convocation, the Roman Curia worked together with the most distinguished representatives of the world episcopate in the preparation of those schemata which were then rejected by the Council Fathers as too theoretical, too textbook-like and insufficiently pastoral.* Pope John had not reckoned on the possibility of a rejection but was expecting a quick and frictionless balloting on these projects which he

* In Liberal terminology this means that the schemata represented the traditional teaching of the Church!

had approvingly read. It is clear that none of those texts aimed to change doctrine. Rather, it was a matter of synthesizing it, at most, of arriving also at a clarification of some points not yet precisely defined and, in that way, of developing it further.¹⁴

The discarded schema on the relations between Church and State had, in fact, been the ninth chapter of the original schema on the Church. Chapter IX restated the classic thesis/antithesis teaching in the clearest possible terms.* There had been two drafts of the schema, but in the *Commentary on the Documents of Vatican II*, edited by Father H. Vorgrimler it is noted that the doctrine contained in both versions is fundamentally the same.¹⁵ The commentary on *Dignitatis humanae* in the Vorgrimler collection was written by Msgr. Pietro Pavan, who played a role second only to Father Murray in drafting the final text of the Declaration. Murray certainly had the greatest influence,¹⁶ but he accepted the importance of the part played by Msgr. Pavan.¹⁷ In his commentary Msgr. Pavan summarizes the teaching of the original Chapter IX as follows:

Hence, if almost all members of a society or the majority profess the true, that is to say the Catholic religion, the State, too, has the duty to profess it. Those citizens who belong to other religions *do not have the right not to be prevented from professing these religions*; however, for the sake of the common good the State may tolerate their profession, both for the sake of the common good of the relevant community and for that of all mankind.

If, on the other hand, almost the whole of a community or its majority is non-Catholic, it is the duty of the State to follow the natural law in every respect. Hence it must leave Catholics completely free to profess their own religion and it must leave the Church free to accomplish her mission.¹⁸

Archbishop Shehan of Baltimore, Maryland, had sent Murray the various drafts of the Preparatory Commission on the subject of Religious Liberty. It is far from surprising that they did not please him! In August 1962 he sent a memo to the Archbishop warning that these drafts meant that:

* The complete text of Chapter IX is available in Appendix V.

Ottaviani's "two standards" theory (what I call the disjunctive theory) will remain on the books, untouched, as the essential and pure Catholic doctrine (he holds that it is *proxima fidei*, and Ruffini agrees) We have a heaven-sent opportunity to effect a genuine development of doctrine in this matter—an absolutely necessary development, and one that can quite readily be effected.¹⁹

Father Murray and his allies referred to a development of doctrine frequently throughout the Council, but what he meant by "development" by no means fulfils the conditions laid down by Cardinal Newman for a *genuine* development. As Msgr. Philip Flanagan explains in his introduction to *Newman Against the Liberals*:

Newman's theory of doctrinal development is fundamentally different from the theology of the Modernists, who so unjustly claim his support. For them revelation is a continuing process destined to go on till the end of time, with earlier statements of the truth being modified and perhaps even contradicted by later statements more suited to the spirit of the age in which they are made. For Newman the revealed message was given once and for all by God, to be more and more fully grasped as time goes on, but to be passed on in its entirety, undiminished and uncorrupted. For the Modernist, dogmas have no absolute truth and are valid for the time in which they are made, but not necessarily at other periods.²⁰

Among the seven requirements for a true development Newman lists continuity of principle, logical sequence, conservation of its past.²¹ He also notes that the word "development" is commonly used with an unfortunate lack of precision, and that even a doctrine which is unfaithful to the idea from which it developed is sometimes termed a development. Thus, where the previous doctrine is contradicted we are faced not with a development but an innovation. Newman explains that a developed doctrine which reverses the course of the development which has preceded it is no true development but is more properly to be called a corruption.²² The question as to whether *Dignitatis humanae* went beyond simply failing to affirm previous papal teaching on Church and State, and actually contradicted it, will be examined in Chapter XXII.

Father Wiltgen remarks in his classic account of Vatican II, *The Rhine Flows into the Tiber*:

No text was subjected to as many revisions by the Council as the one on religious freedom. Before its promulgation as a declaration on 7 December 1965, the day preceding the closing of the Second Vatican Council, six different drafts had been laid before the Council. One of the United States bishops said that, without their support, "this document would not have reached the floor."²³

In fact, if the two drafts for Chapter IX of the Constitution on the Church which had been submitted by the Preparatory Commission are included there were eight drafts in all.

The establishment of Cardinal Bea's Secretariat for the Promotion of Christian Unity, on 5 June 1960, guaranteed that Protestant influence upon the Council would be considerable. A Protestant Observer, Dr. R. McAfee Brown, wrote:

As the Council got underway, the very existence of the Secretariat, coupled with its independence of the Curia, proved important ecumenical boons, for most of the conciliar matters dealing with ecumenical affairs were included within the portfolio of the Secretariat. Thus it was the Secretariat that had the task of drafting the crucial schema *On Ecumenism*: it was the Secretariat that provided the succession of the texts for the statements on Religious Liberty and on the Jews²⁴

The manner in which the Secretariat came to take over the religious liberty question is as follows. The Secretariat produced its own text on religious freedom during the preparatory stage of the Council, and on 18 June 1962 submitted it to the Central Preparatory Commission, of which Msgr. Lefebvre was a member. The Commission correctly refused to consider the draft as the Secretariat had no competence to draw up schemata to submit for discussion by the Council Fathers. The Council opened on 11 October 1962, and by 16 October had been taken over by the Rhine Group. Father Wiltgen writes:

Eleven days after the opening of the Council, it was announced that Pope John had raised the Secretariat for Promoting Christian Unity to Commission status Its new status meant that it was

entitled to compose schemata, submit them to the general assembly, revise them where necessary, defend them, and perform all the other functions pertaining to Council commissions.²⁵

The Secretariat was granted commission status on 19 October 1962, and this was made public on 22 October. It now had the right to submit its schema on religious freedom to the Council. The schema had the somewhat provocative title *Freedom of Cult*. It was examined by the Coordinating Commission at its first meeting in January 1963, after the close of the First Session. The Coordinating Commission authorized the Secretariat to incorporate into its own schema whatever it wished to take from the draft of the Central Preparatory Commission, the original Chapter IX of the now discarded schema on the Church.²⁶

Cardinal Bea's revised text was ready for presentation to the Council Fathers before the opening of the Second Session. The provocative title *Freedom of Cult* had been changed to the more ambiguous *On Religious Freedom*. The Secretariat decided to include it as Chapter V in the schema on ecumenism. "They felt that to introduce it as an independent schema might jeopardize its passage."²⁷ But there was still one obstacle for the Secretariat to overcome. Since the schema dealt with doctrinal matters it had first to be submitted to Cardinal Ottaviani's Central Theological Commission.

NOTES

¹ TIC, p. 74.

² 12 December 1960 issue.

³ "The Voice of Reason", *Newsweek*, 28 August 1967.

⁴ TIC, p. 76.

⁵ AER, 145, 1961, p. 274.

⁶ *Ibid.*, 147, 1962, p. 351.

⁷ TIC, p. 109.

⁸ *America*, 117, 2 Sept. 1967, p. 221.

⁹ RFT, p. 22.

¹⁰ A detailed account of these preparations is available in RFT, pp. 19-22.

¹¹ RFT, p. 22.

¹² M. Lefebvre, *A Bishop Speaks* (Angelus Press, Kansas City, MO, 1985), p. 131.

¹³ *Ibid.*, p. 132.

¹⁴ J. Ratzinger, V. Messori, *The Ratzinger Report* (Ignatius Press, San Francisco, 1985), p. 41.

- ¹⁵ COD, p. 49.
- ¹⁶ TIC, p. 90.
- ¹⁷ Ibid., p. 94.
- ¹⁸ COD, p. 50.
- ¹⁹ TIC, pp. 79–80.
- ²⁰ NAL, p. 26.
- ²¹ J.H. Newman, *Development of Christian Doctrine* (London, 1878), Chapter V.
- ²² Ibid., p. 202.
- ²³ RFT, p. 159.
- ²⁴ R. McAfee Brown, *The Ecumenical Revolution* (New York, 1969), p. 65.
- ²⁵ RFT, p. 123.
- ²⁶ Ibid., p. 160.
- ²⁷ Ibid., p. 161.

XIV

VATICAN II—THE SECOND SESSION

29 September—4 December 1963

On 4 April 1963, Father Murray had been invited to attend the Second Session of the Council as a *peritus*. The invitation came at the instigation of Francis Cardinal Spellman. Father Pelotte writes: "From the day of his arrival in Rome for the Second Session, Murray was destined to play a central role in framing the eventual Declaration on Religious Freedom."¹

The Second Session was inaugurated by Pope Paul VI, Pope John XXIII having died between the sessions. Weeks passed by, and the Unity Secretariat's draft schema *On Religious Freedom* remained with the Central Theological Commission. Liberals reacted with anxiety and indignation. Michael Novak, an uncritical admirer of Father Murray, wrote in his book, *The Open Church*, that:

The Theological Commission, whose competence extends to all things which touch on faith or morals, had rightfully insisted on examining the document before it was presented to the Council. However, as the weeks went on, the Commission did not examine it. Since those in power in the Commission had long and publicly opposed the doctrine of religious liberty, it was widely surmised that they were doing everything possible to block discussion of the document.²

Cardinal Ottaviani and other conservative members of the Theological Commission felt the Unity Secretariat's draft was so unorthodox that it was not even suitable for discussion. Some American prelates exerted pressure behind the scenes. Cardinal Spellman persuaded Pope Paul to order Cardinal Ottaviani to call a meeting of the Theological Commission to consider the draft.³ In *Pope John's Council* I have described the manner in which the originally conservative American hierarchy was soon persuaded to adopt the Liberal consensus and jump on the progressive bandwagon—some prelates admitting that they had reversed the attitudes of a lifetime.⁴ Father Pelotte remarks that:

At the opening of Vatican II it was said that the American episcopate was a perfect mirror of the thinking, aims, and prejudices of the Roman Curia. Arriving in Rome in 1962, the large majority of American bishops were not prepared for new interpretations.⁵

However, once the American bishops had succumbed to the Liberal consensus most of them gave eager and uncritical support to all its policies. Michael Novak noted with satisfaction that:

The lack of intellectual boldness and creativity among the American bishops over the past generation was no doubt responsible for their initial lack of preparation at the Council. On the other hand, the openness, modesty, and piety of the Americans made them docile once the leadership of the Church insisted on renewal and reform.⁶

The docility was well summarized by one American bishop who admitted that, during the Council, like wise Sir Joseph Porter, KCB, "We always voted at our party's call; we never thought of thinking for ourselves at all."⁷

Where the bishops of the U.S.A. were concerned, it became clear as the Council progressed that the task to which their "party" called them was of ensuring that the Church conformed its teaching on religious liberty to the American Constitution. This is a fact which was noted with considerable satisfaction by Paul Blanshard, founder of the virulently anti-Catholic movement entitled "Protestants and Other Americans United for the Separation of Church and State" (POAU). Blanshard was the author of innumerable articles and books attacking Catholicism—with the traditional teaching on Church and State as his principal target. *American Freedom and Catholic Power* is one of his best known books. Ironically, Fr. Murray had defended the Church against Blanshard's attacks in the past. Now Murray would receive an accolade from him for his key role in ensuring that Blanshard's Liberal attitude to religious freedom was adopted by Vatican II. Blanshard writes:

For American Catholics the most explosive subject at Vatican II was religious liberty, which at the beginning was not even listed as a subject. Even in the second session, it was buried inconspicuously

in a chapter in the schema on ecumenism, but finally it was given the dignity of a chapter by itself. Passing through six versions and 120 speeches in the *aula*, it became for the American bishops the big subject, the one best cause around which they could rally with all the power and enthusiasm they possessed One reason why religious liberty mattered so much to the Americans was that for several generations American Catholicism has laboured under the accusation that the Church tends to stand for religious liberty only when it suits the Church and that when Church authorities gain enough power in any country they then deny to other cults the very freedom they have claimed for themselves while in a minority . . . the passage of a broad and general statement on religious liberty became for most of the American bishops an emotional and logical necessity. And to their credit they fought a good fight, demonstrating tenacity and near unanimity. When the statement was finally adopted, although it was full of inconsistencies and weaknesses, it was a distinctly American achievement.⁸

Michael Novak noted that:

For years, many American bishops failed to come to the assistance of the forces of renewal and reform in the United States . . . Few American bishops came to the defence of John Courtney Murray when his ideas on religious liberty were under fire.⁹

But, by November 1963, many of these bishops had become adepts of the fashionable Murray-cult, and it was through their pressure that the fateful meeting of the Theological Commission described in Chapter I took place. The religious liberty issue had been removed from the Council agenda. Murray prepared a four-page memo for the bishops of the U.S.A. explaining why he thought that it should be restored. His memo was endorsed by a full meeting of the American bishops, and a letter signed in their name by Cardinal Spellman was sent to Cardinal Cicognani, to the presidency of the Council, and to the four moderators. It demanded not only that the issue should be discussed, but that the Unity Secretariat's schema should form the basis for the discussion. Had it not been for this American intervention, made at the behest of Father Murray, the issue of religious liberty would not have been restored to the agenda.¹⁰

Michael Novak describes the background to the 11/12 November meeting of the Theological Commission as follows:

On Monday evening, the 11th, Bishop Wright invited Father John Courtney Murray, S.J. of Woodstock, Maryland, one of the great architects of modern Catholic teaching on the point, to attend the plenary session For years several of those present in the room had harassed Father Murray in his work on religious liberty, including Cardinal Ottaviani as Secretary of the Holy Office, and Archbishop Pietro Parente, also a member of the Theological Commission and the Holy Office Cardinal Michael Browne of the Curia and Monsignor Joseph Clifford Fenton, of Catholic University, who in past times had bitterly opposed Father Murray on this point, were also present.

Father Murray had long been prevented by the Holy Office from publishing his views on this question. His life's work was, in effect, under a cloud because of this opposition from the Holy Office and in some quarters his orthodoxy was thus rendered suspect. Moreover, after Father Murray had been invited to attend the First Session of the Council as an expert, the invitation was suddenly and embarrassingly withdrawn. For the Second Session, Cardinal Spellman saw to it that Father Murray was accredited.¹¹

The meeting of the Theological Commission called as a result of pressure from the American bishops took place on Monday and Tuesday the 11th and 12th of November 1963. Xavier Rynne describes it as "a landmark in the history of the Council, for it was then that Cardinal Ottaviani suffered defeat on his own territory."¹²

The confrontation described in Chapter I took place on 11 November. On 12 November the Commission proceeded to a vote. Xavier Rynne claims that: "Cardinal Ottaviani tried to delay the fateful vote on Tuesday by making a great many long-winded explanations and offering a number of wild suggestions, all of which were voted down by the impatient Commission members."¹³ This is a Liberal way of stating that the great Cardinal had put forward the authentic papal teaching set out in the early chapters of this book.

The vote was 18 to 5 in favour of reporting the text to the floor, i.e. submitting it to the Council Fathers as a basis for discussion. The anonymous Rynne could not forbear adding a typical Liberal comment: "The five opposing votes were apparently those of Cardinal Ottaviani, Cardinal Browne, Cardinal Santos, Archbishop Parente and Archbishop Florit, who constituted the small ultra-conservative coterie which had repeatedly held up or frustrated the work of a

more progressive majority.”¹⁴ It is hardly necessary to point out that such great popes as Pius IX, Leo XIII, St. Pius X, Pius XI, and Pius XII also belonged to this “ultra-conservative coterie”.

Dietrich von Hildebrand, an intellectual, philosophical, and spiritual giant when compared with the pseudonymous Rynne, included some interesting remarks on the terms conservative and progressive in his book *Trojan Horse in the City of God*:

Even a man who may be in no way conservative in temperament and in many other respects “progressive” must be conservative in his relation to the infallible Magisterium of the Church if he is to remain an orthodox Catholic. One can be progressive and simultaneously a Catholic, but one cannot be a progressive in one’s Catholic faith. The idea of a “progressive Catholic” in this sense is a contradiction *in adjecto*. Unfortunately, there are many today who no longer understand this contradiction and proudly proclaim themselves to be “progressive Catholics”.¹⁵

Cardinal Newman wrote:

Blessed be God! we have not to find the Truth, it is put into our hands; we have but to commit it to our hearts, to preserve it inviolate, and to deliver it over to our posterity.

This then is the meaning of St. Paul’s injunction in the text, given at the time when the Truth was first published. “Keep that which is committed to thy trust”, or rather, “keep the deposit”; turn away from those “profane emptinesses” which pretenders to philosophy and science bring forward against it. Do not be moved by them; do not alter your Creed for them; for the end of such men is error. They go on disputing and refining, giving new meanings, modifying received ones, still with the idea of the True Faith in their minds as the scope of their inquiries; but at length they “miss” it. They shoot on one side of it, and embrace a deceit of their own instead of it.¹⁶

Newman could have been referring specifically to the manner in which Father Murray transformed what Cardinal Ottaviani described as “part of the patrimony of Catholic doctrine” into fashionable Liberalism derived from the “common consciousness of contemporary man” rather than the unchanging Magisterium of the Church. Rynne states quite openly that the subsequent support of the American

bishops for the Murray thesis, now to be submitted to the Council Fathers, derived not from the teaching of the Magisterium, which is hardly surprising as there was no teaching of the Magisterium to support it, but "on the traditional American stand on separation of Church and State".¹⁷ The doctrine of the separation of Church and State had been described as "absolutely false and most pernicious" by Pope St. Pius X (see page 36). In his encyclical *Longinqua oceani*, Pope Leo XIII had warned the American hierarchy that no matter how well the separation of Church and State appeared to function in the U.S.A., it would be "very erroneous" to advocate the system as a universal principle (see pp. 97-8).

Father Murray described the 18-5 vote in favour of submitting Chapter V of the schema on Ecumenism to the floor as "a glorious victory for the Good Guys".¹⁸ The triumph of his ideas and the downfall of Msgr. Fenton were now equally certain. Chapter V of the schema was distributed to the Council Fathers on 19 November 1963.¹⁹

Father de Broglie-Revel, a Jesuit Professor of dogmatic theology at the Gregorian University, and formerly of the Institut Catholique of Paris, was so alarmed at the incompatibility of the schema with the traditional teaching on Church and State that he submitted a three page critique to all the Fathers. He described the text expounding man's right to religious liberty as "unimaginably incoherent". Certain passages, he claimed, subscribed "to the most extreme theses of Liberalism without any qualification whatsoever." He added:

This incoherence is in fact due to an equivocation, for it attempts an impossible compromise between the principles of Liberalism and those of Pope Pius IX.²⁰

Father de Broglie-Revel had grasped precisely the issue that was at stake here. The teaching of Pope Pius IX and his successors is fundamentally incompatible with the principles of Liberalism, exemplified by the American Constitution. If the Council Fathers were to accept the principles of the American Constitution they

would either have to contradict or at the very least abandon the traditional Catholic teaching.

Father Murray was determined to ensure that Church teaching was brought into line with the American Constitution. He wrote to Cardinal Spellman asking him to make a speech in defence of the American constitutional system and its version of religious freedom—which was based on the papally condemned principle of the separation of Church and State. He set out exactly what he wished the Cardinal to say, stressing that:

The functions of government and law are limited to the temporal and terrestrial affairs of men. In particular, the First Amendment declares government to be incompetent in the field of religion; government is not a judge of religious truth; it has no right to repress religious error; it has no share in the *cura animarum*; its sole function in the field of religion is the protection and promotion of *freedom* of the Church and of the churches and of all citizens.²¹

Cardinal Spellman expressed himself pleased with Murray's suggestions and asked him to write out the speech which he agreed to deliver. But the most celebrated speech on the subject of religious freedom was delivered by the Belgian Bishop Emile de Smedt on 19 November 1963, when Chapter V of the schema *On Ecumenism* was presented to the Fathers with the title "On Religious Freedom" (see p. 112). Msgr. de Smedt's speech was an official introduction (*relatio*) to the Chapter given on behalf of the Unity Secretariat.* It was certainly one of the most important speeches delivered during the Council and Liberal commentators vied with each other in finding adequate superlatives to praise it. Msgr. de Smedt is a fine orator and when a fine orator says what his audience wishes to hear he appears inspired. Dr. McAfee Brown and Xavier Rynne included the complete text in their books and Michael Novak abbreviated it only slightly.** There was much in the speech to which no traditionalist could take exception, just as much of the Murray thesis is totally orthodox. Indeed, this speech was the Murray

* Included in full in Appendix IV.

** See bibliography.

thesis. Father Murray had never alleged that man has a right to choose error in place of truth, only that he has a right not to be coerced into professing the truth in his private life (sound traditional teaching) or to be prevented from expressing his errors in public* (a contradiction of traditional teaching). Bishop de Smedt explained:

When religious liberty is defended, it is not asserted that it is proper for man to consider the religious problem according to his own whim, without any moral obligation, and decide for himself according to his own will whether or not to embrace religion (religious indifference).

Nor is it affirmed that the human conscience is free in the sense that it is as it were outside of the law, absolved from any obligation towards God (laicism).

Nor is it said that falsehood is to be considered on an equal footing with truth, as though there were no objective norm of truth (doctrinal relativism).²²

The Bishop then explained, with equal doctrinal soundness, that no one should be subjected to coercion as regards his private beliefs. He then expounded the Murray view that he should be equally free to express his views in public and enjoy the right to corporate public worship. The only limitation on this right was to be that it "can be and at times must be tempered and regulated for the common good."²³ The reason for reference to the common good, rather than the full Murray doctrine which invokes public order as the only criterion for restraint, is that the speech drew heavily upon Pope John's *Pacem in terris* for doctrinal support. In fact, neither in *Pacem in terris* nor in *Mater et Magistra* did Pope John teach specifically that the State had no right to repress heresy in the external forum. *Pacem in terris* taught that the right to religious liberty in the external forum was restricted by "the limits laid down by the moral order and the common good". The thesis/antithesis position was also not stated specifically, but all that Pope John wrote can be reconciled with the traditional doctrine, even if inclining to toleration as the norm. In

*Except where demanded in the interests of public order.

the celebrated Abbott translation, *The Documents of Vatican II*, in a commentary on the Religious Liberty Declaration written by Murray himself, he admits that:

In no other conciliar document is it so explicitly stated that the intention of the Council is to "develop" Catholic doctrine . . . In regard to the right of man to religious freedom, even *Pacem in terris* is unclear and ambiguous. What precisely does religious freedom mean? Does it find place among the inalienable rights of man? These are the questions to which, *for the first time*, the Church gives an unmistakably clear and entirely unambiguous answer. The Council brings forth out of the treasury of truth a doctrine that is at once new and also in harmony with traditional teaching (my emphasis).²⁴

The doctrine is certainly new—but whether it is in harmony with the traditional teaching is certainly open to question, particularly if Newman's strict standards for a genuine development are considered.

Bishop de Smedt provided his receptive audience with what was certainly a plausible and superficially convincing interpretation of previous papal teaching on the subject of religious liberty. Only those who had studied this teaching in the original sources would have seen that the Bishop's speech contained inconsistencies. The Bishop claimed that in *Quanta cura* and the *Syllabus*, Pope Pius IX was referring only to the prevailing forms of continental Liberalism and laicism, and was not laying down principles intended to possess permanent validity. Pope Leo XIII is purported to have come a step nearer Murrayism even though he taught that the "modern freedoms" were to be "tolerated only". This was because some of the régimes proclaiming the modern freedoms "drew their inspiration from the laicist ideology". Pope Pius XI is credited with "a truly Liberal and Christian doctrine"—*Quas primas* is ignored! Pope Pius XII is virtually credited with the profession of Murrayism—*Ci riesce* is quoted to illustrate his Liberalism when, in fact, *Ci riesce* had been welcomed by Cardinal Ottaviani and Msgr. Fenton for its clear affirmation of the right (but not the duty) of the Catholic State to repress public

heresy. True, the Pope did stress that in the contemporary situation toleration must inevitably be the general norm, but he left the principle untouched. It is worth repeating a quotation from *Ci riesce* cited in Chapter VI:

The duty of repressing moral and religious error cannot therefore be the ultimate norm of action. It must be subordinated to higher and more general norms, which in some circumstances permit, and even perhaps seem to indicate as the better policy, toleration of error to promote a greater good.

Bishop de Smedt's speech also cites papal declarations demanding religious freedom for Catholics as if they had been intended to demand it for all Christians. At no point in his speech did Bishop de Smedt cite a single papal utterance stating specifically that religious freedom in the external forum was a natural human right. This is hardly surprising as no Pope had ever made such a statement, and their pronouncements concerning the right to religious freedom referred to the Catholic Church alone (see page 49).

The Bishop simply stated that the affirmation of this right was the logical development of previous papal teaching. This was no more than a gratuitous assertion, but an assertion which would be received as incontrovertible logic by a well conditioned audience. Paul Blanshard was more objective. While he welcomed Bishop de Smedt's *relatio* as a step in the right direction he was not prepared to let the assertion that it was a development of previous teachings go unchallenged. He was well aware of what that teaching was, having dedicated so much effort to attacking it. Blanshard's language is somewhat emotive but the point he makes is sound:

That Bishop de Smedt was embarrassed in trying to reconcile modern religious liberty with the principles advocated by Pius IX was indicated in his closing remarks when he said: "It is evident that certain quotations from the popes, because of a difference of words, can be put in opposition to our schema. But I beseech you, Venerable Fathers, not to force the text to speak outside of its

historical and doctrinal context, not, in other words, to make the fish swim out of water."

The trouble with this charitable attitude towards all past declarations against religious liberty by the popes is that the fish allegedly trying to swim "out of water" are actually words supposed to be absolutely authoritative, some would say infallible, expressed by past popes.* . . . Pity the poor progressives at Vatican II! In order to get their religious liberty statement adopted they were saddled with the necessity of reconciling their own relatively advanced ideas with the Church's reactionary teachings about liberty in the past.

The published record of anti-liberty statements by the Church, confirmed even in recent years, is overwhelmingly on the side of the conservatives. As James Hastings Nichols has said: "Roman Catholicism, ideally and in principle, condemns civil and religious liberty." If this did not apply to the majority of the bishops at Vatican II—and I think it did not—there were many anti-liberty ghosts in the Catholic closet to haunt those Liberals who contended that religious liberty and Catholicism were consistent with one another.²⁵

Once a bandwagon starts rolling there are few who can resist the temptation to jump on. This was certainly true of the Fathers of Vatican II. They did not trouble themselves about how consistent Msgr. de Smedt's views were with the teaching of Pope Pius IX—they just applauded wildly.

Dr. McAfee Brown writes:

The speech was long and complex, but it held the Fathers by its sheer brilliance and momentum, and by the passion with which it was delivered. When de Smedt finished there was not only applause, but thunderous applause—by all odds the greatest single outburst of the entire Council. Even when it began to die away it lingered on in the back of the *aula* where the younger bishops sit. I

* Blanshard is correct even in this detail, as is shown in Appendix II. Respectable theological opinions hold *Quanta cura* and the *Syllabus* to be infallible. Even if not infallible the authority of these documents is such that they are binding upon all Catholics.

count this speech, together with its reception, the most thrilling moment of the Council to date.²⁶

After Bishop de Smedt's speech and the reception given to it, the triumph of the Murray thesis on the Council floor was certain. There was no doubt that it would command the support of the overwhelming majority. Bishop de Smedt had not written the speech himself—it had been written for him by an American Jesuit named John Courtney Murray!²⁷ Father Pelotte not only documents the fact that Father Murray wrote Msgr. de Smedt's celebrated *relatio* but adds: "Murray was also responsible for the writing of similar speeches on the subject for Albert Cardinal Meyer; for P. Veuillot, the auxiliary bishop of Paris; for S. Mendez Arceo, Bishop of Cuernavaca, Mexico; and for R. Cardinal Silva Henriquez of Chile."²⁸

Dr. McAfee Brown acclaimed the events of 19 November 1963 as "almost a flood tide of ecumenical approval, indicating that the 'friends of ecumenism' can be vigorous, articulate, and persuasive."²⁹ Preoccupation with ecumenism was a priority among the leading supporters of the Murray thesis within the Council. Bishop de Smedt stated in his speech: "Many non-Catholics harbour an aversion against the Church or at least suspect her of a kind of Machiavellianism because we seem to them to demand the free exercise of religion when Catholics are in a minority in any nation and at the same time refuse and deny religious liberty when Catholics are in the majority."

Cardinal Ottaviani's answer to this charge of double standards has already been given in Chapter VIII. The fact that much Catholic teaching is not acceptable to those outside the Church does not justify modifying it to appease those who are in error. If there is a conflict between ecumenical progress and the obligation to uphold sound doctrine then doctrine should come first. I have shown in *Pope John's Council* that during the course of Vatican II the Liberal majority almost invariably put ecumenism first. The preoccupation of the American bishops with the ecumenical implications of the religious liberty issue was demonstrated in frequent statements. Bishop

Ernest Primeau of Manchester, New Hampshire, warned that: "In our country, the Protestant intelligentsia are always asking for a definite statement on Church and State." He deplored the fact that some Council Fathers did not want a declaration as the matter was controversial. "But we have not come here just to rubber stamp the *status quo*. There are knots to be cut."³⁰

Here is a straightforward declaration of allegiance to Father Murray's personal *Zeitgeist*, the American Protestant intelligentsia. Nor does Bishop Primeau talk of developing doctrine—he is concerned with cutting knots!

Cardinal Ritter, of St. Louis, Missouri, said that he regarded religious freedom as "a basis and pre-requisite for ecumenical contacts with other Christian bodies." He called for "an unequivocal declaration on religious freedom" and said that "without such a declaration, mutual confidence will be impossible, and serious dialogue will be precluded."³¹

Cardinal Meyer of Chicago considered the question of religious freedom to be intimately bound up with both practical and theoretical ecumenism. Similarly, Cardinal Silva Henriquez of Santiago, Chile, said that there could be no real ecumenical movement in Latin America until non-Catholic Christians became aware of "our sincere recognition and defence of this fundamental liberty."³² The extent to which all these statements place ecumenical progress before sound doctrine hardly needs pointing out. Indeed, not one of these prelates refers to sound doctrine, to tradition, to truth, or to the rights of Christ the King. Conforming to the ecumenical *Zeitgeist* was what mattered to them.

Despite the Secretariat's success in being allowed to distribute Chapter V to the Council Fathers, they were far from happy at the conclusion of the Second Session. This chapter and Chapter IV on the Jews were separated from the schema on Ecumenism so that the first three chapters, which were considered less controversial, could be the subject of a discussion and a vote. The first three chapters were approved by the Council Fathers on 21 November 1963, and, according to Michael Novak, assurances

were given to Cardinal Bea and certain American cardinals that before the Second Session ended there would be a vote on Chapters IV and V.³³ This did not, in fact, happen. Cardinal Bea assured the Fathers that this was solely because of lack of time, and for no other reason. Some Liberal commentators expressed considerable scepticism concerning this assurance.³⁴ The Cardinal Moderators promised to present the two chapters for a vote early in the Third Session.³⁵

NOTES

- ¹ TIC, p. 82.
- ² OC, p. 256.
- ³ Ibid.
- ⁴ PJC, Chapter VII.
- ⁵ TIC, p. 78.
- ⁶ OC, p. 336.
- ⁷ Archbishop R.J. Dwyer, *Twin Circle*, 26 October 1973.
- ⁸ PB, pp. 74–5, 77.
- ⁹ OC, p. 336.
- ¹⁰ TIC, p. 82.
- ¹¹ OC, p. 257.
- ¹² XR2, p. 192.
- ¹³ Ibid., p. 193. Murray's own account of the meeting included in Chapter I describes it as having taken place only on Monday 11 November 1963.
- ¹⁴ Ibid.
- ¹⁵ D. von Hildebrand, *Trojan Horse in the City of God* (Chicago, 1969), p. 4.
- ¹⁶ Sermon: "The Gospel, a Trust Committed to Us", *Parochial and Plain Sermons*, volume II (included in NAL, p. 170).
- ¹⁷ XR2, p. 234.
- ¹⁸ TIC, p. 82.
- ¹⁹ RFT, p. 161.
- ²⁰ P, pp. 252–3.
- ²¹ TIC, p. 83.
- ²² XR2, p. 224.
- ²³ Ibid., p. 227.
- ²⁴ Abbott, pp. 677–8.
- ²⁵ PB, pp. 85–6.
- ²⁶ OR, p. 169.
- ²⁷ TIC, p. 84.

²⁸ *Ibid.*, p. 110, note 47.

²⁹ OR, p. 169.

³⁰ RFT, p. 160.

³¹ *Ibid.*, p. 161.

³² *Ibid.*, p. 164.

³³ OC, p. 282.

³⁴ *Ibid.*, p. 301.

³⁵ RFT, p. 163.

THE EMERGENCE OF *DIGNITATIS HUMANAE* AS A
SEPARATE SCHEMA

VATICAN II—THE THIRD SESSION

14 September — 21 November 1964

Cardinal Bea and his Secretariat were far from idle between the Second and Third Sessions. The text of their schema had been revised considerably on the basis of 380 amendments received from the Council Fathers. They had been collected into a volume of 280 pages. Bishop de Smedt, the *relator*,* claimed that "the text had been greatly improved over the original, presented but not debated at the end of the Second Session."¹

The Third Session opened on 14 September 1964, and the revised text was no longer presented as Chapter V of the schema on Ecumenism, but as an independent declaration referred to as the *Declaratio prior*.² The Moderators kept their promise to arrange a debate early in the Third Session. It began on 23 September 1964, nine days after the session had opened.³

The American bishops had prepared for the debate very carefully at their weekly meeting in the North American College the previous Monday. On the advice of Father Murray they agreed that at least

*A *relator* or reporter is the official spokesman for the body charged with preparing, editing, and amending conciliar documents during their progress through the council debates. The *relator* has the task of giving official explanations of the amended drafts so that the Council Fathers know precisely what they are voting for when they approve or reject a suggested amendment.

The official explanation is known as a *relatio*. The most celebrated *relatio* in the history of General Councils was that given by Msgr. Vincent Gassar on 11 July 1870. It lasted four hours and explained the precise meaning of Chapter IV of the Dogmatic Constitution *Pastor Aeternus*, dealing with papal infallibility. This brilliant theological *tour de force* was published in English for the first time in 1986 by the Daughters of St. Paul, Boston, in a translation by Father James O'Connor (ISBN 0-8198-3042-9).

eight of their number would speak on the floor of the Council, and the text of the second schema was accepted unanimously despite opposition from Msgr. George Shea and Father Francis J. Connell.⁴ Speaking in the name of almost all the bishops of the United States on 23 September 1964, Cardinal Cushing stated that the chapter on religious freedom was in general acceptable. He considered it of the greatest importance that the Church should "show herself to the entire modern world as the champion of liberty, of human liberty and of civil liberty, specifically in the matter of religion."⁵ He did not, it appears, consider it of the greatest importance that the Church should show herself to the entire modern world as the champion of truth, no matter whether or not the world considered that truth as appropriate for our times. The Cardinal stated correctly that "the Catholic Church has ever insisted upon her own freedom in civil society and before the public powers. She has fought for the freedom of the Pope and of the bishops to teach and govern the People of God, who have the right to live in civil society according to the dictates of Christian conscience, without interference."⁶ He then continued, with a most flagrant *non sequitur*: "That same freedom in civil society which the Church has ever insisted upon for herself and her members, she now, in this our age, champions for other Churches and their members, indeed for every human person."⁷

What the Cardinal had clearly, and sadly, failed to appreciate was that the Church had insisted upon her right to teach without interference because what she taught was the truth. There can be no true right, no true freedom, to teach anything but the truth: *Et cognoscetis veritatem, et veritatis liberabit vos* (John, 8:32). He had evidently forgotten, or had never read, the admonition of Pope Leo XIII in *Libertas humana*:

Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is *true*, and which can be recognized without difficulty, especially in Catholic States, because *the marks of truth* are, as it were, engraven upon it (my emphasis).

One notes with sadness the Cardinal's reference to "other Churches" despite the fact that he must, presumably, have been taught in his elementary school that there is only one Church: *unam sanctam catholicam et apostolicam Ecclesiam*.

If Cardinal Cushing was not prepared to insist upon truth, *veritas*, as the basis for the freedom which he demanded for all religions, upon what did he base this claim? He made this clear without the least trace of embarrassment: "Therefore, in making this Declaration, the Ecumenical Council will manifest, if I may quote words famous in our American history, 'a decent respect for the opinions of mankind'." One wonders whether he would have expressed a decent respect for the opinion of mankind expressed in the words: *Crucifigatur Ait* (Matt: 27:23).

Henri Fesquet went further still. "The challenge before Vatican II is to make reparation for past errors which the vicissitudes of history only partially excuse."⁸ Thus, what Cardinal Ottaviani described as "part of the patrimony of Catholic doctrine"⁹ has been designated as no more than error which can only be partially excused by the vicissitudes of history. Well, it is a point of view, and we are assured by Michael Novak that Fesquet "set the mark against which other journalists of the world in reporting the Council, measured themselves."¹⁰

Cardinal Meyer of Chicago advocated acceptance of the declaration as it reaffirmed the teaching of recent popes and "clarified traditional doctrine."¹¹ The Cardinal did not explain how you clarify a doctrine by apparently contradicting it. He did, however, add that such a declaration was essential for a fruitful dialogue with non-Catholics. It was a necessary prelude "if anything else that we have to say is to be accepted by the world."¹² The Cardinal appeared to have forgotten the many biblical reminders that *non-acceptance* by the world is the hallmark of authentic Christianity. "They are of the world, therefore what they say is of the world, and the world listens to them" (I John 4:5). "Unfaithful creatures! Do you not know that friendship with the world is enmity with God?" (James 4:4). "If you were of the world, the world would love its own; but because you are not of the world, but I chose you out of the world, therefore the world hates you" (John 15:19).

Cardinal Ottaviani was most certainly not looking for the approval of the world when he warned that it was a very serious matter to assert that every kind of religion should have the freedom to propagate itself. This would "clearly result in harm for those nations where the Catholic religion is the one generally adhered to by the people." He warned that "the rights of the true religion are based, not only on merely natural rights, but also, and to a much greater degree, on the rights which flow from revelation."¹³ The Cardinal's reference to the "true religion" is a very striking instance of the gulf between his thinking and that of the American bishops. Cardinal Ottaviani had not forgotten that he was the servant of a Master who had come into the world "to bear witness to the truth" (John 18:37).

Cardinal Ottaviani objected to the statement in the text that those in error are worthy of honour. Error, he maintained was never worthy of honour. Furthermore, the text nowhere mentioned the liberty of the faithful to observe the true religion which was a matter not merely of natural but of supernatural right. It is better to obey God than men. Any discussion of liberty of conscience should be conducted in relation to divine law.¹⁴

Cardinal Ruffini insisted that the declaration should be entitled "On Religious Tolerance", not "On Religious Liberty" because those in error had no rights. He added that as the Catholic Church was the one and only true Church it should be supported by governments. Xavier Rynne described these opinions as "the outdated pre-Johannine position".¹⁵

Cardinal Ruffini's distinction between "tolerance" and a "right to religious liberty" is crucial. The Cardinal's intervention can be summarized as follows:

1. Let us never separate liberty from truth. The first is defined in relation to the second.

2. Truth is one, and there is only one religion which in itself and of itself has the right to liberty. On the civil plane it is quite different. Let us then speak of tolerance as a function of the common good. This distinction is absolutely necessary; otherwise we are on the wrong track and run the risk of scandalizing Catholics.

3. The schema strays, unwittingly and despite all efforts to the contrary, into indifferentism and agnosticism.

4. It is stated on page 33 that the State is incompetent. But if this is so, how can there be a State religion? This denies the idea of a concordat, especially as concordats were understood in the past, but even today in such countries as Italy, Spain, and the Dominican Republic. This text thus goes against a strong tradition in the Church and against the Holy See itself. That is extremely serious.

5. The schema says that Catholics must respect the liberty of non-Catholics. Can we imagine that this has not always been the case? This suspicion constitutes an insult.¹⁶

Needless to say, it was the view of Bishop de Smedt and not that of Cardinal Ruffini which prevailed. The word tolerance does not appear once in *Dignitatis humanae*, the conciliar Declaration on Religious Liberty.¹⁷

Cardinal Browne of the Curia stated that, as it stood, the declaration was totally unacceptable. It was incorrect to give equal status to a conscience which adhered to the truth and one which adhered to falsehood, even though it is sincere.¹⁸

Archbishop Pietro Parente, an Assessor of the Holy Office, complained that the text gave insufficient emphasis to the objective value of truth.¹⁹ Bishop John Abasolo y Lecue (India) claimed that it would be a scandal to accept the text as it stood. Under no circumstances could it be maintained that an erroneous conscience has the same rights as any other. In itself conscience can only be followed if it is objectively correct. Only truth has rights. Only the Catholic Church has absolute rights in its internal and external judgement seat. Good faith is not enough. Sincerity and truth are two different things.²⁰

Bishop José Lopez Ortiz (Spain) demanded a radical transformation of the text as its political doctrine took no account of natural rights. It gave the impression of attacking the Catholic State. The Bishop proved to be a prophet here, as *Dignitatis humanae* was to be the death knell for the authentically Catholic State.²¹

Bishop Antonio de Castro Mayer (Brazil) warned that the doctrine of the declaration was incompatible with the traditional doctrine of Popes Leo XIII and Pius XII, which held that error has no rights, but that it may be granted rights to avoid a greater evil. It was absurd to claim that those in error were worthy of honour.²²

Archbishop Marcel Lefebvre, Superior General of the Holy Ghost

Fathers, wanted the entire schema to be redrafted. It seemed to be claiming that *principles* should be changed because of a change in *circumstances*. This smacked of relativism and idealism. If approved it would be a scandal.²³

The exiled Archbishop Melendro of Anking, China, considered the schema to have so many defects that it should be suppressed. "The Catholic Church", he said, "has a right to liberty *ex jure divino*. Other churches do not." Man's dignity does not come from his freedom but from the use he makes of that freedom to adhere to the truth. The State must protect the Church and adhere to the true God. The Archbishop felt that the schema was guilty of laxity, that the doctrine expounded in it would do much harm, and that the true faith had been called into doubt.²⁴

Archbishop Wojtyla of Cracow was of the opinion that the text did not put sufficient emphasis on the following of Christ, and that "only the truth will make us free." He went on: "The human person, contrary to what materialistic and atheistic philosophy holds, is not an economic pawn. It is transcendental."²⁵

Father Aniceto Fernandez, Master General of the Dominicans, criticized the logic of the schema:

Let us not fall into the error of those who are inclined to canonize the ideas of the moment. We must not confuse the conclusions of sociology with the truth. Truth does not depend on the majority. I side with Cardinals Browne and Ritter and Archbishop Parente in asking for a much less ponderous declaration that is based on sound principles. . . .

The schema smacks of naturalism. It does not speak of the relationship between man and God . . . We are wrong to seek a new doctrine in *Pacem in terris*, which is being poorly interpreted.²⁶

The reader will be aware of how faithfully the criticisms of the schema which have been cited in this chapter reflect the traditional teaching of the Popes. But for Henri Fesquet, and other Liberals, this defence of papal teaching consisted of "violent or insidious attacks on the declaration" and the expression of "narrow and retrograde ideas".²⁷ The debates on religious liberty, claimed Fesquet, contained rich lessons:

In the first place, they show the average doctrinal level of most of the schema's adversaries. It is the level of a textbook theology which

systematically ignores contemporary works and has remained imprisoned in the outlook of the nineteenth century, when defenders of liberty were automatically Modernists (in the precise sense of that word) or religiously indifferent.²⁸

When the teaching of “contemporary works” such as the Murray thesis on religious liberty, conflicts with consistent papal teaching, the teaching of the Popes is invariably referred to by Liberal commentators as “textbook theology”, usually with the addition of some adjective such as “sterile” or “outmoded”. The approval of the Fesquet brand of Liberal is reserved for such prelates as Archbishop Hurley from South Africa. This prelate, claims Fesquet, “has the rare merit of clarifying problems through historical arguments”. However, the Hurley clarification is revealing in a manner that Fesquet did not appreciate. The South African prelate, later to achieve notoriety for his opposition to *Humanae vitae* and his chairmanship of ICEL, conceded the entire traditionalist case when he admitted:

Certain statements in this schema seem to contradict the Magisterium of the nineteenth century and the public rights of the Church. This is because a social and historical evolution has taken place. In classical theory, the ideal was the union of Church and State. If we adopt this perspective, the schema is unacceptable.²⁹

Needless to say, Archbishop Hurley did not accept the union of Church and State as the ideal, and so the schema was perfectly acceptable to him. But there is not the least doubt that, textbook theology or not, the union of Church and State is the ideal placed before us in the teaching of the Popes.

Discussion on the second schema was concluded without a vote being taken, and the Secretariat began work on a third draft.

The October “Crisis”

A meeting of the Council’s Central Coordinating Commission took place on Wednesday 7 October 1964, under the Presidency of Cardinal Cicognani, the Secretary of State. It was explained at the meeting that it had been suggested in the presence of the Pope that the schema on Religious Liberty should be taken from the Unity Secretariat and handed over to a new mixed theological commission charged with responsibility for working out its theological basis.

The Secretary General of the Council, Archbishop Pericle Felici, despatched a letter to Cardinal Bea referring to "a desire of the Holy Father that the text be reconsidered and reworked" by a new special mixed commission. The Cardinal appointed Bishop Carlo Colombo, the Pope's theological adviser, as a member of the commission, which also included the Irish Cardinal Michael Browne, Archbishop Marcel Lefebvre, and Father Aniceto Fernandez, Master General of the Dominicans, all of whom had been severely critical of the declaration. Xavier Rynne and other Liberal commentators, with a penchant for discovering conservative conspiracies at almost every stage of the Council's proceedings, had no hesitation in designating the manoeuvre as a "plot".³⁰ Rynne claimed that Archbishop Felici had acted without the knowledge of any member of the Coordinating Commission, apart from Cardinal Cicognani, and implied that it was not in accordance with the Pope's wishes.³¹

Cardinal Bea was understandably alarmed as, in view of the flimsy theological basis for this schema (if, indeed, it had any theological basis at all), its future in the hands of the Theological Commission would have been far from secure. Cardinal Bea confronted Archbishop Felici, and demanded to know whether the letter had come from the Pope. "No," said the Archbishop, "but it is what the Pope means."³² The Archbishop would hardly have made this statement had it not been true as the Cardinal was in a position to go directly to the Pope for verification, which is precisely what he did. The Pope confirmed that he had indeed been involved in a discussion concerning a mixed commission, but that nothing had been decided about names.³³

The Liberals immediately organized a counter offensive. A group met in the residence of Cardinal Frings on the evening of Sunday 11 October. Fourteen cardinals signed the famous *magno cum dolore* letter, known as such from its first three words: "with great sorrow". It began:

Holy Father,

With great sorrow we have learned that the declaration on religious liberty, although in accord with the desire of the great majority of Fathers, is to be entrusted to a certain mixed committee . . . three of

whom appear to be opposed to the orientation of the Council in this matter.³⁴

As was so often the case, Pope Paul VI succumbed to the Liberal pressure and arranged a compromise. A consultative commission of twenty members was established to review the text on religious liberty, but its function was merely to make suggestions, and the text itself was to remain under the jurisdiction of the Secretariat for Unity. The commission included some conservative members, such as Cardinal Browne, but the name of Archbishop Lefebvre did not appear on the list.³⁵ The incident was considered a great triumph by the Liberals, and is referred to in their mythology as "the October crisis".³⁶ One Protestant Observer remarked that the "crisis" indicated "that the Council was revealing not just a clash of opinions but of moralities."³⁷

The Third Schema (Textus emendatus)

The third version of the Declaration on Religious Liberty, now an independent document, was distributed to the Council Fathers on Tuesday 17 November 1964. It had the same title as the second schema: *Declaration on Religious Freedom or on the Right of the Person and of Communities to Freedom in Matters Religious*. Many changes had been introduced when the second schema was revised by the Unity Secretariat. The third schema was more Liberal than ever and had Father Murray's "consciousness of contemporary man" as a basic theme. According to Msgr. Pavan, who wrote the commentary on this declaration in Father Vorgrimler's *Commentary on the Documents of Vatican II*:

The plan was now quite different from that of the preceding drafts; and this difference became even more pronounced in all following draft texts. Besides, the theme of religious freedom is far more developed in this third schema. It begins with the statement that modern men are becoming ever more conscious of their own personal dignity. In the new schema this dignity is the basic motif, but it is understood above all as the responsibility of action.

The increased consciousness of their own dignity led men to want greater freedom in all spheres, especially in religious matters, and hence to demand that this freedom should be guaranteed by setting

well-defined limits to the authority of the State. Thus the constitutional state came into being.

Consequently religious freedom, too, was seen in a new context. This is why the Council considered it right to think about and produce a declaration on the subject. Religious freedom is proclaimed to be a right of the person; it consists in freedom from coercion, whether on the part of individuals or of public authority. This freedom is twofold: in matters of religion no one may be compelled to act against his conscience, and *no one may be prevented from acting according to his conscience* (my emphasis).³⁸

When this third schema was examined by the International Group of Fathers,* led, among others, by Msgr. Lefebvre, some startling discoveries were made. Father Wiltgen lists them as follows:

First, that the former text of 271 lines had been expanded to cover 556 lines. Secondly, that only 75 of the 556 lines had been taken from the former text. Thirdly, that the structure of the argumentation was different; the presentation of the question was different; the basic principles had been altered; and major paragraphs in Articles 2, 3, 8, 12 and 14 were completely new.³⁹

Articles 2 and 3 were the crucial ones, appearing incompatible with papal teaching on the right to repress heresy in the external forum. The International Fathers invoked the Rules of Procedure stating that there should not be a vote upon a substantially new text without time being made available for discussion and to reach a mature judgement on how to vote. The revised schema had been distributed on Tuesday 17 November, and the vote was to take place on Thursday.⁴⁰ The schema was substantially new and, as there was not time to study it thoroughly before voting during the third session, the Council Presidency decided that the stand of the International Group was justified and must be upheld. This evoked an hysterical reaction among the Liberals. Their famous "*Instante, instantius*,

*The International Group of Fathers (in Latin, *Coetus Internationalis Patrum*) was a group of conservative Council Fathers which was organized by Archbishop Geraldo de Proença Sigaud of Diamantina, Brazil, in order to gain a hearing for conservative minority views. It encountered strong opposition from Liberals in the Council and the media, and from Pope Paul VI himself (see Chapter XVI). Detailed information concerning the group can be obtained by referring to the index of RFT.

instantissime" petition consisting of one sentence was despatched to the Pope:

Reverently but insistently, more insistently, most insistently, we request that the vote on the Declaration on Religious Freedom be allowed to take place before the end of this Council session, lest the confidence of the Christian and non-Christian world be lost.⁴¹

Father Wiltgen comments:

Copies of the petition passed rapidly from hand to hand. Never had there been such a furious signing of names, such confusion, such agitation. Never had there been such wild and harsh words as in this moment of panic when it seemed that a cherished Council document might be tabled forever.⁴²

Because of the heated atmosphere of the Council the Pope referred the case to the special court that had been created for the purpose of deciding such controversial cases. The court declared that the decision of the presidial council corresponded exactly to the *ordinamento* of the Council both in letter and spirit. The Pope agreed with the decision and on 20 November 1964, the day before the closing of the session, a statement in his name was read to the Council Fathers by Cardinal Tisserant. The Pope reiterated that the postponement of the vote had been fully in accord with the rules of the Council and promised that the schema on religious liberty would be discussed at the Fourth Session of the Council and, if possible, before any other document.⁴³

Pope Paul's refusal to overrule the Council Presidents did not please Father Murray. He stated that he was "willing to be quoted as being not merely disappointed over the papal action; he wanted it made clear that he was furious."⁴⁴

The reaction among Protestants was equally strident. Paul Blanchard protested angrily against "the trickery of the conservatives" which "had been perpetrated with some slight show of parliamentary legality".⁴⁵ According to Robert Doty in *The New York Times*, one observer stated: "We have seen the naked face of what we have always feared in Rome." Dr. Douglas Horton, former dean of Harvard Divinity School, and one of the most friendly observers at the Council, declared: "I would say that the Protestant reaction is, 'Do we want to be tied to a church like that?'"⁴⁶

In England the Anglican *Church Times* was indignant but optimistic. It had no doubt that this was no more than a temporary setback in the correction of Rome's "error", and, in its 27 November 1964 issue, prophesied that the "official conversion of the Roman Church" would be delayed only briefly:

The Council of Presidents decided that the Council Fathers had not had enough time to digest the revised text. This created an uproar in the Council of dramatic proportions, and it was clear that the overwhelming majority of the bishops was against them. The Pope felt unable to overrule the Presidents, and promised that this should be the first item on the agenda of the next session.

But let it be remembered that it was Pope John's ten Presidents and not Pope Paul's four Moderators who did the overruling. The American bishops in particular will find it difficult to face their fellow-countrymen with this disappointment. Our reaction was not quite so violent. After so many centuries of error in this matter, it does not seem to us to be of great moment if the official conversion of the Roman Church is delayed by a few months.

This rather shabby episode sent the bishops away in a bad humour, but it merely serves to emphasize that the "Liberals" in the Council will win in the end, and that what the Roman Church needs above all is a new set of high officials who will help, rather than impede, the present Pope in his intentions for the renewal of the Church. That might well be a theme of prayer when we intercede, as we frequently should, for our brethren of the Roman obedience.

Nevertheless, through all this process the Lord's work of the renewal of the Church has gone steadily on, and our report must be mainly of pleasure and thanksgiving for what has happened. New ideas have continued to find expression. The forces of renewal, doing their uphill battle against dull conservatism and entrenched authority, have been given the grace to win the day.

Henri Fesquet admitted that Pope Paul's decision to postpone a vote "was undoubtedly correct from a procedural point of view". But, he added:

We must also bear in mind the background to this affair: the hundred or so Fathers who are hostile to this declaration and who were at the bottom of the incident on Thursday, are craftier, more circumspect, and better placed than the others, who make up 95 per cent of the

bishops at the Council. This minority attempted—and temporarily succeeded—a final delaying manoeuvre which fooled no one. Once again the Church of yesterday plotted against the Church of today.⁴⁷

Fesquet's distinction between "the Church of yesterday" and "the Church of today" is very revealing. He concedes precisely what traditional Catholics have claimed, that there is a radical incompatibility between pre and post conciliar Catholicism.

The Liberal press played the story of the postponement of a vote for all it was worth, and gave the impression that the Spanish Inquisition had been restored rather than a legitimate use made of authorized Council procedure. Figures of up to 1500 bishops signing the *Instante* petition were reported. When the exact figure was published it proved to be 441.⁴⁸

The postponement of the vote on the Religious Liberty Declaration was only one of a series of setbacks which Liberals suffered during this week. Much to their annoyance, Pope Paul had the temerity to proclaim Our Lady as Mother of the Church. It has now passed into their mythology as "Black Week".⁴⁹

In view of the great moral indignation expressed by Liberals concerning the "October crisis" and "Black Week", a revelation made by Xavier Rynne is of particular interest. The short time available between the distribution of the third schema and the date set for the vote, only two days, was far from fortuitous. Xavier Rynne writes:

In order to get a vote, the Secretariat for Unity worked out a wording designed to attract as many positive votes as possible from the opposition, with the idea of restoring the watered-down parts to full strength when the *modi* were considered in revision. To forestall action on the part of the opposition, it was deliberately decided to keep the text under cover until the last possible minute. Unfortunately this little manoeuvre failed.⁵⁰

It will be noticed that there is no reference to a "plot" here, just a "little manoeuvre", and there is no expression of moral indignation at the Secretariat's intention of deceiving the Council by presenting a watered-down text which would be changed after the vote. This was similar to the tactic used by Liberal theologians who inserted ambiguous passages in the chapter dealing with collegiality in the Constitution on the Church. The ambiguity of these passages was

pointed out to Pope Paul VI, but he took no action because of his great faith in the Theological Commission.

Then one of the extreme Liberals made the mistake of referring, in writing, to some of these ambiguous passages, and indicating how they would be interpreted after the Council. This paper fell into the hands of the aforesaid group of cardinals and superiors general, whose representative took it to the Pope. Pope Paul, realizing finally that he had been deceived, broke down and wept.

What was the remedy? Since the text of the schema did not positively make any false assertion, but merely used ambiguous terms, the ambiguity could be clarified by joining to the text a carefully phrased explanation. This was the origin of the Preliminary Explanatory Note appended to the schema.⁵¹

Cardinal Heenan noted that the same tactic had been used with the Liturgy Constitution:

The bishops were under the impression that the liturgy had been fully discussed. In retrospect it is clear that they were given the opportunity of discussing only general principles. Subsequent changes were more radical than those intended by Pope John and the bishops who passed the decree on the liturgy. His sermon at the end of the First Session shows that Pope John did not suspect what was being planned by the liturgical experts.⁵²

NOTES

- 1 XR3, p. 24.
- 2 RFT, p. 163.
- 3 Ibid.
- 4 XR3, pp. 28-9.
- 5 APSVC, p. 643.
- 6 Ibid., pp. 643-4.
- 7 Ibid., p. 644.
- 8 F, p. 335.
- 9 See p. 33.
- 10 His introduction to Fesquet's book *The Drama of Vatican II*, p. xviii.
- 11 RFT, p. 164.
- 12 Ibid.
- 13 Ibid.
- 14 F, pp. 337-8.
- 15 XR3, p. 25.

- 16 F, p. 337.
- 17 H, p. 20.
- 18 F, p. 342.
- 19 Ibid.
- 20 F, p. 343.
- 21 Ibid.
- 22 Ibid.
- 23 F, p. 344.
- 24 Ibid., p. 349.
- 25 Ibid.
- 26 F, p. 350.
- 27 Ibid., p. 342.
- 28 Ibid., p. 353.
- 29 Ibid., p. 349.
- 30 XR3, p. 64.
- 31 Ibid., p. 63.
- 32 Ibid., p. 64.
- 33 Ibid.
- 34 XR3, p. 65.
- 35 Ibid., p. 66.
- 36 Ibid., p. 62.
- 37 VO, p. 132.
- 38 COD, p. 53.
- 39 RFT, p. 235.
- 40 Ibid.
- 41 RFT, p. 237.
- 42 Ibid.
- 43 COD, pp. 54-5.
- 44 Cited by the Protestant theologian Martin Marty in *The Visitor*, 20 August 1978.
- 45 PB, p. 82.
- 46 Ibid., p. 83.
- 47 F, pp. 547-8.
- 48 RFT, p. 238.
- 49 Ibid., p. 235.
- 50 XR3, p. 256.
- 51 RFT, p. 232.
- 52 J. Heenan, *A Crown of Thorns* (London, 1974), p. 367.

XVI

VATICAN II—THE FOURTH SESSION

14 September — 8 December 1965

Between the Third and Fourth Sessions of the Council the Unity Secretariat was busy amending the schema yet again, and a fourth version, *Textus reemendatus*, was presented for discussion in the Fourth Session. The International Group of Fathers sent in a number of amendments, and also sent Pope Paul a letter dated 25 July 1965 complaining of a persistent violation of Rules of Procedure which had been designed to allow minority opinions to be heard in the conciliar commissions. The Liberal majority had been preventing the minority from being heard—a characteristic of Liberals whenever they assume power. Much to their surprise the Pope's reply, received via Cardinal Cicognani, the Vatican Secretary of State, reprimanded the International Group of Fathers severely for having formed themselves into a group.

This initiative might be deemed to authorize the official foundation of other "alliances", to the detriment of the Council assembly. . . . It would also lead to the accentuation of tendencies and divisions among the Council Fathers themselves, whereas everything possible should be done to minimize them for the sake of serenity, concord, the happy outcome of the Council, and the honour of the Church. The enterprise, therefore, cannot in itself be approved, and it would be well for this "Group" not to function as an organ representing the positions of the Council Fathers belonging to it.¹

Anyone who has read Father Wiltgen's book will know that by this time the entire Council was virtually in the control of the Rhine Group, which means that the partiality of this letter is of an almost staggering degree. This is an early example of the two standards of justice which have been observed with respect to Liberals and Traditionalists since the Council. With his customary objectivity Father Wiltgen noted that:

It should be recalled, in connection with this letter, that the Rules of Procedure of the Council as revised and approved by Pope Paul actually encouraged the formation of groups with similar views on theological and pastoral matters.

Thus Article 57, section 3, provided: "It is most desirable that Council Fathers who intend to present similar arguments should join together and choose one or several of their number to speak on behalf of all." As far back as 5 August 1964, Archbishop Sigaud had pointed out that the new ruling requiring a speaker to have collected seventy signatures in order to be permitted to speak after closure of debate forced the minority to organize itself, and he had cited Article 57, section 3, as justifying such action.²

Forwarding Cardinal Cicognani's letter to Archbishop Sigaud, Msgr. Lefebvre made the following comments:

It seems that the Holy Father or the Cardinal Secretary of State has been frightened by a title which appears to them to designate an association which is highly organized and may easily cause divisions.

We have never attached any importance to this title, and it makes little difference to us whether we have it or not. What really matters is the desire of a certain number of Council Fathers to give one another mutual support and help in their defence and explanation of the truth. There is nothing about this which is not most legitimate. We can very well eliminate the name. Personally, I see nothing against this. It will not change the reality in any way.³

Msgr. Lefebvre closed his letter by complaining of the intolerable moral pressure exerted by national episcopal conferences who "suffocated" minority groups.⁴

When no action was taken as a result of their legitimate complaint to the Pope, the International Group of Fathers wrote to the Cardinal Moderators suggesting another method of allowing their views to be given a fair hearing. This suggestion was also fully in accord with the Rules of Procedure. Their request was ignored.⁵

In accordance with the promise of Paul VI, read to the Fathers by Cardinal Tisserant on 20 November 1964, the fourth schema on religious liberty was the first document to be discussed at the Fourth Session which opened on 14 September 1965.⁶ Henri Fesquet claimed

that: "The honour of Vatican II vis-à-vis non-Catholic Christians is at stake on this crucial issue."⁷

In his book, *American Participation in the Second Vatican Council*, Msgr. Vincent A. Yzermans reveals that:

Upon returning to the fourth session, the Americans—given much more than a gentle assist from the American press—were more determined than ever to secure the passage of the document. Almost to a man, they made their own the observation that Father John Courtney Murray had uttered many times—and once more, with great feeling, as he spoke to the American bishops during their regular Monday meeting on September 17, 1964:

"One must have in mind that it will be the duty of the Council to establish the formula 'religious freedom' within the Christian vocabulary, to define or describe its full sense and meaning, and to do this in such a way that there may be at least general agreement among Christians."

Those who have criticised the apparent failure of the American bishops to organize did not account for their work in the passage of this document. The subject of religious freedom was keenly discussed at the Chicago meeting of American bishops hosted by Cardinal Meyer in the summer of 1963. Upon their return to the third session in 1964 the American bishops had already formed a committee to coordinate their presentation of the matter on religious freedom, under the Chairmanship of Archbishop Lawrence Shehan of Baltimore.⁸

The discussion began on 15 September, continued on 16 and 17 September, and was resumed on 20 September.⁹ That it was still a highly controversial matter is shown by the fact that no less than sixty-four of the Fathers contributed to the debate. Nearly half of these were cardinals, thirty of whom spoke. Of these eighteen were in favour, seven were against, and five were doubtful.¹⁰

Cardinal Ruffini, Archbishop of Palermo, complained that:

The passage in the schema which says that the competence of public powers is restricted to the temporal domain is ambiguous. Public authorities in effect have the obligation to render God the worship that is His due, and they have the responsibility of promoting the total well-being of each individual. No one can deny that religion contributes greatly to moral development. It is not enough to say that in certain

historical circumstances the State can confer a special juridical privilege upon a religious confession. Such an affirmation does not explain the agreement which the Holy See has signed with different states. . . .

I fear that we seem to be saying, that we give the impression, that the separation of Church and State is a good thing. But the *Syllabus* says exactly the opposite, as does Pope Pius X. Who would dare to assert that they were wrong?

In Italy, for example, the concordat says that the Catholic religion is the State religion, and the State gives special privileges to the Church. It would be dangerous and false to go against the concordat policy of the Popes.¹¹

Cardinal Siri of Genoa warned that:

We cannot legitimize what God merely tolerates; we can only tolerate it, and that within the limits of the common good. We cannot therefore accept the proposed schema insofar as it recommends liberty for all without discrimination. . . .

We should therefore consider more carefully the contribution of theological sources to this problem of religious liberty and determine whether or not the contents of this schema can be reconciled with the teaching of Leo XIII, Pius XI, and Pius XII. Otherwise, we weaken our own authority and compromise our apostolic effort.¹²

Cardinal de Arriba y Castro of Tarragona defended the traditional papal teaching in balanced and moderate terms. Henri Fesquet claimed that his intervention was considered "frightening" by most of the audience. He explained:

That a bishop, even though a Spaniard, could defend such a sectarian position in 1965 is reason to ponder the effects of a kind of theology that was formerly held in honour. It is also a measure of the progress we have made since. Such an intervention is useful in the sense that it helps the Church to recognize her past errors, which history explains without excusing.¹³

The "sectarian" and "erroneous" views of Cardinal de Arriba y Castro were as follows:

This is probably the most delicate problem of the whole Council with respect to the faith. We must clearly affirm this basic principle: only the Catholic Church has the duty and the right to preach the Gospel. That is why proselytism on the part of non-Catholics among

Catholics is illicit and should be prevented by the civil authorities as well as by the Church, as the common good requires. . . .

The Council must be careful not to decree the ruin of Catholicism in those countries where it is in fact the only religion. The problem should be referred to episcopal conferences, which, with the approval of the Holy See, are in a better position to apply the principles of the declaration to local situations. . . .

It cannot be disputed that non-Catholics have a right to practise their faith, provided they do so in private. Nor can it be disputed that no one can be forced to practise a given religion.¹⁴

Archbishop Morcillo Gonzalez of Madrid protested that the teaching of the Popes since Leo XIII was practically ignored.¹⁵ Bishop Lokuang of Tainan, Formosa, noted a certain reticence in expressing the Church's right to declare herself unique and true. He wished to see a more positive tone impregnate the document. "We must not be silent on the opinion we all hold in common that a Catholic State is preferable to one that is indifferent or neutral."¹⁶

Bishop Velasco of Amoy, China, spoke very forcefully on what he considered to be the deficiencies of the schema:

The schema is totally unacceptable because it has the same faults as the previous version. It is infected with a juridical legalism and contradicts the traditional doctrine of the Church. It could breed pragmatism, indifferentism, and neutralism. It seems to admit of a kind of subjectivism in matters religious and does not distinguish between truth and error. It could cause innumerable doubts and anxieties among the faithful. . . .

The text was revised with partiality. Account was taken only of those amendments that were partisan to the previous text. All the other amendments were systematically ignored. Yet the minority must be heard. . . .

What have they done with history? It is impossible to reconcile this text with the Magisterium of the nineteenth or even the twentieth century.¹⁷

Bishop Carli of Segni, Italy, claimed that the Scriptures were being distorted in order to conform them to the contemporary concept of religious liberty. "There can be no positive right to spread error among Catholics. In this matter we can only prevent or tolerate."¹⁸

Bishop Emilio Tagle Covarrubias of Valparaiso, Chile, spoke in the name of forty-five Latin American bishops when he stated:

I am very much against this schema. It merely rearranges the previous version, and it contains a number of contradictions. . . . Many passages are too complacent towards false religions and run the risk of indifferentism and Liberalism. It does not seem possible to grant the same rights to all religions indiscriminately. Only the one true Church has the right to religious liberty, strictly speaking. Other religions can only be tolerated, depending upon the circumstances and persons.¹⁹

Archbishop Enrico Nicodemo of Bari expressed his anxiety concerning the replacement of the "common good" by "public order" as the criterion for regulating the extent of liberty to be granted to non-Catholic religions in a Catholic State:

We should not speak of public order but of the common good considered in its fullest sense and in its historical context. Let us not appear to grant concessions where we should be firm. The relationship which must exist between the faithful and ecclesiastical authority should be made clear. And above all, let us avoid using obscure expressions that favour individualism and even contempt for religion.²⁰

Archbishop Gregorio Modrego y Cosaus of Barcelona demanded a complete revision of the text, and criticized the manner in which the clear meaning of the Scriptures was distorted to justify the novel-
ties of the schema:

The text does not explain clearly what the common good is. The affirmations are neither demonstrated nor confirmed by the passages from Scripture that are quoted; quite the contrary, they are in patent conflict with papal teaching. . . .

Religious truth is one of the elements of man's common good. Now, the common good falls within the competence of the State. The State, therefore, cannot be indifferent to the truth or falsity of religious confessions.²¹

Archbishop Garcia de Sierra of Burgos demanded that the Fathers should be guided by sound doctrine and not the will of the majority. He wished the schema to be revised from top to bottom.²²

Cardinal Michael Browne of the Curia stated unequivocally that the propagation of other religions in Catholic countries is a violation of public morality, and should be prohibited.²³

Cardinal Ottaviani stated that only the Catholic Church has a true, natural and objective right to liberty because of her divine origin and because of her divine mission.²⁴ Archbishop Marcel Lefebvre maintained that the principles set forth in the schema are completely unacceptable because they originate outside the Church, and are in open conflict with the constant tradition of the Church:

It seems to me that the principles of the Declaration on Religious Liberty could be briefly expressed as follows:

"Founded on the dignity of the human person, religious liberty demands equal rights in civil society for all forms of worship. Society must then be neutral and guarantee the protection of every religion, within the limits of public order."

Such is the conception of religious liberty proposed to us by those who drafted the declaration.

Is this conception new or has it already received clear support over many centuries?

The *relator* himself has already answered this question. On p. 43, he writes:

"A fairly long historical evolution, both moral and positive, has led to this conception—which has been in force only since the eighteenth century."

Such an admission destroys *ipso facto* the whole line of argument of the declaration.

Where, in point of fact, did this conception come into force? In the tradition of the Church or outside the Church? Clearly it made its appearance among the self-styled philosophers of the eighteenth century: Hobbes, Locke, Rousseau, Voltaire. In the name of the dignity of human reason they tried to destroy the Church by causing the massacre of innumerable bishops, priests, religious and laity.

In the middle of the nineteenth century, with Lammenais, the Liberal Catholics attempted to reconcile this conception with the Church doctrine: they were condemned by Pius IX.

This conception, which in his encyclical *Immortale Dei* Leo XIII calls "a new law", was solemnly condemned by that Pontiff as contrary to sound philosophy and against Holy Scripture and Tradition.

This same conception, this "new law" so many times condemned by the Church, the Conciliar Commission is now putting before us, the Fathers of Vatican II, for us to subscribe to and countersign.

It is in the name of this same conception, in the name of the dignity

of the human person, that the Communists wish to force all men down to atheism and to justify their persecution of every religion.

In the name of safeguarding public order, a number of countries are nationalizing the Church's schools and institutions, in order to create political unity.

Jesus Christ Himself was crucified in the name of public order and, in the name of that same order, all the martyrs have suffered their tortures.

This conception of religious liberty is that of the Church's enemies. This very year Yves Marsaudon, the Freemason, has published the book *Ecumenism as Seen by a Traditional Freemason*. In it the author expresses the hope of Freemasons that our Council will solemnly proclaim religious liberty. Similarly the Protestants at their meeting in Switzerland are expecting from us a vote in favour of the declaration, without any toning down of these terms.

What more information do we need?

As Leo XIII said, this new law tends "to the annihilation of all religions, notably of the Catholic religion which, being the only true one among all of them, cannot be placed on an equal footing with the others, without supreme injustice."

In fact, and to sum up, where does the flaw lie in this whole line of argument, impossible as it is to prove by Tradition or Holy Scripture and based solely on reason?

That is why it cannot establish itself by reason: it fails to define the ideas of liberty, conscience, or the dignity of the human person. In fact, to define these notions is to destroy this whole line of argument.

Now, in sound philosophy these ideas are incapable of definition without reference to divine law.

Liberty is given to us for the spontaneous observance of divine law.

Conscience is natural divine law inscribed in the heart and, after the grace of baptism, supernatural divine law.

The dignity of the human person is acquired by observing the divine law. He who despises the divine law thereby loses his dignity. Do the damned still preserve their dignity in hell?

It is impossible to speak with veracity of liberty, of conscience, of the dignity of the human person except by reference to divine law.

This observance of divine law is the criterion of human dignity. Man, the family, civil society, possess dignity in the measure in which they respect the divine law.

Divine law itself indicates to us the rules for the right use of our liberty.

Divine law itself marks out the limits of constraint permitted to the authorities established by God.

Divine law itself gives the measure of religious liberty.

As the Church of Christ alone possesses the fulness and perfection of divine law, natural and supernatural, as she alone has received the mission to teach this law and the means to observe it, it is in her that Jesus Christ, Who is our law, is found in reality and truth. Consequently, she alone possesses a true right to religious liberty, everywhere and always.

Other forms of worship, in proportion to their observance of this law after their own fashion, possess—this we can grant—a more or less well-founded title to public and active existence. Where so great a variety of religions exist, it is a matter of investigating particular cases one by one.

Divine law is the key to this whole question of religious liberty, because it is the fundamental norm of religion itself and the criterion of the goodness and dignity of all human activity. We cannot speak of religion if we exclude mention of the divine law. The same principle establishes both the religion and the obligation. Witness the Old Testament and the chosen people, for whom the divine law, engraved on tables of stone, was venerated in the manner of God Himself.²⁵

In defence of the schema, Cardinal Spellman praised it as a real answer to the requirements of modern times which could give a great impetus to ecumenism. He warned that any modification of the text "could give rise to serious doubts regarding the sincerity of the Church and the Council."²⁶ Cardinal Cushing claimed that the schema answered the expectations of the Church and of the world.²⁷ Bishop Gran of Oslo made the astonishing statement that the text was particularly deserving of praise as it claimed no special rights for the Catholic Church.²⁸ As in previous debates, the Liberals made no attempt to cite Catholic tradition or the rights of truth in support of their case.

In his assessment of the September 1965 debate, Henri Fesquet made a most honest and most significant admission. He claimed that the majority of Fathers sensed that religious liberty was "an existential truth they must proclaim", but they were faced with reconciling

the schema "with the past teaching of the Magisterium." This problem, he admitted, has practically no solution.

It is all very well to argue from the historical and philosophical situation of the nineteenth century; there is only one intellectually honest way to get off the horns of this dilemma—admit that the Popes erred on this particular point. But the Church will likely never admit this officially. She is still too enamoured of herself, still too much a prisoner of her past, still too imbued with her authority considered as a service.²⁹

As will be demonstrated in Chapter XXI, this admission of the incompatibility of the pre and post-conciliar teaching on religious liberty is one which was made after the Council by a number of Liberal commentators.

An even more astonishing admission was made by Archbishop Jaeger, a member of the Secretariat for Unity, who said that the text was comparable "to a Copernican revolution."³⁰ Fesquet commented that "It is the first conciliar schema to begin not with God but with man (schema 13 is also centred on man). This is an intellectual advance which is still rather rare among the hierarchy and which horrifies the ultraconservatives."³¹

The long awaited vote took place on 21 September. The Fathers were asked to vote as to whether the fourth schema could be accepted as a basis for a definitive declaration. Of the 2222 Fathers present, 1997 voted in the affirmative, *placet*; 224 voted negatively, *non placet*; and one vote was invalid. This concluded a debate which Msgr. Pavan described as "perhaps the most violent ever to have taken place in the *aula*."³²

The Unity Secretariat set to work on amending the schema once more and a fifth version (the *Textus recognitus*) was completed on 22 October and sent to the Fathers for their consideration. An explanation from the Secretariat for Unity which accompanied the revised schema stated that as the fourth schema had been approved by a large majority no suggestions could be accepted which would "substantially modify" its principles. From that point onwards nothing could be accepted beyond suggestions which "could improve the structure and clarity of the document."³³ The alleged basis of the right to religious freedom in both the internal forum and external forum was

now stated with absolute clarity—"the dignity of the human person".³⁴ This is the straightforward Murray thesis. In a manner that is symbolic of so much of the content of the documents of Vatican II, the emphasis has been shifted from God to man. Time and again alleged rights of man take priority over the rights of God—implicitly if not explicitly. This is not merely the case in the Religious Liberty Declaration, or the verbose Pastoral Constitution on the Church in the Modern World (*Gaudium et spes*); it can be seen very clearly in the Liturgy Constitution where the criterion for regulating the celebration of the liturgy is not what is fitting to honour God to Whom worship is offered, but what will appeal to man who offers it.

The Fathers were allowed to vote "Yes", "No", or "Yes with reservations" for the fifth schema. The International Group of Fathers had asked its supporters to vote either "Yes with reservations" or "No". Voting was to take place on 26/27 October, with the vote on the most controversial section, Articles 1 to 5, which included the question of religious liberty in the external forum, being taken on 26 October. Of the 2138 valid votes cast, 1539 (72%) were "Yes", 65 (3%) "No", and 534 (25%) "Yes with reservations". Father Harrison notes that this meant that the most vital section of the schema "still left nearly three out of every ten Council Fathers—a significant minority—more or less uneasy".³⁵

Henri Fesquet was delighted with the fact that more than seven out of ten Fathers had given an affirmative vote, and he felt able to state with great satisfaction that:

It is now obvious that the Roman Church has gotten over her yearning for the past. To the many Protestants and freethinkers who doubted that the Church has really changed her position on the crucial question of religious liberty, Vatican II offers an unequivocal answer. What yesterday seemed improbable to certain outside observers, despite the optimistic prognosis of insiders, is now an undeniable fact.³⁶

The Sixth Schema (Textus denuo recognitus)

Then came the sixth schema (*Textus denuo recognitus*). The Secretariat for Christian Unity had received over six hundred *modi* (suggested amendments) to the fifth schema.

Hence three working groups were formed, consisting of Fathers who were members of the Secretariat, and they were assisted by Council theologians and advisers. All the *modi* were examined. But it was obvious that those rejecting the essential elements of the document or the main trend of its doctrine could not be considered or accepted, since the document had already been accepted with a much larger majority than the two thirds demanded by the *ordinamento* (procedural rules) of the Council. Thus it was the task of members of the Secretariat to consider which proposals were to be discussed, because they could contribute to an improved form and clarity of the text or to a clarification of an important statement.³⁷

This meant in practice that the Unity Secretariat was able to suppress any amendments which did not meet with its approval. Among the amendments which were made there was one of considerable significance. In the fifth schema the following sentence had been added to the Preface: "In taking up the matter of religious freedom this sacred Synod intends to develop the doctrine of the Popes on the inviolable rights of the person and on the constitutional order of society."³⁸

In the sixth schema the word "recent" was inserted before Popes. Msgr. Pavan explained:

This was done because some Fathers asserted again and again that the doctrine of the document contradicted the doctrine of the Popes on religious freedom. This addition was meant to suggest to these Fathers that they should consider not only the doctrine of Leo XIII and his immediate predecessors, but also that of his successors, especially Pius XI, Pius XII, John XXIII and Paul VI. Such a sober and objective consideration could not but result in the certainty that there had, of course, been a doctrinal development, but that *its last phase tended towards what was said in the Council document, if it did not actually agree with it* (my emphasis).³⁹

The final sentence represents a commendably honest but very damaging admission by Msgr. Pavan. Not a sentence can be found in any papal pronouncement agreeing with Vatican II on the question of religious freedom in the external forum. A whole corpus of papal teaching has already been cited in this book which appears to be incompatible with it. The best that Msgr. Pavan can claim is that certain papal teaching "tended towards what was said in

the Council document". Why Pope Paul VI was cited when he had not even pronounced on the subject of Church-state relations it is hard to imagine, but it is no stranger than citing other Popes in favour of a doctrine which received no support from their own teaching, and, in some cases, appeared to contradict it.

Common Good and Public Order Yet Again

Before coming to the vote on the sixth and final schema it is necessary to go back to the first—the one received with such acclamation after Msgr. de Smedt's celebrated speech. While full of praise for the speech and the schema, Dr. McAfee Brown had one very serious and very perceptive reservation. He wrote, regarding the first schema:

I think I can report that it says *all* the things that a non-Catholic wants to hear the Catholic Church say on this matter. We might say them a bit differently—and have indeed done so in World Council statements—but I do not think we can complain that any important point in a declaration about religious liberty has been overlooked. I think the statement itself is an important ecumenical achievement. Its adoption will be an even more important one.⁴⁰

However, Dr. McAfee Brown notes that some restriction must be placed upon the public exercise of religious freedom—only a few sects such as the sixteenth century Anabaptists have denied this. But he was far from happy that the schema had used the common good as the appropriate criterion (in conformity with *Pacem in terris*).

This is a difficult criterion, since it allows so much latitude. Who determines what is the common good? Public consensus (very hard to arrive at)? The Church, as the guardian of faith and morals? The State, as the preserver of law and order? There are difficulties with each answer. Furthermore, who enforces the decision? I do not know a clear answer to this complex set of problems, and I take small comfort from the fact that I don't believe anyone else does either. I think Father John Courtney Murray's suggestion at this point is a good one, that a criterion like "public order" is at least better than "the common good", since it does not give quite so much leeway either to an authoritarian state or an authoritarian church that wishes to tyrannize in the name of "protecting the common good". In its dealings with this question the World Council of Churches has not gone too much further. Statements of the limits of religious liberty offer such criteria as the

following: “. . . such limitations, prescribed by law, as are necessary to protect order and welfare, morals and the rights and freedom of others. . . .” (Amsterdam, 1948) and “. . . those which are necessary for the defence of morals and public order. . . .” (Buenos Aires, 1949). On the basis of all this, I think the thing to avoid in the schema is any suggestion that the Church is to be the watchdog of these limits in ways that will give the Church the opportunity to use the principle of limitation as a means of short-circuiting the principle of religious liberty.⁴¹

As was shown in Chapter XI, Father Murray expressed satisfaction that his own theory conformed to that of the W.C.C. It will be shown that the teaching of Vatican II also conforms to that of the W.C.C.

Dr. Brown's perceptiveness derives from his realization that if the common good were retained as the criterion for regulating the degree of public religious liberty, then this could be reconciled with the traditional Catholic thesis. It could be argued legitimately in Catholic States that the public expression of heresy was contrary to the public good. By changing to the Murray/W.C.C. criterion of public order, such an interpretation would be impossible. The Unity Secretariat made the change which Dr. Brown demanded. Robert Kaiser claims that at least some of the credit for this change must go to him:

Brown must share some of the praise for getting 'common good' changed to a phrase which will lend itself less easily to whimsical use by an authoritarian state or an authoritarian church—as reliable sources now report has happened in Rome.⁴²

In the hope of reducing the number of *non placet* votes in the final ballot, some changes were made in Article I to placate the minority. These changes made Henri Fesquet uneasy:

One change has caused difficulty in the eyes of the majority: “Religious liberty . . . leaves untouched traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ.”

The new words are “traditional” and “societies”.

The first might indicate that the Church is not renouncing the thesis-hypothesis theory which the majority of Fathers criticized in the debates. The second might be read, in a strict interpretation, as an

allusion to a Catholic State. We say in a strict interpretation, because the text says simply "societies" and not "civil societies".

There is no doubt that the two words were added to placate the minority; nor is there any doubt that the latter will exploit the addenda in the directions just indicated. However, such a strict interpretation would be artificial since the spirit of the schema as a whole is far different; a later paragraph, for example, evokes the necessity of developing the doctrine of recent Popes on the inviolable rights of the human person. This is a discreet but clear way of saying that certain aspects of previous doctrine must continue to evolve.⁴³

The addition of the words "traditional" and "societies" to Article I of the finalized text is considered of the very greatest importance by Father Brian Harrison in his defence of *Dignitatis humanae*. His reasons are included in Chapter XVIII together with a more detailed examination of the evolution of Article I.

A Magnanimous Offer

The International Group of Fathers expressed itself pleased with the additions to Article I.⁴⁴ The Fathers of this group made an extremely magnanimous offer which, if accepted, could have achieved an almost unanimous vote in favour of the finalized text.

It argued, however, that the criterion determining the limits of religious freedom should be the common good, and not the preservation of law and order. The State, it maintained, must safeguard the common good as a whole, and not only in part, and the preservation of law and order was only "a part of the common good, as is expressly stated in the schema". If this "correction" were made in two places in the text, and if in one of those two places the pertinent words of Pope John XXIII's *Pacem in terris* were quoted, then the text would be satisfactory, and the International Group would give it an affirmative vote. The desired changes, however, were not made.⁴⁵

In his final *relatio*, delivered on Friday 19 November 1965, Msgr. de Smedt gave a detailed explanation of the reasons for the refusal to make this concession. This *relatio* is quoted at length in Chapter XX.

Voting on the sixth schema took place on 19 November 1965. Of 2216 Fathers, 1954 voted *placet* (yes), 249 *non placet* (no), and 13 votes

were invalid.⁴⁶ *Placet juxta modum* votes were not permitted at this stage (the *expansio modorum*).⁴⁷

On 3 December, Msgr. Giuseppe di Meglio, an Italian specialist in international law, circulated a letter stating that the voting figures indicated that:

For a notable number of Council Fathers the teaching and practical applications of the schema are not acceptable in conscience. In fact, the fundamental principle of the schema has remained unchanged despite the amendments that have been introduced: that is, the right of error. . . . *Since the declaration on religious freedom has no dogmatic value*, the negative votes of the Council Fathers will constitute a factor of great importance for the future studies of the declaration itself, and particularly for the interpretation to be placed upon it (my emphasis).⁴⁸

Despite the high number of negative votes, Pope Paul VI approved the sixth schema.

In the ninth public session on 7 December 1965, the Declaration on Religious Freedom, which begins with the words *Dignitatis humanae*, received 2308 positive and 70 negative votes, 8 votes being invalid. In this session the Declaration was promulgated. Thus ended the evolution of a Council document which is of historical importance both for the Church and humanity. It was worked out in a dramatic struggle, during which one of the most important doctrines was further deepened and clarified. In an important article in *La Stampa* (Turin, 9 December 1965), V. Gorresio welcomed it with these words: "The schema which deals with religious freedom constitutes by itself a genuine development of doctrine, perhaps the greatest and most characteristic progress achieved by the Council."⁴⁹

Just how genuine the development was will be made clear in Chapter XXII where the text is examined in detail. Right up to the conclusion of the final debate some Council Fathers continued to protest vehemently that the Declaration was not a development but a contradiction of tradition. A useful summary of such interventions has been provided by Paul Blanshard as examples of what he termed "narrow mindedness" and comments "that would have been quite acceptable to Torquemada".

"Truth and falsehood cannot be given equal treatment", said the

incorrigible Ottaviani, rising to oppose the Declaration on theological grounds. He charged that the texts chosen from the Scriptures to support the Liberal view had been chosen "unilaterally" with partisanship, omitting the solemn fact that Christ threatened damnation for those who rejected the faith. There is no liberty against objective truth, said Cardinal Cooray of Ceylon, and only the Catholic faith is objectively true. "If all men are given the right to a public profession of any religion, it will be an insult to the Catholic Church," said the Archbishop of Portugal's colony, Mozambique. "That would be the equivalent of proclaiming to the world that the Catholic Church is only one among many." The prelate from Mozambique regarded this last alternative with unmixed horror. . . .

"Entire tradition", said Bishop Carli of Segni, "teaches that non-Catholics do not have the right to propagate error and that therefore they can only be tolerated." The aged Irish Cardinal, Michael Browne of the Roman Curia, climaxed his speech in the religious liberty debate of the final session by declaring that: "The spreading of another religion in a Catholic State is a violation of public morality and harms the right which Catholics enjoy not to have their faith endangered."⁵⁰

It will not be necessary to point out to those who have read this far that all the statements Blanshard cites with such disapproval conform perfectly to the traditional Catholic teaching. Though an enthusiastic supporter of the Murray line, which represented his own views, Blanshard was objective enough to stress that the pre-Vatican II teaching "is overwhelmingly on the side of the conservatives".⁵¹

When the text of *Dignitatis humanae* was promulgated as official Council teaching, Archbishop Lefebvre refused to join Pope Paul VI and the other Fathers in putting his signature to it.⁵²

Henri Fesquet, the best known voice of Liberalism at the Council, was exultant at what he considered its achievements.

Vatican II rang the death knell for a conceptualist, notional, Scholastic type of theology and ushered in a personalist and so to speak "existentialist" theology. It got out of the thesis-hypothesis rut which has hampered Catholic thought for over a century. . . .

Liberty, Equality, Fraternity. This liberation of Catholic thought, too long imprisoned in the negative tide of the Counter Reformation, in a way enables the Church to take up the standard of the French Revolution, which made the rounds of the secular world before

coming to rest in Catholicism, whence it originated. Liberty, equality, fraternity: this glorious motto was the quintessence of Vatican II, as Hans Küng recently suggested.⁵³

Note well that this is not a statement by Archbishop Lefebvre, with the object of discrediting the Council, but by Henri Fesquet with the object of inducing us to admire it.

On page 101 Msgr. V.A. Yzermans is quoted as stating that the Declaration was "a delightful victory for the American hierarchy". He would have been more accurate in describing it as a delightful victory for Father Murray in view of the fact that, as one American prelate expressed it: "The voices are the voices of United States' bishops, but the thoughts are the thoughts of John Courtney Murray!"⁵⁴

Father Pelotte has no doubt that although other members of the commission helped to pen the final text of the Declaration, "Murray's contribution was decisive. The very acceptance of Murray's basic thrust, only ten years after his admonition from the Jesuit Curia in Rome, was itself a singular recognition."⁵⁵

And what was Murray's own appraisal of his delightful victory? He claimed that: "Its (the Declaration's) achievement was simply to bring the Church abreast of the developments that have occurred in the secular world. The fact is the right to religious freedom has already been accepted and affirmed by the common consciousness of mankind."⁵⁶ In other words, *Dignitatis humanae* represented a delightful victory for the *Zeitgeist* of Father Murray as described in Chapter XI.

What had taken place was described with complete accuracy and with total approval in the 20 July 1992 issue of *The Catholic Virginian* by Father G. P. Fogarty, S.J., President of the American Catholic Historical Association, who gave Father Murray credit for the fact that *Dignitatis humanae*: "made universal Catholic teaching *what had previously been considered an aberration of the American Church*" (my emphasis).

NOTES

¹ RFT, p. 248.

² *Ibid.*

³ RFT, p. 249.

⁴ *Ibid.*

⁵ RFT, p. 250.

- ⁶ COD, p. 56.
- ⁷ F, p. 584.
- ⁸ APSVC, p. 625.
- ⁹ COD, p. 56.
- ¹⁰ VO, p. 160.
- ¹¹ F, pp. 590-1.
- ¹² Ibid., p. 591.
- ¹³ Ibid., p. 589.
- ¹⁴ Ibid., pp. 591-2.
- ¹⁵ Ibid., p. 598.
- ¹⁶ Ibid.
- ¹⁷ F, p. 599.
- ¹⁸ Ibid.
- ¹⁹ F, p. 600.
- ²⁰ Ibid., p. 601.
- ²¹ Ibid.
- ²² F, p. 607.
- ²³ Ibid., p. 613.
- ²⁴ VO, p. 160.
- ²⁵ M. Lefebvre, *I Accuse the Council* (Angelus Press, Kansas City, MO, 1982), pp. 81-4.
- ²⁶ VO, p. 161.
- ²⁷ Ibid.
- ²⁸ Ibid.
- ²⁹ F, p. 608.
- ³⁰ Ibid., p. 610.
- ³¹ Ibid., p. 610-II.
- ³² COD, p. 57.
- ³³ Ibid.
- ³⁴ COD, p. 59.
- ³⁵ H, p. 67.
- ³⁶ F, p. 735.
- ³⁷ COD, p. 60.
- ³⁸ Ibid., p. 58.
- ³⁹ Ibid., p. 61.
- ⁴⁰ OR, p. 160.
- ⁴¹ Ibid., pp. 162-3.
- ⁴² *The Commonwealth*, 24 July 1964, p. 517.
- ⁴³ F, pp. 773-4.
- ⁴⁴ RFT, p. 251.
- ⁴⁵ Ibid.

⁴⁶ COD, p. 62.

⁴⁷ F, p. 773.

⁴⁸ RFT, p. 251.

⁴⁹ COD, p. 62.

⁵⁰ PB, pp. 86–7.

⁵¹ *Ibid.*, p. 86.

⁵² In the Acts of the Council Archbishop Lefebvre's name is included with those of the other Council Fathers as having signed *Dignitatis humanae*. He stated that he did not sign the Declaration in a letter to me dated 11 March 1988. Articles purporting to prove that he did sign the Declaration have appeared in certain French publications, with articles purporting to prove that he did not appear in others. A balanced assessment of both cases appeared in a supplement entitled "Signature Controversy" to *APROPOS* Number 11, 1991. This can be obtained from Burnbrae, Staffin Road, Portree, Isle of Skye, Scotland, IV51 9HP. Write first for details of price and postage. What matters, of course, is the validity of the Archbishop's criticisms of *Dignitatis humanae*, not whether or not he signed it.

⁵³ F, pp. 814–15.

⁵⁴ TIC, p. 98.

⁵⁵ *Ibid.*, pp. 100–1.

⁵⁶ *Ibid.*, p. 100.

XVII

CHURCH AND STATE—A RÉSUMÉ

Dignitatis humanae must be examined from two standpoints, the extent to which it fails to affirm previous papal teaching on Church and State, and the extent to which it appears actually to contradict this teaching. The most important defence of *Dignitatis humanae* against the accusation of contradiction is *Religious Liberty and Contraception* by Father Brian Harrison. Father Harrison's defence of the Declaration will be examined very carefully in the chapters that follow. He provides a full and balanced account of the pre-conciliar teaching in his book. In one instance, however, he tends to confuse the issue. This is his reluctance to translate the Latin *civitas* by "state", as is the case in pre-Vatican II translations of papal encyclicals. Father Harrison prefers to translate *civitas* as "civic community", and he does so because he claims that translating the word as "State" has caused confusion. His basis for this claim is as follows:

No small part of the confusion before, during and after the Council seems to us to have been due to the ambiguity of this term *civitas*, which is generally translated as "State". However, "State", and its equivalents in other modern European vernaculars (*état*, *stato*, *estado*, *Staat* and so on) has three distinct meanings in our century. It can mean a juridically independent nation of any size (the Italian State or Vatican City State); or a semi-autonomous province or region within an independent nation (the State of Victoria); or the governing authority (and its agencies) within a nation or region—as when we say, for instance, that we pay taxes to the State, or that we send our children to a State school rather than a private school.

Civitas is thus difficult to translate by a single or unambiguous modern word. It can mean a nation, a city, or a "State" in the second sense given above. In other words, it means the political community in a fairly undifferentiated sense, but considered as unified under the authority of some ruler or set of laws, for the distinctive purpose (the *finis proprius* of Vatican II) of protecting and promoting the common

temporal welfare. We have thus chosen the expression “civic community” rather than “State” to translate *civitas* . . . It is easy to see that a civic community is a “moral person”. It makes communal decisions which can be either just or unjust—in harmony or in conflict with the will of God. Even though it is not a *literal* person, who can possess the theological virtue of faith, receive sanctifying grace, and be judged on the Last Day, it is nonetheless part of the created order deriving directly from the social nature of man. The core of the pre-conciliar doctrine is simply that when human beings act communally to order their temporal affairs, they have no objective right to consider themselves exempt from the duty of recognizing and respecting the will of God (both naturally knowable and revealed) simply by virtue of the fact that their action is communal rather than individual. As Pius XI was at pains to point out in the encyclical *Quas primas*, such an idea would be contrary to revealed truth about the universal kingship or lordship of Christ over the entire creation, without exception.¹

It is evident that what Father Harrison means by “civic community” is precisely what those who translated the word *civitas* in papal encyclicals as “State” meant by that term. I disagree with Father Harrison’s claim that the translation of *civitas* by “State” has ever caused any confusion to anyone, and this is the translation that will be used in this book. What is important is that Father Harrison agrees with the Popes that the *civitas* must be considered as a moral person, and thus there is no more than a semantic difference between us. What he refers to as a “civic community” I refer to by the traditional term “State”, but what we mean by these terms is identical.

Papal Teaching on Church and State

The teaching of the Popes is as follows:

I. Because all men individually and collectively are under the dominion of Christ—Pope Pius XI, *Quas primas*, the union of Church and State is the ideal situation—Pope Pius IX, *Syllabus*, number 55. It is “unlawful to place various forms of Divine worship on the same footing as the true religion”—Pope Leo XIII, *Immortale Dei*. “It is contrary to reason that error and truth should have equal rights”—Pope Leo XIII, *Libertas humana*. “That which does not correspond to truth

or to the norm of morality objectively has no right to exist, to be spread or to be activated" — Pope Pius XII, *Ci riesce*. But the Popes accept that this ideal can only be achieved in a Catholic State, "a political community that is either exclusively, or almost exclusively, made up of Catholics" (p. 65). (It might be argued that few if any such States exist today, but as we are discussing a question of principle concerned with the ideal situation this point is not relevant.) The claim that the separation of Church and State is the ideal, even in a predominately Catholic society, is "an absolutely false and most pernicious thesis" — Pope St. Pius X, *Vehementer nos*. The laws of the State should conform to the requirements of Christ the King.

2. The ultimate criterion which should guide the government of a State is the common good of the citizens. In view of the elevation of all men to the supernatural order a government must concern itself with their observance of the supernatural law of Christ as well as the natural law (p. 63).

3. The promotion of the common good within a Catholic State can require the protection of the Catholic citizens from anti-Catholic propaganda as falsehood has no right to be spread (see 1).

4. As the common good is the ultimate criterion by which a government must regulate its policies it follows that the repression of error cannot be the ultimate norm of policy. "The duty of repressing moral and religious error cannot therefore be the ultimate norm of action. It must be subordinated to higher and more general norms, which in some circumstances permit, and even perhaps seem to indicate as the better policy, toleration of error to promote a greater good" — Pope Pius XII, *Ci riesce*. But the propagation of error can only be *tolerated* as a matter of expediency, a lesser evil, for the sake of the common good, and not as a matter of principle, i.e. that those holding erroneous opinions have a right not to be prevented from spreading them founded on any so called "dignity of the human person".

5. Nobody may ever be coerced into embracing the Catholic faith, since the act of faith must be free; or prevented from practising their false religion in private.

Permanently Valid Doctrine

It was explained in Chapter IV (p. 32) that the teachings which have been set out here must be considered as permanently valid doctrine. They are not simply practical directives of the Popes relating to a particular situation, and binding only as long as that situation lasted. They are, as Cardinal Ottaviani explained: "principles on which the teachings of the Popes have remained constant so as to make these principles part of the patrimony of Catholic doctrine" (p. 33).

Father Harrison also accepts that these principles are permanently valid doctrine. He accepts that a thesis counts as doctrinal if it is:

(a) proposed authoritatively by a papal or conciliar magisterium as certainly and immutably true, that is, not just as a pious, safe, or probable opinion; and (b) presented by the same authority as a *Catholic* truth; that is, a truth concerning faith or morals which is either part of revealed truth, or necessary in order to expound or safeguard revealed truth.²

It is important to note that the teaching of *Dignitatis humanae* most certainly cannot be considered as doctrinal if these criteria are applied. Father Harrison demonstrates convincingly that a good number of papal pronouncements on the subject of Church and State cannot be considered as doctrinal, particularly those addressed to a specific person in a specific nation as a result of events taking place there at a particular time. For example, he is doubtful whether the letter from Pope Pius VII to the Bishop of Troyes, *Post tam diuturnas* (1814), which was cited on page 56, can be considered to have met the criteria necessary for a doctrinal thesis that is certainly and immutably true. After examining a representative selection of papal teaching Father Harrison accepts the following as strictly doctrinal:

(1) The *civitas* — the civic community as such — has a duty to honour God, and to recognize as uniquely true the religion entrusted by Christ to the Catholic Church.

(2) Civil authority, therefore, has the duty also to *protect* the true religion and the Catholic Church by restricting (to the extent that the common good requires) the free propagation of doctrinal error—both that which opposes reason or the natural law and that which opposes revealed truth. (It then pertains to ecclesiastical and civil law, mutable according to circumstances, to propose norms governing *how much* restriction the common good does in fact require in particular cases.)

(3) In a well-constituted society, the common good will always require some degree of restriction over and above that which is necessary merely for the maintenance of public peace.

(4) Civil authority can and should tolerate the diffusion of error to the extent that the common good requires, but may never give positive approval or authorization to that error, since nobody has an objective right to believe or propagate what is false, or to do what is wrong.

(5) Nobody may ever be forced into embracing the Catholic faith, since the act of faith must be free.³

The only serious inadequacy in Father Harrison's summary is a failure to make clear in (1) that the Popes taught consistently that the ideal situation in a Catholic State is the union of Church and State, and that where this union exists "it is not lawful to grant false religions the same rights as the true religion". In examining the teaching of Vatican II I am, therefore, prepared to use Father Harrison's five point summary rather than my own, but with his first point amplified as follows:

The *civitas* has a duty to honour God, and to recognize as uniquely true the religion entrusted by Christ to the Catholic Church. In a predominately Catholic society this will be achieved by the union of Church and State in which false religions will not be granted the same rights as the true religion.

NOTES

¹ H, pp. 76-7.

² *Ibid.*, p. 21.

³ *Ibid.*, pp. 60-1.

XVIII

DIGNITATIS HUMANAE AND THE RELIGION OF THE STATE

The Significance of Article 1

The translation of the excerpts from *Dignitatis humanae* used in this book is taken from the Abbott version. This is because: "The translation of the Declaration on Religious Freedom was chiefly prepared by one of the architects of the Latin original, Father John Courtney Murray, S.J."¹ Clearly, no one was more qualified than Father Murray to provide a translation making clear what his Latin text was intended to convey. In addition to this, the first edition of the more recent Flannery version of the documents omitted the most crucial phrase in the entire Declaration.

The Declaration *Dignitatis humanae* begins with Article 1, a preface which, as explained in Chapter XVI, contains a number of points intended to conciliate traditionalists and reduce their opposition to the document. As Msgr. Pavan explains:

The second part (of Article 1) contains some clarifications destined to remove the existing doubts among the Council Fathers. For many were afraid that the Declaration on Religious Freedom as a right of the person might lead to religious indifferentism or could be interpreted in this way by Christians, whether Catholic or Protestant, as well as by unbelievers.²

Thus Article 1 teaches that God Himself has made known the manner in which men are to be saved: that the one true religion He has revealed "subsists" in the Catholic Church; all men have an obligation to seek the truth "especially in what concerns God and His Church, and to embrace the truth they come to know, and to hold fast to it."

The most important of the clarifications referred to by Msgr. Pavan occur in the last three sentences of Article 1. The words added to this article in its final version are italicised:

Religious freedom, in turn, which men demand as necessary to fulfil their duty to worship God, has to do with immunity from coercion

in civil society. Therefore, it leaves untouched *traditional* Catholic doctrine on the moral duty of men and *societies* toward the true religion and toward the one Church of Christ.

Over and above all this, in taking up the matter of religious freedom this sacred Synod intends to develop the doctrine of *recent* popes on the inviolable rights of the human person and on the constitutional order of society.

This, of course, is the passage referred to by Henri Fesquet (see pp. 157–8) which made the majority uneasy as a possible indication that the Church was not renouncing the traditional thesis-hypothesis theory, or the concept of the Catholic State, but, Fesquet claimed, the final sentence on the inviolable rights of the human person was a discreet but clear way of saying that certain aspects of previous doctrine must continue to evolve.

Msgr. Pavan, quoting Article 1, accepted that this passage meant that the Declaration leaves untouched the “traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ.”³ Father Brian Harrison insists that it definitely does indicate that *Dignitatis humanae* can be interpreted in a manner that is compatible with the traditional Church-State doctrine, and that the weak Article 6 of the Declaration, which talks in neutral terms about societies wherein one religion is given special recognition, *must* be interpreted in the light of Article 1, and not vice versa. He considers the development of this passage in Article 1 to be of considerable importance, and he has researched it with great diligence in the *Acta* of the Council.⁴

In the third from last draft (the *Textus reemendatus*), Article 1 contained a statement dissociating the Council from indifferentism, i.e. placing truth and falsehood on the same level. It read:

Moreover this treatment of religious liberty leaves intact the Catholic doctrine concerning the one true religion and the one Church of Christ.

Not surprisingly, this was considered far too vague by some of the conservative Fathers.

In the penultimate text (the *Textus recognitus*), this sentence was revised. Bishop de Smedt explained that this revision was intended to

show that neither men nor societies were exempt from the moral duties they were bound to observe towards the Catholic religion.⁵ Despite this assurance by the Bishop, there was still no reference whatsoever to societies within the text. The relevant sentence of the *Textus recognitus*, with the additional words emphasized, reads as follows:

Moreover this treatment of religious liberty leaves intact the Catholic doctrine concerning the one true religion, the one Church of Christ, and the moral duty of men towards that Church.

Father Harrison interprets this as a compromise designed to avoid criticism from Fathers opposed to a specific reference to societies, which could allow the Declaration to be interpreted as compatible with the union of Church and State, while placating the traditional bishops by making this union at least implicit.⁶ This compromise did not work, and the vote indicated that 28% of the Fathers were still partly or wholly unsatisfied—a minority too large to be ignored (see p. 154). The final text, which was cited above, is definitely much stronger due to the addition of the words *traditional* and *societies*.

In a letter written to Hamish Fraser on 7 April 1986, Father Harrison attached considerable significance to the official explanation of this final amendment made by Bishop de Smedt in his capacity as *relator*. He wrote: "As you can see from the enclosed copy of his Latin speech, these additions were put in precisely in order to avoid the appearance of contradicting the magisterial teaching up till the time of Leo XIII. The only justifiable interpretation of *Dignitatis humanae*, therefore, is that it reaffirms the moral duty of the State to recognize the truth of the Catholic Church." The key section of Bishop de Smedt's *relatio* reads: "The text presented to you today recalls more clearly (see nos 1 and 3) the duties of the public authority towards the true religion (*officia potestatis publicae erga veram religionem*); from which it is manifest that this part of the doctrine has not been overlooked (*ex quo patet hanc doctrinae partem non praetermitti*)."⁷

Father Harrison accepts that not all theologians understand the

revised Article 1 in the manner that he does, and he cites differing interpretations in Chapter VI of his book, which merits very careful study. He quotes at length from the Spanish Dominican, Victorino Rodriguez, O.P.:

In ratifying the traditional doctrine on the duty of societies towards the Catholic Church as the true religion, (the Council) ratifies the doctrine of the duty of nations and states to seek, accept, uphold and profess—privately and publicly—the religion of the Catholic Church, founded by Christ for all men, since this doctrine is a fundamental thesis of the Popes of the 19th and 20th centuries (up to and including Pius XII) concerning the relation of societies to the Catholic Church.⁸

And again:

Articles 1 and 6 do not contradict or limit each other, but rather complete each other, although in the reverse order to that of their redaction.

From all of this, that is, from the total context of the Declaration, it is clear that the Catholic confessionality of the State has not been reduced theoretically or doctrinally to an "exceptional" case. . . . Much less does it mean that the sense of the terms "thesis" and "hypothesis" (to use the terminology of Pius XII) has been inverted, so that in principle the thesis should be a-confessionality or state neutrality, while confessionality is the hypothesis.⁹

Father Harrison cites another Spanish theologian, Father Enrique Torres, S.M., who maintains that Rodriguez's interpretation is "contrary to the meaning of the conciliar text". Father Torres claims that "the majority of commentators see in this passage no more than an affirmation of a generic sort designed to counteract the danger of indifferentism."¹⁰

Father Harrison's answer is that it is not a very conclusive exegetical procedure to argue from what other commentators say about the text, rather than from the text itself and its conciliar history.¹¹ He considers the final *relatio* of Bishop de Smedt to be decisive, as this is the official explanation of the passage, and that "in making the vital clarification that Article 1 must be understood as reaffirming that government, or the public authority (*potestas publica*) has a duty to recognize the true religion, de Smedt had evidently

modified his own position of twelve months earlier, when he told the Fathers that the State is 'quite incapable' of making judgments of this sort."¹² Despite this, he accepts that Father Rodriguez may be reading too much into the article in seeing it as "a simple reaffirmation of the 'thesis' of the 'confessional Catholic State' in the accepted constitutional legal sense which traditionally obtained in a number of Catholic countries." Father Harrison concedes, and this is a very important concession, that:

Since the Council deliberately prescinded from this question after the lengthy debates which resulted in Article 6, it would seem hard to justify the assertion that the last-minute insertion of the words "and societies", which the Fathers were given no opportunity to debate, "completes" Article 6 in precisely the way Rodriguez says it does. However, Torres' own exposition of that insertion seems to be very much a dilution of its true intent: Article I speaks plainly and explicitly of a social duty towards "the true religion and the one Church of Christ", and not merely of some vaguely-defined State duty of creating a "favourable climate" towards religion in general.¹³

If Article I can be interpreted reasonably as meaning that the traditional doctrine of the Popes on Church and State remains untouched, this by no means precludes a study of the entire Declaration to discover the extent to which, apart from this article, it reaffirms, develops, ignores, or contradicts previous papal teaching. While accepting that Father Harrison is correct, from a strict hermeneutical standpoint, in insisting that the finalized Article I is of considerable doctrinal significance, no matter how it was arrived at, and that it must be taken into consideration when interpreting the other articles, this does not change the fact that Fesquet made a valid point in claiming that a strict interpretation of this reassuring passage "would be artificial since the spirit of the schema as a whole is far different." It is indeed. Father Harrison himself concedes that:

Vatican II deliberately refrained from insisting on the duty—or even the desirability—of a *constitutional* "establishment" of Catholicism as "religion of the State". The compromise adopted in re-writing the *Textus reemendatus* was, as we have seen, a hypothetical rather than

affirmative statement: if one religion is specially recognized "in a state's constitution", then others must be granted religious freedom as well.¹⁴

The addition of a few words and phrases to Article I, in order to minimize the *non placet* votes in the final ballot, provides an example of a typical Vatican II compromise, illustrating perfectly a comment made by Professor Oscar Cullmann, one of the most distinguished scholars among the Protestant Observers at the Council. He insisted that "the definitive texts are for the most part compromise texts". He continued:

On far too many occasions they juxtapose opposing viewpoints without establishing any genuine internal link between them. Thus every affirmation of the power of bishops is accompanied in a manner which is almost tedious by an insistence upon the authority of the Pope. . . . There is nonetheless as the basis of all these documents an intention of renewal from which reforms can emerge after the Council. . . . All the texts are formulated in such a manner that no door is closed and that they will not present any future obstacle to discussions among Catholics or dialogue with non-Catholics, as was the case with the dogmatic decisions of previous Councils.¹⁵

There is no document of the Second Vatican Council to which these comments are more applicable than *Dignitatis humanae*.

Paul Blanshard showed great perspicacity in noting the importance of the additions to Article I as a ploy to allay the fears of the conservative Fathers. He remarks that one reason for the eventual wide margin of victory "was that the endorsement of the 'one true Church' meaning of the proposal was written into the adopting motion."¹⁶ I pointed out on several occasions in *Pope John's Council* how the insertion of some evidently orthodox terminology into conciliar documents with a definite Liberal bias, usually upon the insistence of Pope Paul VI himself, had a double-edged effect in that while, to a greater or lesser extent, this helped to safeguard orthodoxy, it also served to neutralize conservative opposition to basically Liberal documents.

NOTES

- ¹ Abbott, p. xi.
- ² COD, p. 63.
- ³ *Ibid.*, p. 64.
- ⁴ H, pp. 71-5.
- ⁵ *Ibid.*, p. 71. AS, vol IV, Part V, p. 99.
- ⁶ *Ibid.*, p. 72.
- ⁷ *Ibid.*, p. 75. AS, vol IV, Part VI, p. 719.
- ⁸ Cited in H, p. 72.
- ⁹ Cited in H, p. 73.
- ¹⁰ *Ibid.*
- ¹¹ H, p. 73.
- ¹² *Ibid.*, p. 74.
- ¹³ *Ibid.*
- ¹⁴ H, p. 70.
- ¹⁵ PJC, p. 56.
- ¹⁶ PB, p. 95.

XIX

TRADITION ABANDONED

This chapter will examine the extent to which *Dignitatis humanae* can be considered to have restated unequivocally any of Father Harrison's five point summary of the traditional Catholic doctrine on Church and State. This will be done without reference to the last minute additions to Article I which were discussed in the previous chapter. Father Harrison is correct in claiming that, from a strict hermeneutical standpoint, these additions form an integral part of the Declaration, and that the entire Declaration must be considered in the light of the amended article. But, as Father Harrison has conceded, the Fathers had no opportunity to debate these additions, and, to repeat a quotation from Henri Fesquet, "such a strict interpretation would be artificial since the spirit of the schema as a whole is far different" (see page 158). Father Joseph Ratzinger had no doubt that there was a conflict between the final redaction of Article I and the rest of the Declaration, which, he claimed, corrected and modified the attempt in Article I "to emphasize a continuity in the statements of the official Church on this issue." He considered these "compromising formulas" to be unfortunate as the Declaration itself offered "something that is quite different from what is found, for example, in the statements of Pius XI and Pius XII" (see p. 205).

It seems only reasonable to suggest that if the entire Declaration must be interpreted in the light of Article I, then Article I must be considered in the light of the entire Declaration, which, according to Father Ratzinger, corrects and modifies it. To what extent, then, does *Dignitatis humanae* reaffirm unequivocally any of Father Harrison's five points, bearing in mind that the traditional doctrine must be understood as referring only to a Catholic State, that is, "a political community that is either exclusively, or almost exclusively, made up of Catholics" (see p. 65). Father Harrison's first point, in my amplified version, reads:

The *civitas* has a duty to honour God, and to recognize as uniquely true the religion entrusted by Christ to the Catholic Church. In a predominantly Catholic society this will be achieved by the union of Church and State in which false religions will not be granted the same rights as the true religion.

The term "Catholic State" is not so much as mentioned throughout the entire Declaration. Father Murray had denied any doctrinal basis for the concept of a state-church, or for the concept of Catholicism as the religion of the State. He considered these concepts to be no more than "an adaptation to a particular historical context."¹ *Dignitatis humanae* certainly appears to endorse his position. The terms "Catholic State", "Union of Church and State", or "Religion of the State" do not appear anywhere in the Declaration. Father Harrison concedes that the Council did not affirm the traditional teaching in any obvious way.² He also refers to the omission of any obvious reiteration of the obligation of public authorities to recognize Catholicism as uniquely true.³

In a footnote to his translation of *Dignitatis humanae*, Father Murray is able to state triumphantly: "The Church does not make, as a matter of right or of divine law, the claim that she should be established as 'the religion of the State'."⁴

Article 6 of *Dignitatis humanae* does speak (in strictly conditional terms) of the possibility of a particular religious body being given "special legal recognition". It must be noted that *Dignitatis humanae* is not referring to a Christian denomination, let alone Catholicism, but of any religion, Islam, for example. Article 6 states:

If, in view of peculiar circumstances obtaining among certain peoples, special legal recognition is given in the constitutional order of society to one religious body, it is at the same time imperative that the right of all citizens and religious bodies to religious freedom should be recognized and made effective in practice.

However, even if this "special legal recognition" were accorded to the Catholic Church in a particular country, this would not constitute a Catholic State in the traditional sense if the right of all religions to religious freedom in the external forum must be recognized.

In a Catholic State, in the traditional sense, no non-Catholic sect could ever have the right not to be prevented from propagating error in public. Msgr. Pavan commented:

On this subject the opinions of the Fathers were very divided. A minority asserted that whenever the Catholics were in a majority the State had the duty to favour a Catholic State for the sake of truth. Other Fathers held a diametrically opposed view and wanted that this subject should not be mentioned at all. There were also those who said that there were religiously qualified states. This is a fact that cannot be denied. This provided an opportunity to declare that *in such cases every man and every religious body must be granted the right to religious freedom and to its exercise* (my emphasis)⁵.

Contrast this with the teaching of Pope Leo XIII in *Libertas humana*:

Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, *the profession of one religion is necessary in the State*, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engraven upon it. This religion, therefore, the rulers of the State *must preserve and protect*, if they would provide—as they should do—with prudence and usefulness for the good of the community (my emphasis).

And again in the same encyclical: “. . . it is contrary to reason that error and truth should have equal rights.”

In *Immortale Dei* the same Pontiff condemned the theory that the State should not “prefer one religion to all the rest; or to show to any form of religion special favour; but, on the contrary is bound to grant equal rights to every creed. . . .” Pope Leo insisted that:

To hold, therefore, that there is no difference in matters of religion between forms that are unlike each other, and even contrary to each other, most clearly leads in the end to the rejection of all religion in both theory and practice. And this is the same thing as atheism, however it may differ from it in name.

Article 6 does not preclude the possibility of a "religious body" which is given "special legal recognition" being granted privileges not accorded to other religious bodies. Where a predominantly Catholic people is concerned, it would seem compatible with Article 6 that Catholic religious instruction could be given in State schools, with, of course, the right of withdrawal for non-Catholic pupils. Catholic religious ceremonies could be celebrated at important State functions, and financial subsidies could be given to Catholic institutions or for the building of Catholic churches. These privileges could be withheld from non-Catholic religions without violating Article 6 providing "the right of all citizens and religious bodies to religious freedom should be recognized and made effective in practice." *Dignitatis humanae* therefore does not teach that equal rights and privileges should be bestowed promiscuously on all religious bodies, but that all religious bodies share the *same right* to religious freedom, which, in itself, appears to be incompatible with the traditional teaching.

Pope Pius XII did not modify the traditional teaching as a matter of principle. On 7 September 1955, during an address to the Tenth International Congress of Historical Sciences in Rome, he made the following pronouncement:

The historian should not forget that, while the Church and State have known hours and years of conflict, there were also from the time of Constantine the Great until the contemporary era and even recently, tranquil periods, often quite long ones, during which they collaborated with full understanding in the education of the same people. The Church does not hide the fact that she considers such collaboration normal, and that she regards the unity of the people in the true religion and the unanimity of action between herself and the State the ideal.⁶

Commenting on this passage, Msgr. Fenton wrote:

Here the Holy Father restates in a clear and forthright manner one of the basic teachings set forth by Pope Leo XIII in the encyclicals to which he refers in his discourse. The collaboration of the Church and State (or of the State with the Church) is something which, according to the Roman Pontiff, the Church regards as normal in principle. The Church makes no secret of the fact that in

principle it considers the kind of cooperation between itself and the State that has existed for long periods in times past as not merely good, but as normal. In other words, in the light of this declaration by the Holy Father, had the States that collaborated with the Church during these long tranquil periods withheld that cooperation, their conduct would have been abnormal and faulty.

It is to be noted that the Church considers such intimate and cordial collaboration as normal "in principle". It is not, in other words, something which might merely be considered good for only one kind of State, one, for instance, in a "sacral" culture or civilization. It is a good in itself. When it is absent, that absence stems from something regrettable, either the unwillingness of a Catholic State to cooperate with the Church or the failure on the part of the majority of the people in a state to acknowledge Our Lord and His Church.

Likewise it is interesting to note that what is set forth as normal in principle is a collaboration of the Church and of the State "with full understanding for the education of the same people", such as has actually been found frequently in the course of the Church's history. Thus it could not be said that any Catholic State, democratic or otherwise, would be doing its duty, would be acting according to the objective norm, if its collaboration consisted only in guaranteeing the freedom of the Catholic Church by generally guaranteeing the freedom of religion. What is normal in principle is the collaboration of the Catholic Church and the State, a collaboration which is cordial and thorough, in the education of the same people. By reason of its divine institution and by reason of the commission it alone has received from Our Lord, the Catholic Church should have this cordial and thorough cooperation from a state whose citizenry is Catholic.

The paragraph goes on to say that the Church does not make any secret of the fact that "it regards as an ideal the unity of the people in the true religion and the unanimity of action between itself and the State". The ideal is the objective of the Church's prayer and work. It is the Church's desire, motivated by the charity that animates it as the Mystical Body of Jesus Christ, that all men may believe the divine message which her Divine Founder has entrusted to her, and that they may be joined to Our Lord in the unity of His Kingdom on earth. It is likewise the will of the Church that, because such action is

normal and good, the State composed of Catholics should cooperate sincerely and effectively with the Church.

It is the ideal, the objective toward which we should work and hope and pray, that all people should be joined to Our Lord in His Mystical Body. That ideal, however, has not been attained. The Church, in the words of the Holy Father, professes itself quite well aware of the fact that "for some time events have been evolving rather in a different direction, that is, toward the multiplicity of religious confessions and concepts of life within the same national community, where Catholics are a more or less strong minority." This is, of course, a tendency away from the ideal. It is, in itself, definitely not a good thing to have more and more people fail to accept Our Lord in His Mystical Body.⁷

The theological principle is, then, incontrovertible: close collaboration between Church and State, and where possible a union which will result in unanimity of action, is the ideal. *Dignitatis humanae* could have stated that conditions in which this unanimity of action could be achieved had become rare, if they existed at all. This would not have challenged the principle. But Article 13 states that: "The freedom of the Church is the *fundamental principle* in what concerns the relations between the Church and governments and the whole civil order." Commenting upon this claim, Archbishop Lefebvre answers:

NO! Freedom is not *the* fundamental principle, nor *a* fundamental principle in the matter. The public law of the Church is founded on the State's duty to recognize the social royalty of Our Lord Jesus Christ! The fundamental principle which governs the relations between Church and State is the "He must reign" of St. Paul, *Oportet illum regnare* (I Cor. 15:25)—the reign that applies not only to the Church but must be the foundation of the temporal City.⁸

The studious avoidance of the least reference to the Social Kingship of Our Lord Jesus Christ is one of the most deplorable aspects of *Dignitatis humanae*. Furthermore, as Father Harrison admits, this policy was applied to the Mass and Office of Christ the King during the post-conciliar liturgical revolution. Father Harrison writes:

Even more striking than *Dignitatis humanae's* omission of any obvious reiteration of the obligation of public authorities to recognize Catholicism as uniquely true (not to mention the subsequent removal of prayers and hymns expressing this teaching from the new Mass and Office of Christ the King) is the conciliar Declaration's affirmation of certain ideas which bear at least a *prima facie* appearance of contradicting previous papal statements.⁹

The failure of *Dignitatis humanae* to reaffirm the Social Kingship of Our Lord will be examined in Chapter XXV. The Church has, of course, always demanded freedom to fulfil her mission, and this demand is reiterated in *Quas primas*, but the fundamental principle of papal teaching on Church and State was explained perfectly by Father Connell: "The real point at issue is not the relation between the State and the Catholic Church but rather the relation between the State and Christ the King."¹⁰

Father Harrison has quite correctly drawn our attention to the fact that a footnote to Article 13 refers to the letter *Officio sanctissimo* of Pope Leo XIII, and that the first three sentences of the article are almost a word for word quotation from this letter dated 22 December 1887. *Officio sanctissimo* was addressed to the Bishops of Bavaria at a time of particular difficulty in Church-State relations in that country. The relevant section of the letter cited in Article 13 reads:

Of all these goods of the Church which we should always and everywhere preserve and defend against every injustice, the first where she is concerned is certainly the enjoyment of that complete liberty of action which she needs to work for the salvation of men. For this liberty is divine; its author is the Only begotten Son of God in the shedding of whose Blood the Church was born; it was He who established her in perpetuity among men and who willed Himself to be her Head; this liberty is so much of the essence of that perfect and divine work the Church, that those who take up arms against this liberty, by that very fact, do so against God and against duty.¹¹

The first three sentences of Article 13 read:

Among the things which concern the good of the Church and

indeed the welfare of society here on earth—things therefore which are always and everywhere to be kept secure and defended against all injury—this certainly is pre-eminent, namely, that the Church should enjoy that full measure of freedom which her care for the salvation of men requires. This freedom is sacred, because the only-begotten Son endowed with it the Church which He purchased with His Blood. It is so much the property of the Church that to act against it is to act against the will of God.

Then comes the statement concerning which Archbishop Lefebvre protested so vigorously:

The freedom of the Church is the fundamental principle in what concerns the relations between the Church and governments and the whole civil order.

If by “fundamental” all that is meant here is that freedom is the very minimum which the Church demands from any state, Catholic or non-Catholic, then the statement would be acceptable. But Msgr. Lefebvre is certainly justified in his vigorous protest if by “fundamental principle” Article 13 means that freedom alone is to be accepted as *normal in principle* in relations between Church and State, contrary to the explanation given by Msgr. Fenton earlier in this chapter. As Msgr. Fenton explained, quoting Pope Pius XII, it is close collaboration between Church and State that is normal in principle. Any relationship which fails to implement the obligations deriving from Our Lord’s Social Kingship must, *ipso facto*, be considered abnormal. It might be claimed with some accuracy that as a matter of practical policy, in today’s world, freedom alone is the best that can be hoped for, but this does no more than indicate that we are living in an abnormal world, and in no way changes the permanently valid principle deriving from Our Lord’s Social Kingship. *Oportet illum regnare*, this is the fundamental principle, the only acceptable principle compatible with the rights of Christ the King, and no other principle can possibly be acceptable in the light of those rights. Within the context of the Declaration as a whole, particularly in view of its calculated avoidance of any reference to Our Lord’s Social Kingship, it is reasonable to conclude that *Dignitatis humanae* is stating here that freedom alone is the normal principle in

Church-State relations, and not just the very minimum to be demanded from a neutral or hostile government. Article 6 certainly considers the granting of "special legal recognition" to any "religious body" to be exceptional, a departure from the norm. Pope Paul VI made it clear that he certainly interpreted *Dignitatis humanae* as meaning that freedom alone for the Church can be considered normal in principle. He stated this in a message addressed to political rulers at the close of the Council on 8 December 1965. It must certainly be one of the most astonishing utterances ever to be made by a sovereign pontiff. In the course of his message Pope Paul remarked:

What does the Church ask of you today? In one of the major texts of the Council she has told you: she asks of you nothing but freedom—the freedom to believe and to preach her faith, the freedom to love God and to serve Him, the freedom to live and to bring to men her message of life.¹²

Commenting with total approval on this scarcely credible papal pronouncement, Father Murray states:

This doctrine is traditional; it is also new. Implicit in it is the renunciation by the Church of a condition of legal privilege in society. The Church does not make, as a matter of right or of divine law, the claim that she should be established as the "religion of the state". Her claim is freedom, nothing more.¹³

Not surprisingly, Father Murray did not explain how a doctrine could, at the same time, be both traditional and new!

The Pope's message, of course, is straightforward Integral Humanism, unadulterated Maritain.¹⁴ And yet Pope Paul, like Maritain, although an Integral Humanist in his socio-political outlook, was profoundly Catholic by nature. Thus, after abandoning the claim to a Catholic State, and demanding no more than freedom for the Church to believe and preach her faith, he was outraged when the Italian state, freed from its obligations to the Church, authorized divorce and abortion. The entire dilemma of Pope Paul's complex personality was made concrete in his genuine anguish at the establishment of an abortion clinic in Rome—which is no more than the logical outcome of his message to the rulers of the world at the conclusion of Vatican II.

It would, of course, be possible under the terms of Article 7 of *Dignitatis humanae* for a government to prohibit divorce as not in conformity with the objective moral order. Following an intervention by Archbishop Karol Wojtyla of Cracow, Article 7 was revised to include a reference to an ethical criterion in the restrictions to be placed on the exercise of religious liberty. As a result of Archbishop Wojtyla's intervention, the exercise of religious liberty is stated in Article 7 to be "controlled by juridical norms which are in conformity with the objective moral order" (*ordini morali obiectivo conformes*).¹⁵

On 29 September 1979, in Phoenix Park, Dublin, the former Archbishop Wojtyla, now Pope John Paul II, offered Mass in the presence of one third of the entire Irish nation. In his final address to the Irish people he denounced contraception, execrated abortion as an "abominable crime", and urged the Irish people to maintain their law prohibiting divorce. Hamish Fraser interpreted this address as a determined attempt to "uphold the Kingship of Christ over the State no less than over the individual and the family".¹⁶ The Holy Father insisted that:

Divorce, for whatever reason it is introduced, inevitably becomes easier and easier to obtain, and it gradually comes to be accepted as a normal part of life.

The very possibility of divorce in the sphere of civil law makes stable and permanent marriages more difficult for everyone.

May Ireland continue to give witness before the modern world to her traditional commitment to the sanctity and indissolubility of the marriage bond. May the Irish always support marriage through personal commitment and through positive social and legal action.¹⁷

In 1986, the Liberal Prime Minister of Ireland, Garret Fitzgerald organized a referendum which, he believed, would authorize his government to legalize divorce. Hamish Fraser commented on the result with these words:

In a hundred years' time, 26 June 1986 should be recalled as one of the most memorable days in Irish history. For on that day, by an overwhelming majority (63.5% against, 36.5% for)—the Irish people voted "No" in the Referendum which was intended to obtain their permission to legalize divorce in the Republic.¹⁸

The remaining four points in Father Harrison's synopsis of the traditional teaching can be dealt with very briefly as they are all contained implicitly in the first point which has just been examined at length.

Point 2: Civil authority, therefore, has the duty also to *protect* the true religion and the Catholic Church by restricting (to the extent that the common good requires) the free propagation of doctrinal error—both that which opposes reason or the natural law and that which opposes revealed truth. (It then pertains to ecclesiastical and civil law, mutable according to circumstances, to propose norms governing *how much* restriction the common good does in fact require in particular cases.)

Point 3: In a well-constituted society, the common good will always require some degree of restriction over and above that which is necessary merely for the maintenance of public peace.

Father Harrison accepts that *Dignitatis humanae* fails to reiterate "the obligation of public authorities to recognize Catholicism as uniquely true." The relevant sections of *Dignitatis humanae* (notably Articles 3 & 4) do not so much as hint at the existence of a true religion, let alone any duty incumbent upon the State to protect it. The term "doctrinal error" does not occur anywhere within the Declaration. In his points 2 and 3 Father Harrison correctly uses the term "common good" as the criterion for restricting the spread of religious error in the pre-conciliar teaching. In *Dignitatis humanae*, however, although the term "common good" was used in early drafts, it was deliberately removed in deference to Protestant objections, and replaced by "public order" as the criterion for deciding the "due limits" within which religious liberty can be exercised. The public order of Vatican II certainly does require some degree of restriction over and above the necessary minimum for the maintenance of public peace. The extent to which this is the case will be examined in Chapter XX, but by no possible stretch of the imagination can *Dignitatis humanae* be said to uphold the traditional position that a Catholic State has the right (but not necessarily the duty) to restrict non-Catholic propaganda simply because it is false, and that consequently non-Catholic citizens cannot possibly possess any right not to be prevented from spreading

their errors in public. Far from referring to the protection of "the true religion" or "the rights of the Catholic Church", *Dignitatis humanae* refers indiscriminately to "religious bodies". The Catholic Church has always demanded freedom for herself alone (see p. 49), and condemned the granting of the same rights to false religions as to the true religion (see p. 36). It is contrary to reason that error and truth should have equal rights (p. 227). Falsehood has no right to be spread (p. 166). It is a considerable understatement to note that this teaching is not repeated in Article 4 of *Dignitatis humanae*.

Provided the just requirements of public order are observed, religious bodies rightfully claim freedom in order that they may govern themselves according to their own norms, honour the Supreme Being in public worship, assist their members in the practice of the religious life, strengthen them by instruction, and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with their religious principles.

Religious bodies also have the right not to be hindered, either by legal measures or by administrative action on the part of government, in the selection, training, appointment, and transferral of their own ministers, in communicating with religious authorities and communities abroad, in erecting buildings for religious purposes, and in the acquisition and use of suitable funds or properties.

Religious bodies also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word.

The only echo of the pre-conciliar teaching that occurs in Article 4 is its condemnation of proselytism, which was included with the activities of certain sects in South America in mind. It follows immediately after the passage which has just been quoted:

However, in spreading religious faith and in introducing religious practices, everyone ought at all times to refrain from any manner of action which might seem to carry a hint of coercion or of a kind of persuasion that would be dishonourable or unworthy, especially when dealing with poor or uneducated people. Such a manner of action would have to be considered an abuse of one's own right and a violation of the right of others.

The Declaration stops short of stating that such proselytism would justify the intervention of the State even if public order were not threatened.

Point 4: Civil authority can and should tolerate the diffusion of error to the extent that the common good requires, but may never give positive approval or authorization to that error, since nobody has an objective right to believe or propagate what is false, or to do what is wrong.

This point can be dealt with very briefly. The words "tolerate", "tolerance", or "toleration" do not occur anywhere in the Declaration. The concept that error has no rights, and can be tolerated only in the interests of the common good, has been abandoned completely.

Point 5: Nobody may ever be forced into embracing the Catholic faith, since the act of faith must be free.

This is the only point of pre-conciliar teaching which is affirmed unambiguously in *Dignitatis humanae*.

The only possible conclusion concerning the extent to which the traditional Catholic teaching on Church and State is reaffirmed in *Dignitatis humanae* is that, apart from Article I, it is not reaffirmed at all. Father Harrison accepts that it is not affirmed "in any obvious way". He insists that *Dignitatis humanae* does not specifically repudiate the traditional teaching, but how could it have? One French theologian, in a defence of the Declaration, stated that *Dignitatis humanae* effectively killed the ideal of the union of Church and State without actually denying it. One might possibly draw an analogy with a man who left his wife to live with another woman but did not divorce her. He could claim (quite correctly, and in the spirit of Article I) that the marriage bond had not been formally broken, but from a practical standpoint he would have killed it. The marriage would be dead but not denied.

As was stated at the beginning of this chapter, the terms "Catholic State", "Union of Church and State", or "Religion of the State" do not appear anywhere in the Declaration. Father Murray stated with satisfaction that *Dignitatis humanae* does not claim that Catholicism

should be recognized as the religion of the State. What is most deplorable is the fact that there is not the least allusion to the Social Kingship of Our Lord Jesus Christ. Where *Dignitatis humanae* is concerned, *Quas primas* might just as well not have been written. Pope Paul's interpretation of *Dignitatis humanae* in his message to political rulers must, surely, be the most authoritative. The Church, he informed them, "asks of you nothing but freedom."

Even though the traditional teaching on the union of Church and State has not been specifically repudiated in *Dignitatis humanae*, the failure of the Declaration to reiterate it represents in itself a breach with the teaching of the Popes and an implicit repudiation of the fundamental duty of every State to submit to the Social Kingship of Our Lord Jesus Christ. Let the reader who doubts this study Chapter V once more, and then read through the text of *Dignitatis humanae* to discover the least allusion to the Kingship of Christ. This implicit denial of Our Lord's Social Kingship will be made even more manifest in Chapter XXV which examines the extent to which the liturgy has been modified to correspond with *Dignitatis humanae*, a fact noted and accepted by Father Harrison.

NOTES

- ¹ L, p. 155.
- ² H. p. 12.
- ³ *Ibid.*, p. 14.
- ⁴ Abbott, p. 693.
- ⁵ COD, p. 72.
- ⁶ AER, 133, 1955, p. 347.
- ⁷ *Ibid.*, pp. 329-330.
- ⁸ Davies, M.T., *Apologia Pro Marcel Lefebvre*, vol. II (Angelus Press, Kansas City, MO, 1983), p. 122.
- ⁹ H. p. 14.
- ¹⁰ AER, 125, 1951, p. 9.
- ¹¹ E. O'Gorman (trans.), *Papal Teachings—The Church* (Boston, 1962), p. 274.
- ¹² Abbott, p. 693. The date of the message is given incorrectly on this page as 9 December. The full text of the message is included on pages 729-30 in a different translation.
- ¹³ *Ibid.*

- 14 PJC pp. 177-88 & Appendix VI.
- 15 H. p. 99.
- 16 *Approaches* 67, December 1979, p. 31.
- 17 *Ibid.*
- 18 *Ibid.*, 93-94, July 1986, p. 11.

COMMON GOOD, PUBLIC PEACE, AND PUBLIC ORDER

Chapter XXII will examine the possibility of a formal contradiction between certain passages in *Dignitatis humanae* and the teaching of the pre-conciliar popes. Before making this examination it is necessary to have a clear understanding of three key terms. These are "common good" (*bonum commune*) as used within the context of traditional papal teaching; "public peace" (*pax publica*) as used within the context of *Quanta cura*; and "just public order" (*iustus ordo publicus*) as used within the context of *Dignitatis humanae*.

The traditional concept of the common good was explained in great detail in Chapter VIII. It is unfortunate that the original criterion used within *Dignitatis humanae* for the restriction of religious liberty, the common good, was abandoned in favour of the term "public order" which was used in the French Revolutionary *Declaration of the Rights of Man*. It is even more unfortunate that the Council rejected the magnanimous offer of the International Group of Fathers to vote for the Declaration if the common good were to be restored as the criterion of limitation (see p. 158).

Father Murray adopted the French Revolutionary term "public order" as his criterion for restricting religious liberty, but, as was shown in Chapter X, he did not use it precisely in the sense it had been used in the *Declaration of the Rights of Man*. He opted for the term "public order" rather than "public good" due to his theory of the nature of the State, which was based largely upon the ideas of Maritain. He made a distinction between Society and the State. The people or body politic constitute Society, and the State is no more than a subsidiary body within Society, an agency concerned with public law and administration. This thesis completely undercut the traditional papal teaching that the State must be considered as a corporate person. Society's end, the common good, claimed Murray, must be distinguished from that of the State, public order.

According to Father Murray, the State could intervene to restrict the exercise of religious liberty only when absolutely necessary in the interests of public order. This was the criterion specified by the 1789 *Declaration of the Rights of Man*. No precise definition is available of what those who drafted this document meant by public order, but it is most probably what Pope Pius IX referred to as public peace (*pax publica*). In Great Britain a breach of the peace is an offence which has a connotation involving violence. Those who disturb the public peace, or the Queen's peace, in Britain, would be guilty of violence or conduct which could lead to violence. Thus even the most fanatical Protestant, who believed sincerely that the doctrine of transubstantiation involves idolatry, would not be allowed to verbally abuse Catholics taking part in an outdoor procession of the Blessed Sacrament. Such a man would certainly be arrested for a breach of the peace. The term "public order" also occurs in English law, and that too has the connotation of an offence which could lead to a breach of the peace. Public order is said to be violated "when an individual disturbs society", and "anyone who behaves in a manner which the police consider is likely to cause a breach of the peace is liable to arrest."¹ It is probable that any citizen in any country if asked what constituted a breach of public order would define it in similar terms, i.e. an offence which caused or could lead to a breach of the peace.

Father Murray defined a new concept of public order to go with his new concept of the State. Society's end was the common good, and the State's end was public order. His definition of public order is quoted in detail on page 78. It can be used to justify State intervention to inhibit religious expression in public that would seriously violate the public peace, commonly accepted standards of morality, or the rights of other citizens. He stresses that the violation of public order must be really serious before State intervention can be justified.

The Murray concept of public order was adopted almost word for word in *Dignitatis humanae*. The relevant passage in Article 7 reads:

Furthermore, society has the right to defend itself against possible abuses committed on pretext of freedom of religion. It is the special

duty of government to provide his protection. However, government is not to act in an arbitrary fashion or in an unfair spirit of partisanship. Its action is to be controlled by juridical norms which are in conformity with the objective moral order.

It will be noted that Father Murray's distinction between Society and the State (government) is reproduced here faithfully. But the passage does contain a very positive addition suggested by the newly appointed Archbishop of Cracow, Karol Wojtyla. The fourth schema, the *Textus reemendatus*, had merely stipulated that a government must not intervene "in an arbitrary way, but according to juridical norms which are required by the necessities of public order." Archbishop Wojtyla feared that "certain governments" wishing to impose unjust restrictions upon the Church could cite this passage in their favour if the criterion for intervention was to be limited to juridical norms. The text was revised to include a reference to an ethical criterion which transcends the mere will of any ruler or civil power.² The fifth schema, the *Textus recognitus*, was therefore amended with a sentence demanding that government restrictions must not be arbitrary or unfairly favouring one side ("an unfair spirit of partisanship"—*aut uni parti inique favendo*) but according to "juridical norms which are in conformity with the objective moral order" (*ordini morali objectifo conformes*). This addition was retained in the final version.

It is evident that "the objective moral order" referred to in Archbishop Wojtyla's amendment can only be the moral order taught by the Magisterium of the Catholic Church. There is no other *objective moral order*. Where the Catholic ideal of the union of Church and State exists those holding authority in the State would submit to the guidance of the Magisterium, and intervene to prohibit breaches of the objective moral order such as the legalization of divorce, contraception, abortion, pornography, or unnatural vice. But *Dignitatis humanae* completely abandoned the concept of the Catholic State and it is hard to imagine that in voting for the Declaration the Council Fathers could possibly have imagined many if any governments basing their legislation on moral questions upon the teaching of the Church.

Whatever *Dignitatis humanae* might stipulate concerning the objective moral order, the criterion which would be adopted in virtually every Christian country, with the exception of Ireland, would be Father Murray's criterion of "commonly accepted standards of public morality" (page 78). In other words, the reality would be the adoption of moral standards acceptable to the majority of the people, the French Revolutionary ideal. This has meant, in practice, that, since the Council, even in countries with a large majority of Catholic citizens, divorce, contraception, abortion, pornography, and unnatural vice have been legalized. When governments no longer legislate in accordance with the objective moral norms of the Catholic Church, Father Murray's "commonly accepted standards of morality" soon become commonly accepted standards of immorality. Archbishop Wojtyla's amendment to Article 7 must, then, be welcomed but, alas, regarded as of no practical value in upholding the objective moral order in the crumbling ruins of Western Christianity.

Article 7 continues:

These norms arise out of the need for effective safeguard of the rights of all citizens and for peaceful settlement of conflicts of rights. They flow from the need for an adequate care of genuine public peace, which comes about when men live together in good order and in true justice. They come, finally, out of the need for a proper guardianship of public morality. These matters constitute the basic component of the common welfare (i.e. common good): they are what is meant by public order.

For the rest, the usages of society are to be the usages of freedom in their full range. These require that the freedom of man be respected as far as possible, and curtailed only when and in so far as necessary.

It will be noted that the final sentence of Article 7 coincides exactly with the final sentence of Father Murray's explanation of public order on p. 78: ". . . as much freedom as possible, as much coercion as necessary." It will also be noted that reference to the common good (common welfare) has not been eliminated completely, as public order within the context of Article 7 is stated to be "the basic component of the common welfare (good)."

The only aspect of the Murray thesis not incorporated into the

finalized version of Article 7 is his demand that a violation of public order must be "really serious" before the government intervenes. Even this stipulation had been included in the text until the final version. It was still included in the *Textus recognitus*, the fifth schema.

Common Good and Public Order

It has been explained that there were Protestant objections to the inclusion in *Dignitatis humanae* of common good as the criterion for restricting the public exercise of religious liberty. It was feared that this could be used to justify the traditional concept of the Catholic State. This resulted in the replacement within the schema of common good by public order. Father Harrison admits that this is a non-traditional term,³ and, as has been shown in this chapter, would be understood generally as synonymous with public peace. It has also been explained that Archbishop Lefebvre and the other leading opponents of *Dignitatis humanae* offered to vote for the finalized text providing that the common good was reinserted as the criterion for limiting the public expression of religious liberty. This request was denied, and Bishop de Smedt provided the Fathers with a lengthy *relatio* (explanation) of the reasons for this decision:

Some Fathers are asking us either to omit or to describe more prudently the term "public order" where it is used as a *limiting norm* (Art. 7). Some of these requests propose the "common good" as the limiting criterion. In this very difficult question the commission has been extremely conscious of its responsibilities—especially towards those venerable Fathers who are living in dangerous circumstances—and has tried to avoid every dangerous expression. The following points should be taken into account:

a) The common good is taken in its full extent (*sumitur in sua amplitudine*) as a norm when it is a question of guarding or promoting the right to religious liberty. When it comes to imposing limits, however, the more basic component (*parte fundamentali*) of the common good is taken to be the norm.

b) This basic component of the common good is referred to today in modern civil law and in many state Constitutions as the "public order". In order for our document to be readily intelligible in the

modern world, it should use this technical term according to its accepted modern usage. In what way would it serve our purpose to speak of the "common good", if that term is not used in this sense in modern civil law? A great deal of confusion would arise.⁴

One can only comment that a great deal of confusion has arisen through the use of the term "public order". *Dignitatis humanae* is a document of the Catholic Church, and it is perfectly reasonable that it should employ traditional Catholic terminology. It also seems reasonable to ask precisely which state Constitutions use "public order" in the sense that it is used in *Dignitatis humanae*.

c) Our Council can contribute greatly to the clarification of this delicate question, if it points out precisely what the content of this notion "public order" ought to be, in order for it to be legitimately used as a limiting norm for religious liberty. Our document accomplishes this . . . by saying that public order can be violated in three ways: by infringing the rights of others or the peaceful reconciliation of those rights, by harming public peace, or by harming public morality.

In order to satisfy the Fathers' wishes, our commission has adopted the following procedure in amending the text:

a) In settling this question it has kept the substance of the already-approved text.

b) In the actual exposition of the principle of limitation it has retained the content of public order, but the words "public order" are no longer used in that passage. In this way nothing can be found in the text which public authorities might abuse by citing it in a superficial nominal sense.

c) After this exposition we add: "All these things constitute the basic component of the common good and come under the heading of public order (*et sub ratione ordinis publici veniunt*)."⁵

Conclusion

The *Declaration of the Rights of Man* made "public order as established by law" the only criterion for restricting the public expression of religious belief. Public order within this context is evidently equivalent to public peace in the sense used by Pope Pius IX in *Quanta cura*. In both cases this can be taken to mean conduct which would be likely to lead to a breach of the peace in the sense this term is used in English law.

In *Dignitatis humanae*, also, the term public order is used as the criterion for restricting the public expression of religious belief, but its meaning is carefully defined and is considerably wider than the public order of the French Revolution and the public peace of Pope Pius IX. This is due in particular to the inclusion of "the objective moral order" as a criterion for government intervention upon the insistence of Archbishop Wojtyła.

Within the context of *Dignitatis humanae*:

1. Public order is the fundamental component of the common good, and it can be violated:
2. by infringing the rights of others or the peaceful settlement of those rights;
3. by harming public peace;
4. by violating the objective moral order.

NOTES

¹ D. Williams, *You And Your Rights* (London, 1986), p. 589.

² H, p. 98-9.

³ *Ibid.*, p. 89.

⁴ *Ibid.*, pp. 90-91.

⁵ *Ibid.*

XXI

APPARENT CONTRADICTIONS—AFFIRMATIVE TESTIMONIES

It would be unfortunate if criticism of *Dignitatis humanae* was concerned primarily with proving or disproving a formal contradiction between certain passages in the Declaration and the teaching of Pope Pius IX in *Quanta cura*. The question which the Holy See should pronounce upon is whether the teaching of *Dignitatis humanae* can be reconciled with the establishment of a Catholic State in the traditional sense, one in which there would be a union of Church and State, and one in which there could be no question of any right on the part of non-Catholic religions to freedom from coercion in the public propagation of their errors. The only right in this matter would belong to the State, and it would be the right to tolerate or not to tolerate the public diffusion of these errors, and in making their judgement those in authority would bear in mind the teaching of Pope Leo XIII in *Libertas humana* that "the more a State is driven to tolerate evil the further is it from perfection; and that tolerance of evil which is dictated by political prudence should be strictly confined to the limits which its justifying cause, the public welfare, requires." Even with the statement in Article I that the traditional teaching remains untouched, can it be maintained that, taken as a whole, the teaching of *Dignitatis humanae* can be reconciled with that of Pope Leo XIII?

In his defence of *Dignitatis humanae*, Father Brian Harrison writes:

Even more striking than *Dignitatis humanae*'s omission of any obvious reiteration of the obligation of public authorities to recognize Catholicism as uniquely true (not to mention the subsequent removal of prayers and hymns expressing this teaching from the new Mass and Office of Christ the King) is the conciliar Declaration's affirmation of certain ideas which bear at least a *prima facie* appearance of contradicting previous papal statements.¹

Some conservative Catholics have argued that any contradiction between the teaching of *Dignitatis humanae* and previous papal teaching is impossible as *Dignitatis humanae* forms part of the teaching of an ecumenical council, and the teaching of ecumenical councils is infallible. They are mistaken in this belief. The teaching of ecumenical councils is infallible when invested with the authority of the Extraordinary Magisterium. There is no possibility of error in such teaching. But the documents of Vatican II come to us only with the authority of the Ordinary Magisterium, and so the possibility of error cannot be ruled out. A detailed explanation of this distinction is provided in Appendix I.

The apparent contradiction to which Father Harrison referred has been noted by Catholics of every shade in the post-conciliar theological spectrum, from Archbishop Lefebvre to Dr. Hans Küng. When the same conclusion is reached by scholars of such widely differing standpoints it is evident that there must indeed be a *prima facie* case for considering it possible that this conclusion is correct. Those conservative Catholics who have refused point blank to do so much as countenance the possibility of a contradiction have done so as a result of their confusion concerning the theological status of the documents of Vatican II.

Some Expert Opinions

Among the Liberal theologians who have admitted the difficulty of proving a legitimate development between the traditional teaching and that of Vatican II are five Council *periti* (experts) whose testimony is of the very highest importance—the first two being the experts most influential in drafting the text of the Declaration itself. These experts are Father John Courtney Murray, S.J., Msgr. Pietro Pavan, Father Yves Congar, O.P., Father Hans Küng, and Father Joseph Ratzinger. But before examining their testimonies a statement by Msgr. Emile de Smedt must be cited. Msgr. de Smedt was *relator* for the Secretariat for Christian Unity. It was his responsibility to give the *official* explanation of any passages in the text of *Dignitatis humanae* which required clarification so that the Council

Fathers would know precisely what they were voting either for or against. Among the most fundamental documents of the Magisterium referring to the subject of Church and State are *Mirari vos* of Pope Gregory XVI, and *Quanta cura* and the *Syllabus* of Pope Pius IX. A good number of Fathers were profoundly disturbed by the fact that there was not the least allusion to these essential texts. There can be no doubt as to the reason for this calculated omission. Their teaching cannot be reconciled with that of *Dignitatis humanae*. Msgr. de Smedt, in an astonishing admission, accepted the fact that he could not demonstrate their compatibility. In presenting the final draft he stated in his *relatio*:

Some Fathers affirm that the Declaration does not sufficiently show how our doctrine is not opposed to ecclesiastical documents up till the time of the Supreme Pontiff Leo XIII. As we said in the last *relatio*, this is a matter for future theological and historical studies to bring to light more fully.²

Well, if the *relator* for the Secretariat for Christian Unity could not reconcile the two doctrines, is it likely that anyone will be able to do so? Father Murray, the principal author of the Declaration, was certainly unable to supply an explanation of how the teaching of *Dignitatis humanae* constituted a development of the traditional position. He followed the example of Msgr. de Smedt and asserted gratuitously that it was a development which would be explained by theologians at some unspecified time in the future. In the introduction to his own translation of *Dignitatis humanae* in the Abbott collection, Father Murray conceded that: "The course of the development between the *Syllabus of Errors* (1864) and *Dignitatis Humanae Personae* (1965) still remains to be explained by theologians."³

It would be impossible to exaggerate the significance of the admission, by the principal author of *Dignitatis humanae*, that no one was as yet able to explain how the Declaration constituted a development of the traditional teaching. The fact is that there had, of course, been no doctrinal development at all. Murray had admitted this with almost brutal frankness in his 1964 *Theological*

Studies article in a commendably objective explanation of the "two views" on religious liberty, the traditional teaching and his own thesis:

The Second View presents itself as the contemporary stage in the growing understanding of the tradition. This understanding cannot be found in ecclesiastical documents of the nineteenth century. It was brought into being by a dynamism proper to the twentieth century, the growth of the personal and political consciousness, first noted by Pius XII and more fully developed in its implications by John XXIII. The notion of religious freedom as a human and civil right, personal and corporate, is *not to be sought in theologians of the nineteenth century,* since it is explicitly the product of a twentieth century insight into the exigences of the personal and political consciousness.* The link between religious freedom and limited constitutional government, and the link between the freedom of the Church and the freedom of the people — *these were not nineteenth century theological-political insights. They became available only within twentieth-century perspectives created by the "signs of the times" (my emphasis).*⁴

What could be clearer than this? Father Murray has stated explicitly that his thesis, the teaching of *Dignitatis humanae*, is in fact nothing more than the *Zeitgeist* thesis examined in Chapter XI. It corresponds perfectly with what Monsignor Ronald Knox described as a FIF, a "Funny Interior Feeling". Protestantism is based upon a FIF which assures the individual believer that he is right. Luther, Cranmer, and Calvin were able to repudiate the Church established by Our Lord Jesus Christ on the basis of a FIF. A Funny Interior Feeling told them that they were right and the Catholic Church wrong. The basis of the Murray thesis and *Dignitatis humanae*, the two are virtually identical, is a FIF, defined by Murray as: "the product of a twentieth century insight into the exigences of the personal and political consciousness."

Father Murray's 1965 admission that he was unable to explain how *Dignitatis humanae* constituted a development of previous teaching

* The first view is found, of course, in the teaching of the Popes of the nineteenth century.

had been preceded by a far more radical and damaging admission in the previous year. It also appeared in his celebrated *Theological Studies* article which had been written with the forthcoming conciliar Declaration in mind. When writing this article, Father Murray was virtually certain that his thesis would be adopted *in toto* by the Council. He did not refer to the need for an explanation of how the Second View, his own thesis, could be explained as a development of the First View, the traditional papal teaching. He admitted frankly that the two views could not be reconciled, an admission which he found it prudent to modify when introducing *Dignitatis humanae* to the faithful in 1965. His 1964 position was expressed as follows: "From the foregoing exposition it is clear that the First and Second Views, in dealing with this question, *make affirmations that are either contradictory or contrary*" (my emphasis).⁵

No one could have been better placed to make this affirmation. Father Murray's 1964 article proves beyond any possible doubt that he understood the First View perfectly. It is a position which he had once held and defended. It is even more evident that no one could possibly have understood the Second View better than did Father Murray, as this view was nothing less than his own thesis which he had been forbidden to teach in 1954, and which was incorporated eventually almost verbatim into *Dignitatis humanae*. It is this thesis which, Father Murray assures us, either contradicts or is contrary to the traditional teaching of the Popes.

In 1965 Henri Fesquet affirmed, in even more uncompromising terms than Murray had done in the previous year, the impossibility of reconciling the traditional Catholic teaching on religious liberty with the position he believed that the Council Fathers "must proclaim". He suggested, in a quotation already cited on page 153, that as the problem of reconciling the two views was insoluble "there is only one intellectually honest way to get off the horns of this dilemma—admit that the Popes erred on this particular point. But the Church will likely never admit this officially."

After Father Murray, Msgr. Pietro Pavan had exerted the greatest influence in the drafting of *Dignitatis humanae*. Msgr. Pavan concedes that no previous papal teaching agrees with *Dignitatis humanae*. The

best that he can come up with is that the teaching of some recent Popes "tended towards" it, including Popes Pius XI and Pius XII, despite the fact that they had specifically reaffirmed the traditional position. Msgr. Pavan argues that:

. . . there had, of course, been a doctrinal development, but that its last phase tended towards what was said in the Council document, if it did not actually agree with it.⁶

Father Congar writes, apropos Article 2 of *Dignitatis humanae*:

It cannot be denied that a text like this does *materially* say something different from the *Syllabus* of 1864, and even almost the opposite of propositions 15 and 77-9 of that document.⁷

An interview with Hans Küng published in the *National Catholic Reporter* on 21 October 1977 contained the following passage:

In recent books he (Küng) has stated that while conservatives do not have the right answers, they are often asking the right questions. And Lefebvre is no exception.

"I think he is wrong, but nevertheless what he's arguing are the *oretically unresolved questions*."

Lefebvre has every right to question the Council's Declaration on Religious Freedom, Küng says, because *Vatican II completely reversed Vatican I's position without explanation*.

"The Council evaporated the problem," Küng insists, "because it called into question the doctrine of infallibility . . ." He reminisces over the late night conversations with Father John Courtney Murray (the American who guided Council thought on religious liberty):

"The Council bishops said, 'It's too complicated to explain *how you can go from a condemnation of religious liberty to an affirmation of it purely by the notion of progress*'."

For Küng the issue is still unresolved and cannot be settled without looking at permanence, continuity and the infallibility of doctrine. And to do that the bishops may well have to say that *what they uttered infallibly in the 19th century or before simply does not hold good in the twentieth* (my emphasis).

One can note, *en passant*, that Küng's reference to the teaching of Vatican I on religious liberty is an apt illustration of his poor scholarship as this council did not pronounce upon the subject.

But he is evidently referring to the traditional teaching, and his suggestion that the bishops may have to accept that what they once taught infallibly no longer holds good corresponds exactly to the suggestion of Henri Fesquet, that the Church must admit error on this particular point. Küng's acceptance that Archbishop Lefebvre had every right to question the Declaration as it had reversed the traditional teaching without explanation was echoed in an editorial in the 7 January 1989 issue of the ultra-Liberal *Tablet*:

The concern with the human as such led the Catholic Church to hold that error had no rights, and to incur the charge that where the Church was in the minority, it claimed freedom for itself, but where it was in the majority, did not allow it to others. Vatican II's Declaration on Religious Liberty was one of its key documents and shows how the development of doctrine sometimes proceeds not by progression but by mutation: Archbishop Lefebvre was right in pointing this out and, because of his static view of tradition, could not accept it.

The testimony of Father Joseph Ratzinger is of the very greatest importance. Father Ratzinger was present at the Council as the personal theologian of Cardinal Frings. He had been a student and disciple of Karl Rahner whom he supported throughout the Council, although in its final stages he was beginning to question some of the positions of his mentor. Together with Fathers Rahner and Congar, he was reputed to be one of the theologians censured (without being named) by Pope Pius XII in *Humani generis* (1950). Father Ratzinger is now, of course, Cardinal Ratzinger, Prefect of the Congregation for the Doctrine of the Faith. He has repudiated the Liberal positions that he upheld in his younger days, and is regarded by Modernist theologians as their most dangerous opponent in the Church today.

In his book, *Theological Highlights of Vatican II*, published in English in 1966, Father Ratzinger affirmed that *Dignitatis humanae* contradicted itself by both affirming and denying the duty of societies to recognize Catholicism as the true religion. He expressed himself as follows:

Most controversial was the third newly emphasized aspect. The text attempts to emphasize a continuity in the statements of the official Church on this issue. It also says that it "leaves intact the traditional

Catholic doctrine on the moral duty of men and communities toward the one true religion and the only Church of Christ" (n.1). The term "duty" here has a doubtful application to communities in their relation to the Church. Later on in the Declaration, the text itself *corrects* and *modifies* these earlier statements, offering something new, something that is *quite different* from what is found, for example, in the statements of Pius XI and Pius XII. It would have been better to omit these *compromising formulas* or to reform them with the latter text. The introduction (Article I) changes nothing in the text's content; therefore, we need not regard it as anything more than a minor flaw (my emphasis).⁸

Father Ratzinger was, surprisingly, mistaken in considering Article I to have been "corrected" later in the Declaration as, in chronological sequence, the words to which he objected in Article I were added at the last moment after the rest of the Declaration had been finalized (see p. 173). But, from an hermeneutical standpoint, the chronological sequence in which the content of a magisterial document was developed is irrelevant. It is the finalized text which counts, and Father Ratzinger was quite correct in claiming that what was affirmed in Article I is "corrected" later in the Declaration, making *Dignitatis humanae* a classic example of the type of conciliar document referred to by Professor Cullmann as "compromise texts" in which opposing viewpoints are juxtaposed "without establishing any genuine internal link between them" (see page 174).

In 1989, Father Harrison asked Cardinal Ratzinger to comment on this quotation, and was informed that the Cardinal has revised his opinion and no longer agrees with what he had written in 1966.⁹ This repudiation does not detract from the significance of the statement made by the theologian described by Father Harrison as the "young Father Ratzinger". Father Ratzinger was not particularly young in 1966 when he was thirty-nine years old, and he was present at the Council as an expert adviser, a *peritus*. He was a theologian with an international reputation and not a young curate from a country parish. Nor, in this instance, could Father Ratzinger be seen as expressing the Liberal views that he held at the time. He was not expressing a Liberal or a Conservative standpoint, but stating simply that what is taught in Article I is not compatible with what is taught in the remainder of the Declaration.

Three other Liberal theologians who have claimed a radical incompatibility between pre and post-Vatican II teaching are Father Charles Curran, Father Juan Luis Segundo, and Father Richard McBrien. In the course of a Washington press conference on 11 March 1986, Father Curran defended his dissent from various aspects of Catholic moral teaching by citing *Dignitatis humanae* as a precedent. "History reveals," he claimed, that the Catholic Church has already "officially changed its teaching" in regard to "religious liberty" as well as other issues.¹⁰

Father Segundo invoked the Declaration in support of his dissent from *Libertatis Nuntius*, the 1984 Instruction of the Congregation for the Doctrine of the Faith on liberation theology. He claimed that the teaching of Pope Pius IX on the exclusive establishment of Catholicism as the religion of the State was "later condemned as theologically false" by *Dignitatis humanae*.¹¹

Father Richard McBrien is Chairman of the Theology Department of the University of Notre Dame, the foremost Catholic University in the United States. He is the author of a two volume work, *Catholicism*, which is now a standard textbook in many English-speaking seminaries despite the fact that it might be more appropriately entitled *Modernism*. Father McBrien writes a syndicated column which appears in a number of diocesan journals in the U.S.A. In his 3 May 1990 column, which appeared in the Milwaukee *Catholic Herald*, Father McBrien was very critical of what he termed "disgruntled Catholics" who refuse to accept what he considers to be the clear teaching of Vatican II:

Instead of rejecting the Council outright, they reinterpret it. The Council, they claim, didn't say anything new. Everything is as it was before.

While it is true that the vast majority of doctrines remained firmly in place, the Second Vatican Council did amend or surpass some significant elements of traditional Catholic theology and official Catholic teachings.

Father McBrien then gave ten examples of such changes in Catholic teaching. He claims, for example, that the Council changed the traditional position that the Catholic Church and the Church of Christ are "one and the same". His final example was that of religious liberty.

Before the Council it was assumed that "error has no rights." Religious freedom could not be accorded to non-Catholic forms of worship so long as the power of the State could prevent it (as in Franco Spain). Vatican II taught that religious freedom is for all, including non-Catholics, because of our common human dignity and the freedom of the act of faith.

Before the Council Jesuit Father John Courtney Murray was forbidden to write and speak on the subject of religious freedom, because his views were regarded as those of a dissenter from official Catholic teaching.

At Vatican II the "dissenter's" theology became official Catholic teaching. There's a lesson there that still has to be learned in today's Church.

Father McBrien is claiming here precisely what Archbishop Lefebvre claims concerning *Dignitatis humanae*. Msgr. Lefebvre's insistence that *Dignitatis humanae* is incompatible with the traditional teaching has been designated as outrageous if not quasi-heretical. If the Archbishop's critique is unacceptable why is Father McBrien, who has adopted an identical position, still occupying the most influential chair of theology in the United States?

Speaking from a far from Liberal standpoint, during the 1985 Extraordinary Synod of Bishops, Cardinal Raul Francisco Primatesta, on behalf of his country's bishops, expressed concern about what doors might seem to be left open by *Dignitatis humanae*:

In the Declaration on Religious Liberty, notwithstanding certain indirect indications in Articles 1 and 15, nothing explicit is said about the duty which obliges civil societies as such to render and facilitate a public homage to God, according to the postulates of natural law. Some members of the Argentine Episcopal Conference have requested that this duty of civil society be expressly restated, especially today, when not a few States and regimes profess a kind of laicism which in practice is equivalent to the negation of all religion and an invitation to practical atheism.¹²

Perhaps the most damning indictment of *Dignitatis humanae* is the praise it received from the virulently anti-Catholic Paul Blanshard who described it as marking "a great advance in Catholic policy, perhaps the greatest single advance in principle during all four sessions of the Council."¹³

The Declaration is commended by Blanshard because:

Catholicism after centuries of delay had finally caught up at least in part to the United Nations, to Western Protestantism, to Western democracies, and to the social democratic parties of Europe in advocating what had been written into the American Constitution more than 175 years before . . . The final statement on religious liberty was an important achievement. It will make the struggle for religious liberty throughout the world easier. From now on every libertarian can cite an official Catholic pronouncement endorsing the principle of liberty.*¹⁴

Blanshard positively exults in the fact that what he claims has taken place is not a development but a *change* in doctrine. Blanshard maintains that Vatican II has adopted his own position. He is pleased about this, but he is insistent that the Council has only been able to do this by changing previous Catholic teaching. Having dedicated himself to opposing that teaching for decades no one was better placed to know precisely what that teaching was. Blanshard writes with contempt of attempts to cover up a change in doctrine under the pretext of development:

The star of the American delegation was John Courtney Murray, whose chief function was to give the pedestrian bishops *the right words with which to change some ancient doctrines without admitting that they were being changed*. He built verbal bridges to the modern world very effectively, and the American bishops crossed over on them joyously, delighted that they could be good American democrats and Catholic scholars at the same time. Murray argued that certain teachings of past leaders of Catholicism were not applicable at the present time in their original sense, since they had been designed to meet certain historic situations, and those situations had changed. Doctrine, he alleged, could "develop", a polite way of saying that it could change without any necessary admission that it had changed.

This adroit formula for changing a "changeless" Church was frequently used at Vatican II by theologians who were bound by their Church's veneration for tradition, but it was not always accepted as worthy of honest men even by Jesuit leaders whose institutional past is commonly associated with such linguistic manipulation. In another connection, Father John C. Ford, S.J., of the Catholic University of

*See also the Anglican statement on the "conversion of the Catholic Church" (p. 140).

America, declared after the end of the Council: "I do not consider it theologically legitimate, or even decent and honest, to contradict a doctrine and then disguise the contradiction under the rubric: growth and evolution."¹⁵

Blanshard remarked that:

I am often asked: Have you changed your opinion about the Catholic Church? The answer is "Yes, but only to the extent that the Catholic Church has changed."¹⁶

NOTES

¹ H, p. 14.

² Ibid., p. 75. AS, vol. IV, Part VI, p. 719.

³ Abbott, p. 673.

⁴ TS, XXV, December 1964, p. 568. PRF, p. 100.

⁵ Ibid., p. 571. PRF, p. 104.

⁶ COD, p. 61.

⁷ Y. Congar, *Challenge to the Church* (London, 1977), p. 44.

⁸ J. Ratzinger, *Theological Highlights of Vatican II* (New York, 1966), p. 147.

⁹ AD 2000, June 1989, p. 18.

¹⁰ *Origins* (NC Documentary Service), 27 March 1986, p. 666.

¹¹ J.L. Segundo, *Theology and the Church: a Response to Cardinal Ratzinger and a Warning to the Whole Church* (London, 1985), p. 5.

¹² Cited in H, pp. 8-9.

¹³ PB, p. 339.

¹⁴ Ibid., pp. 88-9.

¹⁵ Ibid., pp. 87-8.

¹⁶ Ibid., *Preface*.

XXII

ARTICLE 2 — A CONTRADICTION?

There is not the least doubt that Paul Blanshard was totally correct in stating that the Catholic Church had changed its position on the subject of religious liberty. Even the most ardent defender of *Dignitatis humanae* could hardly deny that it failed to reaffirm the first four of the five points of traditional teaching examined in Chapter XVII. But was Blanshard justified in claiming that *Dignitatis humanae* contradicted the previous teaching? He quoted Father John C. Ford, S.J. in this respect: "I do not consider it theologically legitimate, or even decent and honest, to contradict a doctrine and then disguise the contradiction under the rubric: growth and evolution."¹

In logic, a contradiction is the opposition between a term and its negation.* A failure to affirm a proposition must not be confused with its contradiction. If we take the proposition: "Jesus Christ is divine", we contradict it by affirming: "Jesus Christ is not divine." The proposition: "Jesus Christ was a great ethical teacher", does not contradict the proposition that He is divine, although it fails to affirm His divinity and would be acceptable to those who deny it.

Paul Blanshard displayed very sound judgement in claiming that *Dignitatis humanae* "marked a great advance in Catholic policy, perhaps the greatest single advance in principle during all

* In the case of two contradictory propositions, the one must be true and the other false, e.g. "All judges are men" and "Some judges are not men." Contradictory opposition is the only form of opposition of which it is the case that if one of the propositions is true, the other is false, and if one is false the other is true. Hence it is said to be the most perfect form of opposition. Contradictory opposition can be contrasted with contrary opposition in which only one proposition can be true, but both can be false, e.g. "All judges are men" and "No judges are men." (If "Some judges are men," both these propositions are false.)

four sessions of the Council."² He was even perceptive enough to note that Article 2 contained "the best paragraphs in the Declaration".³

Msgr. Pavan also accepted that: "Article 2 is undoubtedly the most important article of this Declaration."⁴ It could even be described as the most important article in any document of the Council as it appears to be incompatible with consistently reiterated and possibly infallible papal teaching, and an implicit repudiation of the Kingship of Christ. Article 2 reads:

This Vatican Synod declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that in matters religious no one is to be forced to act in a manner contrary to his own beliefs.

Up to this point everything can be reconciled with the traditional doctrine. Article 2 continues:

Nor is anyone to be restrained from acting in accordance with his own beliefs, whether privately . . .

The traditional teaching has still not been violated—but now comes the apparent break with tradition:

. . . or publicly, whether alone or in association with others, within due limits.

The phrase "within due limits" could have maintained harmony with previous papal teaching had these "due limits" been specified as "the common good" rather than "public order". The Declaration continues:

The Synod further declares that the right to religious freedom has its foundation in the very dignity of the human person, as this dignity is known through the revealed word of God and by reason itself.

This sentence has a footnote which contains a list of references to previous papal teaching, including that of Pope Leo XIII, but

not one of the texts cited teaches that men can ever have a natural right not to be prevented from propagating heresy in the external forum.⁵ Indeed, as has been shown time and again in this book, the Popes taught precisely the opposite.

It is important to bear in mind that from the moment the words "or publicly" were used, the term "religious freedom" in this Declaration includes freedom from restraint in the external forum, subject only to the requirements of public order in the sense explained in Chapter XX.

Msgr. Pavan states specifically that the freedom discussed in Article 2 is a fundamental right of the human person and not simply an act of toleration. He quotes the first sentence of the article in Latin and comments on its historical importance: "*Haec Vaticana Synodus declarat personam humanam ius habere ad libertatem religiosam* is a solemn statement which characterizes the document and gives it its historical importance."⁶

He goes on to remove any possible doubt as to the authentic interpretation of the article: "The right to religious freedom must be regarded as a *fundamental right of the person* or as a *natural right, that is, one grounded in the very nature of man*, as the Declaration itself repeats several times" (emphasis in original).⁷

Msgr. Pavan stresses that the object of this right is a negative right, the right to freedom from coercion. He repeats the traditional teaching that there can never be a true right to profess and spread error.⁸ Father Murray stressed the same point in his commentary on his own translation of *Dignitatis humanae*. He emphasized the fact that the Declaration could not be interpreted as advocating "freedom of conscience" in the sense that this had been condemned by so many popes:

It is worth noting that the Declaration does not base the right to the free exercise of religion on "freedom of conscience". Nowhere does this phrase occur. And the Declaration nowhere lends its authority to the theory for which that phrase frequently stands, namely that I have the right to do what my conscience tells me to do, simply because my conscience tells me to do it. This is a perilous theory. Its particular peril is subjectivism—the notion

that, in the end, it is my conscience, and not the objective truth, which determines what is right or wrong, true or false.⁹

This is correct. Article 1 affirms the obligation of each individual to seek the truth and embrace it, and the Declaration nowhere suggests that any individual can have a positive right to profess or spread error. Msgr. de Smedt explained in his final *relatio* (19 November 1965) that the “right” affirmed was a negative right imparting “immunity from coercion”:

Nowhere is it affirmed—nor could it be truly affirmed, as is evident—that there is any right to propagate error (*Nullibi affirmatur nec affirmare licet—quod evidens est—dari ius ad errorem diffundendum*). If people propagate error this is not the exercise of a right, but the abuse of a right, which can and should be restrained if it seriously harms public order, as is affirmed a number of times in the text and explained in Article 7.¹⁰

In a crucial passage in his book, Father Harrison claims that this negative right to “immunity from coercion” does “not involve contradicting the traditional doctrine that the propagation of false religions was something that the civil power might ‘tolerate’.”¹¹ He is correct in this assertion. There is no logical contradiction between the propositions: “The State has a right to tolerate those in error” and “Those in error have a right to be tolerated”. The question at issue is whether the proposition: “Those in error have a right to be tolerated” can be reconciled with pre-conciliar papal teaching.

Father Harrison claims that the affirmation of a right to be tolerated constitutes a genuine doctrinal development. He admits that *Dignitatis humanae* does not use the expression “right to be tolerated” in order to avoid confusion—which is in itself somewhat confusing, but, he assures us, this is what the Council meant, and his interpretation certainly coincides with those of Msgr. de Smedt and Msgr. Pavan. Father Harrison writes:

What it amounted to was a genuinely new doctrinal development

which posited something which at first sight seems paradoxical: a *right to be tolerated*. That expression was not used by the Council—doubtless in order to avoid confusion, and to give added emphasis to what was new in the doctrine (the part that the modern world wanted to hear) rather than what was traditional. But this is nonetheless what the teaching of *Dignitatis humanae* amounts to (emphasis in original).¹²

Article 3 states not only that a man may not be forced to act in a manner contrary to his conscience—which is sound Catholic teaching—but it states also:

Nor, on the other hand, is he to be restrained from acting in accordance with his conscience, especially in matters religious . . . The social nature of man itself requires that he should give external expression to his internal acts of religion; that he should participate with others in matters religious; that he should profess his religion in community. Injury, therefore, is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society when the just requirements of public order do not so require.

There is a further consideration. The religious acts whereby men, in private and in public, and out of a sense of personal conviction, direct their lives to God, transcend by their very nature the order of terrestrial and temporal affairs. Government, therefore, ought indeed to take account of the religious life of the people and show it favour, since the function of government is to make provision for the common welfare. However, *it would clearly transgress the limits set to its power were it to presume to direct or inhibit acts that are religious* (my emphasis).

It is all very well for Father Harrison to argue that the entire Declaration must be interpreted in the light of Article I, but, surely, Article I must also be interpreted in the light of the entire Declaration. How can the “traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ” be said to remain untouched in view of the teaching

of Article 3 which has just been cited? How can such teaching be reconciled with the traditional Catholic doctrine expressed by Pope Leo XIII in *Libertas humana* that “lying opinions should be diligently repressed by the public authority lest they insidiously work the ruin of the State” and that:

To judge aright, we must acknowledge that the more a State is driven to tolerate evil the further is it from perfection; and that the tolerance of evil which is dictated by political prudence should be strictly confined to the limits which its justifying cause, the public welfare, requires.

Far from any suggestion that non-Catholic religions should be tolerated only to the extent demanded by political prudence, Article 3 demands that the State should show favour to all religions without discrimination, and appears to teach specifically the incompetence of the State in matters of religion in the sentence that I have emphasized. If this is the case, how, apart from citing Article 1, can the Declaration be said not to contradict the traditional teaching? While it is true, strictly speaking, that the State *qua* State has no competence in religious matters, the Popes have taught clearly that, particularly in a Catholic State, the rulers can identify the true Church easily and, ideally, will not simply submit to its guidance in religious questions, but will bring about the union of Church and State.

Article 2 of the Declaration repeats that all men have an obligation to seek the truth and embrace it, but states that the right to immunity from coercion “continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it. Nor is the exercise of this right to be impeded provided that the just requirements of public order are observed.”

The stipulation regarding public order is also repeated in Article 4:

Provided the just requirements of public order are observed, religious bodies rightfully claim freedom in order that they may govern themselves according to their own norms, honour the Supreme Being in public worship, assist their members in the practice of

the religious life, strengthen them by instruction, and promote institutions in which they may join together for the purpose of ordering their own lives in accordance with religious principles.

In his commentary on the Declaration, Father Murray notes that: "The freedoms listed here are those which the Catholic Church claims for herself. The Declaration likewise claims them for all Churches and religious communities."¹³

A Right To Be Tolerated?

The reader would find it useful at this stage to undertake at least one more careful reading of Chapter VI. In that chapter it is explained that evil can be tolerated only in the interests of the common good, and that there is not the least suggestion in the teaching of any pre-Vatican II pope that there could be a natural right on the part of any non-Catholic to propagate his errors in public, or not to be prevented from propagating them in public (p.53). Yet Article 2 of *Dignitatis humanae* teaches specifically that a natural right not to be prevented from acting in public exists, even though limited by the criterion of public order in the sense defined in *Dignitatis humanae* and interpreted officially by Msgr. de Smedt.

It was made clear in Chapter VI that, with one exception, there can be no "right to be tolerated", only a right to tolerate. If a genuine right exists, the person enjoying that right must be accorded it as something to which he is entitled and not as an act of tolerance. The one instance of a right not to be prevented, or a right to be tolerated, accepted within the context of Catholic theology, is the right not to be prevented from acting in accordance with one's conscience in private. The teaching of St. Thomas Aquinas on this instance was cited in Chapter VI. Before God no one has a natural right to believe in a false religion or to propagate a false religion. Those who would claim that such a right exists are guilty of subjectivism, and Father Murray's forceful condemnation of subjectivism has been cited in this chapter. But, as St. Thomas makes clear, even though before God no man has a right to

believe in a false religion or to teach it, even to his own children, the authority accorded to parents under the natural law means that non-Catholics have a right not to be prevented from bringing up their children according to their own beliefs. This teaching of St. Thomas has been reiterated frequently by the Popes, most notably in the encyclicals *Rerum novarum* of Pope Leo XIII and *Divini illius magistri* of Pope Pius XI. Their teaching is, briefly, that the family, "the society of a man's house", is a very small but a true society, and one older than any state. Consequently it has rights and duties peculiar to itself which are quite independent of the State. The family has an *inalienable* right to educate its own children, a right anterior to any right whatsoever of civil society and of the State, and therefore inviolable on the part of any power on earth.

But, as is made clear in Chapter VI, this "right to be tolerated", or "right not to be prevented", does not exist outside "the society of a man's house". St. Thomas Aquinas teaches explicitly that no man can ever possess a *right* to propagate error outside the society of his own house, but that there can be a right on the part of a ruler to *tolerate* the propagation of error to avoid some evil or to obtain some greater good.

When, *for some good reason*, a ruler decides to tolerate the public expression of a non-Catholic religion, and legislates to this effect, then the adherents of this religion possess a civil right to practise and propagate their faith in public. But such a civil right, granted as a concession by the ruler, is a very different matter from the teaching of *Dignitatis humanae* that the right to public religious freedom for non-Catholics is a fundamental right of the human person grounded in the very nature of man.

Father Murray taught that although the object or content of the right to religious freedom is identical in the case of both Catholic and non-Catholic religions, the foundation of the right differs. In the case of the Catholic Church the right derives from her divine mandate, and in the case of non-Catholics, claims Father Murray, "the foundation of the right is the dignity of the human person."¹⁴ What Father Murray does not explain is how the

dignity of the human person can impart a right not to be prevented from propagating error when the existence of such a right has been denied consistently by the Popes.

Some defenders of *Dignitatis humanae* have claimed that the papal condemnations were directed at an absolute (or near absolute) civil liberty in matters concerning religion: that is, immunity from legal coercion in publicly propagating any ideas and practices whatsoever, for or against any religion.¹⁵ It is true that papal condemnations of unrestricted religious freedom can be cited,¹⁶ but this does not alter the fact that other papal teaching can be cited denying the existence of any right on the part of anyone to propagate error. If there is no right to propagate error in public how can there possibly be a right not to be prevented from propagating it?

Father Harrison insists that there is a genuine distinction between a right to act and a right not to be prevented from acting, and he claims that, by basing its teaching on a right not to be prevented, *Dignitatis humanae* cannot be accused of contradicting or reversing the preconciliar teaching. His case for considering *Dignitatis humanae* to have effected a genuine doctrinal development, rather than a contradiction of the pre-conciliar teaching, requires very careful study.

Traditional Catholic moral philosophy defined a "right" as the "moral faculty" of doing something, having something, or requiring someone else to do (or not do) something: *agendi*, *habendi*, or *exigendi*. Both liberal and conservative extremes in the Catholic Church in recent years have often supposed (with either satisfaction or alarm as the case may be) that Vatican II has reversed pre-conciliar doctrine by attributing the first kind of right—a *ius agendi*—to the promoters of false religious beliefs. But in fact the Council's teaching places the right to religious liberty in the third of these traditional categories, the *ius exigendi*. However, it does so in a novel and unexpected way—one which reflects the democratic social and political climate of the twentieth century. Traditionally, the *ius exigendi* was thought of mainly as the kind of right which superiors have over their subjects:

the right of ordering or requiring them to do (or not to do) something. In this case, however, the *ius exigendi* pertains to the “subjects” over against their “superiors”. Those ordinary citizens who conscientiously adhere to mistaken religious beliefs do not indeed possess an objective *ius agendi* in propagating those errors, but they do (according to the Council) have an objective *ius exigendi*: the right of demanding that other human beings—and in particular, civil authorities—do not impede or interfere with their propagation of these beliefs, in such cases where this does not endanger public order.

Thus, the old and the new teachings on “tolerance” and “rights”, though heading, so to speak, in different directions (one towards less liberty in society, the other towards more), do not collide head-on: like two well-driven vehicles approaching each other on the highway, they skim safely past one another.¹⁷

What Father Harrison has done here is to claim that a development of doctrine has taken place without demonstrating how it has taken place. This is hardly surprising in view of the testimonies cited in Chapter XXI concerning the problem of reconciling the traditional teaching and that of *Dignitatis humanae*. The admission of Msgr. de Smedt that this would be a task for “future theological and historical studies” is particularly significant (page 200). Before commenting on Father Harrison’s case for a development rather than a contradiction, it should be noted that *Dignitatis humanae* does not make the right to religious liberty dependent upon the conscientious adherence to mistaken beliefs, to which Father Harrison refers, but, as was noted earlier in this chapter, states explicitly that “the right to this immunity continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it” (Article 2).

The Apparent Contradiction

The apparent contradiction between *Dignitatis humanae* and the traditional teaching is made clear by contrasting the following propositions:

A non-Catholic possesses a natural right not to be prevented from the public expression of error, limited only by the just requirements of public order.

A non-Catholic does not possess a natural right not to be prevented from the public expression of error, limited only by the just requirements of public order.

In both these propositions public order is to be taken in the wide interpretation imparted to it in *Dignitatis humanae*, and not the narrow interpretation of the *Declaration of the Rights of Man* or the "public peace" of *Quanta cura*. It might be argued that the Popes could not have condemned a right to religious liberty in the public forum limited by the *Dignitatis humanae* concept of public order, since they would have known the term only within its French Revolutionary connotation. This argument can be answered by stating the incontrovertible fact that the Popes condemned the concept of any right to the public propagation of error limited by any criterion whatsoever.

Given that these two propositions express the teaching of *Dignitatis humanae* and the traditional position adequately, it appears hard to avoid the conclusion that there is a formal contradiction between them. It is unlikely that anyone would dispute the fact that the first proposition is an accurate expression of the teaching of *Dignitatis humanae*, although, of course *Dignitatis humanae* does not use the word error. It is the second proposition which can be contested. However, if the following exposition of the traditional teaching is accepted as accurate, then this second proposition must be accepted as an accurate reflection of the traditional teaching. It is taken from the article "Liberté" in the *Dictionnaire de Théologie Catholique*.

As we have seen, no man has the right or the moral faculty in God's eyes to follow a false religion privately; accordingly, no one could have the right publicly to practise such a religion. On the other hand, since every man is bound to follow Catholicism privately and publicly, everyone has the right freely to practise (Catholicism) in accordance with the Church's laws . . .

No ruler may in any circumstances and upon any pretext establish or sanction freedom of worship on the grounds that this is a right that every man has, which must be proclaimed and affirmed in every properly constituted society . . . for freedom of worship understood in this sense is contrary to the faith and reproved by reason itself . . .

While recognizing that the Catholic religion, the only religion imposed by God, *in theory* alone has an absolute right to be practised freely, and while proclaiming that it is the State religion, the civil legislator may licitly, if so compelled for good reasons, not obstruct the free practice of other religions than the Catholic religion . . . This form of civil liberty or toleration of certain religions is not owed to them as of right *as religions* because these religions are founded upon error, and every right is founded upon truth; but such liberty or toleration is granted either to attain some greater good, or to prevent a greater evil. In proclaiming such toleration the legislator is deemed not to wish to create the right or moral faculty for dissenters to practise their religion, but only the right not to be hindered in the practice of such a religion. Without ever having the right to act badly (*mal agir*), a man can have the right not to be prevented from acting badly, if a just law prohibits such prevention for good reason.¹⁸

The right “not to be prevented” here is a civil and not a natural right, and it exists only because for some good reason the legislator exercised *his* right not to prevent the public exercise of a false religion. There is a radical distinction between the granting of a *civil right*, at the discretion of the legislator, for a non-Catholic not to be prevented from propagating his religion in public, and the *natural right* of parents not to be prevented from imparting their erroneous beliefs to their children.

Father Harrison argues, and he has every right to do so, that we must distinguish between what is Catholic doctrine, papal teaching definitely destined for the universal Church, and interpretations of that teaching by theologians and manualists. However, where there is virtual unanimity among the approved authors as to what the Popes teach, then considerable weight must be given to that opinion. The original schema prepared before the Council by the Theological Commission (included in full as Appendix V) must certainly be accepted as an accurate summary of the traditional position. Msgr. Pavan summarized its position as follows:

Hence, if almost all members of a society or the majority profess

the true, that is to say the Catholic, religion, the State, too, has the duty to profess it. Those citizens who belong to other religions *do not have the right not to be prevented from professing these religions*: however, for the sake of the common good the State may tolerate their profession, both for the sake of the common good of the relevant community and for that of all mankind.¹⁹

Does the expression of the traditional position provided in the *Dictionnaire de Théologie Catholique* and the Preparatory Schema reflect papal teaching? A few quotations from this teaching will make it clear that it does, and they also make it clear that in repudiating the concept of religious liberty the Popes were by no means referring only to unrestricted religious liberty. Even though the expression "a right not to be prevented" is not used by the Popes, it is evident that when they deny the right of any man to diffuse error they could not possibly have held at the same time that any man had a right not to be prevented from diffusing error in public. Such a claim cannot be reconciled with the clear meaning of the passages which follow. Most of these passages have already been cited in different chapters of this book, but their significance will be enhanced by quoting them in succession. A number of the quotations are not, in themselves, incompatible with *Dignitatis humanae*, as will be pointed out, but they are included for the contribution they make towards a comprehensive presentation of the integral papal teaching.

Pope Leo XIII, *Immortale Dei*.

The liberty of thinking, and of publishing, whatsoever each one likes, without any hindrance, is not in itself an advantage over which society can wisely rejoice. On the contrary, it is the fountain-head and origin of many evils. Liberty is a power perfecting man, and hence should have truth and goodness for its object. But the character of goodness and truth cannot be changed at option. These remain ever one and the same, and are no less unchangeable than Nature herself. If the mind assents to false opinions, and the will chooses and follows after what is wrong, neither can attain its native fullness, but both must fall from their native dignity into an abyss of corruption. *Whatever, therefore, is opposed to virtue and truth, may not rightly be brought temptingly before the eye of man, much less sanctioned by the favour and protection of the law* (my emphasis).

It must be accepted that *Dignitatis humanae* does not advocate a civil right to publish whatsoever one likes, but it does advocate a civil right for those of all faiths not to be prevented from publishing anything that does not violate its concept of public order. It is difficult to see how this can be reconciled with the clear doctrinal statement that: "Whatever, therefore, is opposed to virtue and truth, may not rightly be brought temptingly before the eye of man, much less sanctioned by the favour and protection of the law." Contrast this with the teaching of *Dignitatis humanae* in Article 4 that: "Religious bodies also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word."

Pope Leo XIII, *Immortale Dei*:

The Church, indeed, deems it unlawful to place various forms of Divine Worship on the same footing as the true religion, but does not, on that account, condemn those rulers who for the sake of securing some great good, or of hindering some great evil, tolerate in practice that these various forms of religion have a place in the State.

The doctrinal teaching in this passage states that it is unlawful to place various forms of divine worship on the same footing as the true religion. If this action is unlawful in principle, members of non-Catholic religions cannot possibly possess a right not to be prevented from the public profession of their faith. Pope Leo reiterates the traditional teaching quoted so frequently in this book, that, where not preventing the public exercise of false religions is concerned, the right in question pertains to the ruler, and it is a right to tolerate or not to tolerate. What pertains to a subject as a right must be accorded to him by the ruler as an act of justice, and it cannot possibly be the object of toleration.

It is important to note that there is no more authoritative doctrinal source of Catholic teaching on Church and State than *Immortale Dei*. Pope Leo himself states: "This, then, is the teaching of the Catholic Church concerning the constitution and government of the State." The authority of the doctrinal teaching of the Popes is enhanced when it is reiterated. The teaching of *Immortale Dei* which has just been cited was repeated three years later in *Libertas humana* (1888):

While not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good . . . But if, in such circumstances, for the sake of the common good (and this is the only legitimate reason), human law may or even should tolerate evil, it may not and should not approve or desire evil for its own sake; for evil of itself, being a privation of good, is opposed to the common welfare which every legislator is bound to desire and defend to the best of his ability.

And again:

To judge aright, we must acknowledge that the more a State is driven to tolerate evil the further is it from perfection; and that the tolerance of evil which is dictated by political prudence should be strictly confined to the limits which its justifying cause, the public welfare, requires.

How can the teaching of *Dignitatis humanae* that religious bodies have a natural right not to be prevented from the public propagation of their faiths be reconciled with the teaching of Pope Leo XIII? The existence of a right "not to be prevented" cannot possibly be reconciled with his unambiguous teaching. Every Catholic must accept that the propagation of error is an evil, with the proviso that it can be the lesser of two evils. It can be tolerated only where demanded by the common good, and the greater the degree to which it is tolerated the further a state is from perfection. The propagation of error can be tolerated *only* as an act of political prudence and not by any alleged right "not to be prevented" on the part of those propagating error.

Pope Leo XIII, *Libertas humana*:

It is manifest that the eternal law of God is the only rule which human liberty must follow, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that by means of the laws of the State a man may the more easily live his life in accordance with the commands of the eternal law.

Dignitatis humanae does not teach that every man has the right to do as he pleases, the broad *Dignitatis humanae* criterion of public order precludes this. But Pope Leo teaches here that the laws of the State should assist its citizens to live their lives in accordance with the commands of eternal law, and this objective would evidently be assisted by protecting the Catholic citizens from anti-Catholic propaganda. It can, of course, be argued that *Dignitatis humanae* caters for this by its condemnation of proselytism in Article 4 (see p. 187), but it can hardly be denied that the spirit of the Declaration favours the free public expression of all religious viewpoints. The traditional teaching is that the diffusion of error can be *tolerated* only for some good reason. The teaching of Vatican II is that it can be *repressed* only for some good reason.

Pope Leo XIII, *Liberatas humana*:

Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engraved upon it.

Pope Leo XIII teaches here without the least ambiguity that, in Catholic States, Catholicism should be adopted as the religion of the State. While *Dignitatis humanae* does not preclude a State from bestowing special privileges upon a particular religion, it does not specify the Catholic or indeed any Christian religion. It teaches that adherents of all religions, whether or not they live up to their obligation of seeking the truth and adhering to it, are entitled to the same civil right to the public profession of their faith. As Father Murray expressed it (commenting on Article 4), in *Dignitatis humanae* the Church claims for all religious bodies the freedoms which she claims for herself (see p. 216). What is this if it is not a line of action which results in the bestowing of equal rights and privileges upon the various religions? And this, as Pope Leo explained,

would end in godlessness. The legalization of abortion in almost all the traditionally Catholic countries of Europe certainly proves Pope Leo's point.

Pope Leo XIII, *Libertas humana*:

For right is a moral power which — as We have before said and must again and again repeat — it is absurd to suppose that nature has accorded indifferently to truth and falsehood, to justice and injustice. Men have a right freely and prudently to propagate throughout the State what things soever are true and honourable, so that as many as possible may possess them; but lying opinions, than which no mental plague is greater, and vices which corrupt the heart and moral life, should be diligently repressed by public authority, lest they insidiously work the ruin of the State.

This statement certainly seems to meet with the criteria set out by Father Harrison for permanently valid doctrine (p. 167). Given that this is the case, how can it be maintained that a natural right can exist not to be prevented from propagating "lying opinions" in public, particularly when these "lying opinions" are propagated by those who do not live up to their obligation of seeking the truth and adhering to it? Furthermore, how can the State possibly have a duty to repress "lying opinions" if those propagating these "lying opinions" possess a natural right not to be prevented from propagating them?

Pope Leo XIII, *Libertas humana*: True liberty of conscience means that:

Every man in the State may follow the will of God and, from a consciousness of duty and free from every obstacle, obey His commands. This, indeed, is true liberty, a liberty worthy of the sons of God, which nobly maintains the dignity of man, and is stronger than all violence or wrong — a liberty which the Church has always desired and held most dear.

If true liberty consists in following the will of God, and that the dignity of man is maintained by so doing, what is the basis for the so-called natural right of non-Catholics, based on the dignity of man, not to be prevented from urging Catholics to cease following the will of God? *Dignitatis humanae* teaches unequivocally that such a right exists, albeit limited by the criterion of a just public order.

Pope Leo XIII, *Libertas humana*:

One thing, however, remains always true—that the liberty which is claimed for all to do all things, is not, as We have often said, of itself desirable, inasmuch as it is contrary to reason that error and truth should have equal rights.

Dignitatis humanae does not advocate the unrestricted liberty for all to do all things, but this is irrelevant to the important doctrinal statement contained in this quotation: “It is contrary to reason that error and truth should have equal rights.” Although *Dignitatis humanae* teaches correctly that there can be no moral right to teach error, it definitely teaches that truth and error should have equal civil rights.

A Right to Propagate Error?

It is now possible to see clearly the apparent contradiction between the traditional papal teaching and the teaching of *Dignitatis humanae*, even though I shall not claim that a contradiction exists. All that I wish to do is to state that I do not see how the traditional teaching and that of *Dignitatis humanae* can be reconciled, which is a fact, and to ask the Magisterium to clarify the matter. As the testimonies cited in Chapter XXI make clear, this is not simply a case of a layman being unable to understand a straightforward development of doctrine. Expert theologians from every shade of the theological spectrum have stated that they are unable to explain it. Particular significance must be attached to the admission by Msgr. de Smedt that it will be for future theological and historical studies to explain how the teaching of *Dignitatis humanae* is not opposed to the traditional papal teaching.

The essential teaching of *Dignitatis humanae* is that the human person has a right to religious freedom, that this is a right that has its foundation in the very dignity of the human person, and that it is known through the revealed word of God and by reason itself. This right includes freedom from hindrance in the public propagation of religious beliefs by the spoken or the written word. The only restriction upon this right is public order in the wide sense explained in *Dignitatis humanae*.

In order to establish a logical contradiction, the terms used must have exactly the same sense in the allegedly contradictory propositions. A failure to observe this fundamental rule of logic has led some traditional critics of *Dignitatis humanae* into making allegations that cannot be sustained. The most evident example is the equation of the *pax publica* of *Quanta cura* with the *iustus ordo publicus* of *Dignitatis humanae*. The distinction between these terms was explained in Chapter XX.

The traditional teaching and the teaching of *Dignitatis humanae* appear to be incompatible in the following respects (bearing in mind that the term "right" refers exclusively to a civil right and is used in the same sense in the four propositions that follow):

1 (a) The traditional teaching is that error has no rights and that, therefore, no individual could possess a right, even a limited right, to put false opinions before the eye of man (page 222). Lying opinions should be diligently repressed by the public authority.

(b) *Dignitatis humanae* teaches that a limited right to express lying opinions does exist. This right continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it. The public authorities should establish this right as a civil right.

2 (a) A false religion may be allowed to propagate its teaching (tolerated) only to avoid some evil or to obtain some greater good.

Dignitatis humanae reverses this teaching and states that:

(b) A false religion may be prevented from propagating its teaching only to avoid some evil or to obtain some greater good.

In both cases the evil to be avoided is most likely to be a breach of the peace, thus the possibility of a breach of the peace is transformed from the criterion for permitting the diffusion of error to the criterion for preventing it. The diffusion of lying opinions is thus indubitably designated by *Dignitatis humanae* as a right to be guaranteed by the civil law rather than an evil to be tolerated only to avoid a greater evil.

It is difficult to see, with the best will in the world, how in both (1) and (2) the teaching of *Dignitatis humanae* can be considered to be a legitimate development of the traditional doctrine which was taught unequivocally until the conclusion of the pontificate of Pope Pius XII.

Despite the somewhat complex argumentation of this chapter, the problem posed by *Dignitatis humanae* is very simple. The traditional Catholic teaching is that there can be no true right not to be prevented from propagating error. *Dignitatis humanae* teaches that such a right exists. It is for the Magisterium either to inform us as to how its teaching represents a development of doctrine or to issue an authoritative clarification reconciling it with the traditional position.

In 1964, in an article speculating on the ultimate position *Dignitatis humanae* would adopt, Father Francis J. Connell suggested a satisfactory manner of reconciling the traditional teaching with a practical policy of universal toleration, without any sacrifice of principle.²⁰ It is significant that even at this late date Father Connell, a *peritus*, did not believe that *Dignitatis humanae* would actually abandon the traditional teaching. It may well be that his suggestion as to what he thought the position of the Council would be could be used as a solution for the present impasse. Father Connell expressed the opinion that the Council might conclude that "the most practical policy nowadays is for all governments (including the governments that recognize the Catholic religion as the true religion) to grant complete toleration to all forms of religion. This would include permission for the proponents of all religions to preach and propagandize publicly their particular beliefs."

Note well that Father Connell did not imagine that *Dignitatis humanae* would contain anything incompatible with the traditional teaching, and that he referred to the "toleration" of error in Catholic States—not of any *right* of those in error to freedom from restraint in the public forum. Father Connell continued:

If the Council sees fit to uphold this notion, I do not believe it will be done in the form of a command that all Catholic governments grant complete religious liberty, or a declaration that any type of repression of religious activities is wrong. It must be remembered that if a Catholic government restricts non-Catholic propaganda or public demonstrations of non-Catholic religions, it is *per se* within its rights (my emphasis).

Father Connell then refers to *Ci riesce*, already cited, in which Pope Pius XII stated that although a Catholic state had the right

to repress heresy it was not obliged to do so, in fact the common good might impose the duty of not repressing it.

The Pope did not say that it is *always wrong* for a government to repress religious error, though he condemned the view that it is *always obligatory* for a government to adopt the policy of repression. In other words, in certain circumstances, when a greater good can thus be procured, toleration of false religions will be advisable, even when restrictions of them could be *per se* exercised . . . The Pope made no mention of any *rights* on the part of non-Catholic citizens to enjoy complete religious liberty in a Catholic land. On the contrary he said: "That which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread or to be activated." Some have tried to argue that while error has no rights, persons inculpably holding erroneous doctrines have the right to hold them. But it must be borne in mind that error can be believed, spread, and activated only by persons, so it is difficult to see what it would mean to say "Error has no right to be spread" if one held at the same time "Persons can have a right to spread error"—that is, if "right" be taken in the same sense in both statements . . . How can one have a genuine right to believe, to spread or to practise what is objectively false or morally wrong? For a genuine right is based on what is objectively true and good.

Murray's response, and that of Father Harrison, would, of course, be that the Declaration does not postulate the existence of a right to spread or to practise what is objectively false, simply the right not to be prevented from spreading or practising what is objectively false. At the risk of appearing tedious, I must insist yet again that this is no more than a semantic quibble. It is almost as if one said that no one has a right to rob banks, only the right not to be prevented from committing such robberies. Murray insists that the right to religious freedom, accorded identically in the American Constitution and the Declaration, is essentially an immunity from coercion in matters religious. But the right to freedom from coercion in matters religious accorded by the popes has been extended to include the freedom not to be prevented from propagating error in public, a freedom accorded as an act of toleration but never as a right in the traditional teaching. Murray explains:

Nowhere in our Constitution, much less in the Declaration, is it implied that a man has a right to do what is evil or to say what is false, as if error and evil could be the object or content of a right. That would be moral nonsense. The constitutional content of freedom of religion is freedom from coercion in matters religious.²¹

If the absence of a right to say what is false in public can be reconciled with a right not to be prevented from saying what is false, then the teaching of *Dignitatis humanae* can be reconciled with the traditional teaching. If the two propositions cannot be reconciled, then the faithful Catholic is perfectly entitled to ask the Magisterium to explain precisely how the teaching of the Declaration can be reconciled with that of tradition. As the previous chapter makes clear, even Msgr. de Smedt, the *relator* for the Secretariat for Christian Unity, was unable to explain how this could be done.

NOTES

¹ PB, p. 88.

² *Ibid.*, p. 339.

³ *Ibid.*, p. 89.

⁴ COD, p. 64.

⁵ Abbott, p. 679.

⁶ COD, p. 65.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Abbott, p. 679.

¹⁰ H, p. 116.

¹¹ *Ibid.*, p. 117.

¹² *Ibid.*

¹³ Abbott, p. 682.

¹⁴ *Ibid.*

¹⁵ H, p. 38.

¹⁶ *Ibid.*

¹⁷ H, pp. 117—18.

¹⁸ DTC, vol. IX, cols. 699—701.

¹⁹ COD, p. 50.

²⁰ AER, 151, 1964, pp. 127—8.

²¹ APSVC, p. 669.

XXIII

THE DIGNITY OF THE HUMAN PERSON

There remains one possible defence of *Dignitatis humanae* to examine in detail. This is the claim that the right not to be prevented from propagating error in public derives from the dignity of the human person, from his very nature. Article 2 of the Declaration states correctly that as a being endowed with reason and free will, man is obliged to seek and to adhere to the truth. It also states that "the right to religious freedom has its foundation in the dignity of the human person, as this dignity is known through the revealed word of God and by reason itself." Dignity within this context can best be described as worthiness of respect. The dignity of the human person is, then, that aspect of human nature which demands our respect.

The dignity of any individual person must be considered from two aspects, from the ontological standpoint and that of his behaviour. The ontological dignity of man is that dignity pertaining to his very essence or nature. It cannot be lost and always demands our respect no matter how unworthy an individual might be. Looked at in the light of divinely revealed truth, we cannot but esteem the dignity of the human person; for men are created in the image and likeness of God, they are endowed with intelligence and free will, they are redeemed by the Blood of Jesus Christ, and they are by grace the children and friends of God and heirs of eternal glory. However depraved and worthless we may consider an individual to be as a result of his behaviour, we must consider him as a person for whom God the Son made Man laid down His life, and who is thus imbued with a dignity that demands our respect. It is this ontological dignity which must preclude any government from carrying out medical experiments which would benefit mankind, even on unwilling felons under sentence of death for the most heinous of crimes.

Considered from the standpoint of behaviour, the dignity of an individual can be diminished or lost. The purpose of intelligence is to seek the truth, and the purpose of free will is, enlightened by the

truth, to embrace goodness and truth. The ultimate good and the ultimate truth being, of course, God Himself: "And you shall know the truth, and the truth shall make you free" (Jn. 8:32). As Pope Leo XIII taught in *Libertas humana*, true liberty, which *nobly maintains the dignity of man*, consists of following the will of God and obeying His commands.

The Second Vatican Council teaches that:

Although he was made by God in a state of holiness, from the very dawn of history man abused his liberty, at the urging of personified Evil. Man set himself against God and sought to find fulfilment apart from God. Although he knew God, he did not glorify Him as God, but his senseless mind was darkened, and he served the creature rather than the Creator . . . Man is split within himself. As a result, all of human life, whether individual or collective, shows itself to be a dramatic struggle between good and evil, between light and darkness.¹

With the help of divine grace the individual human being can maintain his dignity in this conflict. He can range himself on the side of the light by using his faculties of intelligence and free will to know, love, and serve his Creator. But, as Pope Leo XIII teaches in *Immortale Dei*: "If the mind assents to false opinions, and the will chooses and follows after what is wrong, neither can attain its native fullness, but both must *fall from their native dignity into an abyss of corruption.*"

Human dignity is not lost by a person who, as a result of invincible ignorance, does something which is objectively wrong in the sincere belief that he is commanded to do so by his conscience. In the days of suttee, a Hindu woman would not have been condemned by God for throwing herself onto her husband's funeral pyre because she sincerely believed this to be her duty. God condemns no one for invincible ignorance, only for culpable ignorance. The Second Vatican Council teaches:

Conscience frequently errs from invincible ignorance without losing its dignity. The same cannot be said of a man who cares but little for truth and goodness, or of a conscience which by degrees grows practically sightless as a result of habitual sin.²

The sincerity of the conscience of an individual who believes himself obliged to propagate what is objectively false imparts no rights

in the public forum. As is made clear in Chapter III, the object of a right must be something that is good and true. It is not freedom but truth which is the foundation of the dignity of the human person. The British quite rightly suppressed suttee in India. The government of the United States restricted even the most sincere of Mormon gentlemen to one wife.

In *Gaudium et spes* the Second Vatican Council teaches us that a man who cares but little for truth and goodness can lose his dignity. It also taught in *Gaudium et spes* that: "Man has in his heart a law written by God. To obey it is the very dignity of man; according to it he will be judged."³ But the same Council teaches us in *Dignitatis humanae* that a man who does not live up to his obligation to seek and adhere to the truth nonetheless possesses a right not to be prevented from propagating falsehood in public, and that this right "has its foundation in the very dignity of the human person, as this dignity is known through the revealed word of God and by reason itself" (Article 2). It is claimed "that the right to religious freedom has its foundation, not in the subjective disposition of the person, but in his very nature" (Article 2). It would be interesting to obtain an explanation of how the revealed word of God or reason prove that man's ontological nature, as a being redeemed by the Blood of Our Lord and an heir to eternal glory, gives him a true right to undermine the truth. He cannot, of course, be coerced into embracing truth, but the claim that he has a true right not to be prevented from propagating falsehood seems to be unsupported by a single text from the revealed word of God, to be unreasonable, and to be totally incompatible with the papal teaching cited in Chapter XXII, such as this statement from *Immortale Dei*: "Whatever, therefore, is opposed to virtue and truth, may not rightly be brought temptingly before the eye of man, much less sanctioned by the favour and protection of the law." Pope Pius XII, as Father Connell pointed out, taught precisely the same doctrine in *Ci riesce* in 1953: "That which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread, or to be activated."

How, then, can a right to spread what does not correspond to truth be derived from the dignity of the human person? One final

reference must be made to the distinction between "a right to act" and "a right not to be prevented from acting". This distinction is valid in the internal forum of the home because, as St. Thomas taught, parents have a natural right to educate their children (even here the State sometimes has an obligation to intervene to protect children from moral or physical danger). But the claim in *Dignitatis humanae* that there is a natural right not to be prevented from propagating error in the public forum appears to be no more than a gratuitous assertion, and a gratuitous assertion is certainly not an adequate basis for repudiating consistently reiterated and evidently doctrinal papal teaching.

NOTES

¹ *Gaudium et spes*, para 13, Abbott, p. 211.

² *Ibid.*, para 16, Abbott, p. 214.

³ *Ibid.*, p. 213.

XXIV

MURRAY LIVES

John Courtney Murray died of a heart attack on 16 August 1967. Before his death he had involved himself in dialogues with Communists, Lutherans, and Jews. He explained that "Dialogue is a contemporary way of presenting the Gospel."¹

Murray used his prestige to promote the pro-contraception campaign, "searching for a new understanding which would be in continuity with the past but which would also represent progress."² There is, of course, no way of progressing from an unambiguous condemnation of the contraceptive act as intrinsically evil (*intrinsice inhonestum*), to accepting that Catholics may use contraceptives in good conscience, while at the same time "keeping continuity with the past". But this would evidently present no problem for a man who could claim that there was no break with the past, simply a legitimate development, in moving from the position that the State has the right to repress the public expression of heresy to the position that it has no such right, except when demanded in the interests of public order. On the subject of contraception, Murray explained: "The Church reached for too much certainty too soon, went too far."³ Here is a classic case of conforming to the *Zeitgeist*. In *Humanae vitae* Pope Paul VI taught:

Let no Catholic be heard to assert that the interpretation of the Natural Moral Law is outside the competence of the Church's Magisterium. It is in fact indisputable, as Our Predecessors have many times declared, that Jesus Christ, when He communicated His divine power to Peter and the other Apostles and sent them to teach all nations His commandments, constituted them as the authentic guardians and interpreters of the whole moral law, not only, that is, of the law of the Gospel, but also of the Natural Law, the reason being that the Natural Law declares the will of God, and its faithful observance is necessary for men's eternal salvation.

Charity requires one to presume that Murray did not realize the arrogance and inconsistency of preferring his own interpretation of the Natural Moral Law to that of the Church's Magisterium, while at the same time claiming to be a *Catholic* theologian. This anomaly can be explained by the fact that he lived almost exclusively within a milieu which shared the same attitude, the attitude of the *Zeitgeist*.

Theologians with Murray's attitude have come to represent what Cardinal Heenan termed a parallel Magisterium which exercises greater influence on a practical level than that of the authentic Magisterium. He noted in 1968 that:

The Ordinary Magisterium of the Pope is exercised in his writings and allocutions. But today what the Pope says is by no means accepted as authoritative by all Catholic theologians. An article in the periodical *Concilium* is at least as likely to win their respect as a papal encyclical. The decline of the Magisterium is one of the most significant developments in the post-conciliar Church.⁴

The influence of John Courtney Murray is still very much alive even after his death. He has been accorded the equivalent of a Liberal canonization. Walter J. Burghardt enthused:

Unborn millions will never know how much their freedom is tied to this man whose pen was a powerful protest, a dramatic march, against injustice and inequality, whose research sparked and terminated in the ringing affirmation of an ecumenical council.⁵

The freedom which Murray won for these unborn millions is freedom from the teaching of the great modern Popes, a teaching which was designed to preserve for Catholics the true freedom of the sons of God. What Murray did was to make the Liberal concept of freedom acceptable to the majority of the world's bishops. There is an inexorable logic about the acceptance in principle of this Liberal concept of freedom. If it should be applied within the State why should it not be applied within the Church? This, according to Father Pelotte, will be the logical and welcome outcome of Murray's philosophy:

There is need for further development and clarification of Murray's theology of the democratic process.* Since his thought is incorporated in the *Declaration on Religious Freedom*, this second task appears especially important. From the point of view of strategy in the resolution of socio-ethical dilemmas this document contains far-reaching implications for the application of the democratic process in secular society as well as in the Church. It appears that the philosophical and theological principles which permitted a reformulation of Catholic teaching on religious freedom and Church-state theory might also justify a continuing democratization of the Church's internal structures. It is in this connection that Murray's thought might well have its greatest impact on the institutional life of the Church. Indeed, the influence of his thought already can be seen in the collegial response of some bishops to *Humanae vitae*, in movements for the democratic election of bishops, and in the formation of groups such as the National Federation of Priests' Councils. It remains to be seen how these events and various movements which inspired them can be theologically reconciled with the role traditionally attributed to the papacy. In thinking through the democratization of Church structures the Catholic community will have the benefit of centuries of Protestant experience.⁶

It is very significant that Father Pelotte should write with such approval of aspects of Murray's influence which have, in fact, not been simply harmful to but destructive of Catholicism throughout the West, not least in the U.S.A. The Catholic Church could not be democratized and remain the Church that Christ founded. Father Pelotte accepts that: "Murray's Catholicism was based on the need to bring religion into harmony with the American consensus."⁷ This objective had been attained, to an extent which Murray himself could not have dreamed possible, within ten years of his death on 16 August 1967. It is arguable that by 1977 American Catholicism was, for the most part, Catholic only in name. In 1979 Msgr. George A. Kelly's book *The Battle for the American Church* was published. "The issues at stake," he wrote, "are the

* As theology is concerned with knowledge of God it is a mystery as to how there can be a "theology of the democratic process".

correctness of Catholic doctrine and the survival of the Catholic Church as a significant influence in the life of her own communicants."⁸

Father Pelotte mentioned with some satisfaction that: "In thinking through the democratization of Church structures the Catholic community will have the benefit of centuries of Protestant experience." The universal Protestant experience is that the more their structures are democratized, and the more their theology and moral teaching is liberalized, the less their influence upon the life of their own communicants.

Msgr. Kelly was able to cite very depressing statistics, based on figures for 1976, indicating that there had been a collapse in every aspect of Catholic life subject to statistical verification, and that most of those still claiming to be practising Catholics were not very Catholic in what they practised:

Perhaps as many as 10,000,000 Catholics stopped regular attendance at Sunday Mass—a 30 percent decline. (In some metropolitan archdioceses only 30 percent of the Catholic population goes to Mass every Sunday).

The declines are more severe among the young, including those receiving a complete Catholic education, and surprisingly among middle-class women in the middle years of life, who hitherto were exemplars of Catholic piety.

A once proud Catholic schools system is down almost 2,000,000 in enrollment.

The number of babies baptized has dropped by almost 500,000. There are almost 50,000 fewer converts.

Catholic attitudes towards the Church and its teaching have radically changed. From remarkable conformity in belief and practice, researchers have found among 1976 Catholics that:

3 out of 4 approve of sexual intercourse for engaged couples.

8 out of 10 approve of contraception.

7 out of 10 approve of legalized abortion.

4 out of 10 do not think that the Pope is infallible.⁹

The statistical decline and the weakening of faith documented by Msgr. Kelly have become even more depressing with each succeeding year. The 10 October 1982 issue of the *National Catholic*

Register was dedicated to the twentieth anniversary of the Second Vatican Council. It included an article by Michael Novak who had been an ultra-liberal and admirer of Father Murray at the time of Vatican II (see Chapter XIV). He has revised his views considerably for pragmatic reasons, and in his article he recollected his euphoria at the opening of the Council:

Is it only that I am now older? For my thoughts about the Church today are not of growth but of decline; not of more intense orthodoxy, but of growing dissension and deliberate heterodoxy; not of more devout moral living, but of growing slackness and surrender to the world on the world's own terms. Vatican II was supposed to *renew* the Church. At least in some measure, it seems to have diluted, divided, and weakened it.

In the following year, in the January 1983 edition of the *Homiletic and Pastoral Review*, its Editor, Father Kenneth Baker, wrote that we are witnessing "the rejection of a hierarchical Church founded by Jesus Christ" to be replaced by a Protestant American Church "separate and independent from Rome."

Growing moral slackness and surrender to the world on its own terms, a diluted, divided and weakened faith, a Protestant American Church separated from Rome—Murray had wished to bring religion into harmony with the American consensus, and that aim has been achieved to an extent that one would hope would horrify him were he alive today.

Father Pelotte quotes with approval Murray's criticism of the Church for failing to keep in step with secular society during the past century:

He clearly pointed out in his writings that while man was continuing to move on his pilgrimage towards his rightful freedom, religious and civil, while society moved "towards its rightful autonomy—that is its proper secularity," the Church was not willing to join man on his human pilgrimage. "On the contrary, it has opposed man's historical movement towards freedom."¹⁰

These sentiments have a familiar ring, and recall two of the propositions condemned by Pope Pius IX in his *Syllabus* as positions

which no Catholic can hold. (It will be shown in Appendix II that all Catholics are still bound to maintain the opposite of the condemned propositions.) The two propositions in question are:

55. The Church ought to be separated from the State, and the State from the Church.

80. The Roman Pontiff can, and ought to, reconcile himself, and come to terms with progress, liberalism, and modern civilization.

Man's historical movement towards freedom had reached the point in the nineteen-eighties at which, where the American consensus was concerned, it accepted as normal the murder of the unborn by the million, a divorce rate affecting almost fifty percent of marriages, a toleration of unnatural vice which has resulted in the AIDS epidemic, and an aggressive feminist movement with the ultimate aim of destroying the Judeo-Christian concept of the family. This situation is repeated to a greater or lesser extent throughout the West. Should the Roman Pontiff really have come to terms with modern civilization? Should the Church really have joined mankind on its historical movement toward this freedom?

Cardinal Ottaviani, Msgr. Fenton, Msgr. Shea, and Father Connell wished to keep Catholicism in harmony with the teaching of Pope Leo XIII. The day will come, we can be sure, when their courageous refusal to succumb to the *Zeitgeist* will be recognized and honoured. The teaching of Pope Leo has never appeared more true and pertinent than it does today:

It is manifest that the eternal law of God is the only rule which human liberty must follow, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that by means of the laws of the State a man may the more easily live his life in accordance with the commands of the eternal law (*Libertas humana*).

The vindication of the teaching of Pope Leo XIII and of the

courage of the writers of *The American Ecclesiastical Review* does not, alas, appear to be imminent judging by an item which appeared in the 9 April 1990 English edition of *L'Osservatore Romano*:

With the date of 20 March, the Holy Father accepted the resignation, in conformity with canon 401, par. 1 of the Code of Canon Law, of Bishop Jerome Joseph Hastrich of Gallup (U.S.A.). Succeeding him is the Coadjutor Bishop Donald Edmond Pelotte, S.S.S.

In 1955 Father Murray had been forbidden to make further statements on the subject of Church-State relations, but his sympathetic American superior had promised him that time would bring changes.¹¹ In 1990 the enthusiastic endorsement of Murray's theories was considered a recommendation for elevation to the rank of diocesan bishop. Time has indeed brought changes!

NOTES

¹ TIC, p. 103.

² *Ibid.*, p. 102.

³ *Ibid.*

⁴ *The Tablet*, 18 May 1968, p. 488.

⁵ W.J. Burghardt, S.J., "A Eulogy", *Woodstock Letters*, XCVI (Fall, 1967), p. 417.

⁶ TIC, p. 188.

⁷ *Ibid.*, p. 189.

⁸ G.A. Kelly, *The Battle for the American Church* (New York, 1979), p. vii.

⁹ *Ibid.*, pp. 456-7.

¹⁰ TIC, p. 106.

¹¹ *Ibid.*, p. 52.

LEX ORANDI, LEX CREDENDI

An accepted principle with regard to liturgical worship is that the doctrinal standpoint of any religious body must necessarily be reflected in its liturgy. This can be summed up by the phrase *lex orandi, lex credendi*, which can be translated freely as meaning that the manner in which the Church worships, *lex orandi*, must reflect what the Church believes, *lex credendi*. Thus when Thomas Cranmer made changes in the Order of Mass by composing new prayers, and above all by removing existing prayers, in order to provide the Anglican service of Holy Communion, it was possible to obtain an accurate assessment of his Eucharistic belief simply by examining the prayers that he had removed from the traditional Sarum Rite Mass. Yet if one examines his two communion services themselves they will be found to contain nothing specifically heretical until the notorious "Black Rubric" was added to the 1552 version. The Catholic-minded clergy felt perfectly able to continue using his 1549 service as if it were the Mass. All the prayers in the 1549 service were compatible with Catholic teaching, and a number appeared even to affirm it specifically, although, upon a close examination they did not exclude a Protestant interpretation. The true significance of the 1549 service lies in what Cranmer removed from the Order of Mass, not what he retained.¹

Any reader possessing the New Breviary who reads the Office for the Feast of Christ the King must certainly be edified by it. It contains many pertinent scriptural readings including the *Oportet illum regnare* passage from 1 Cor. 15:25-28. Some antiphons and psalms appear to affirm the traditional teaching that states and rulers must submit themselves to the divine positive law of Christ the King: "His Kingdom is an everlasting kingdom; all kings will serve and obey him"; "The Lord has given him power and honour and kingdom; every people, tribe and nation will serve him"; or, from Psalm 2:

Now, O kings, understand,
take warning, rulers of the earth;
serve the Lord with awe
and trembling, pay him your homage
lest he be angry and you perish;
for suddenly his anger will blaze.

But what do such readings imply? Do they state unequivocally that all states and rulers are bound to submit themselves now, *hic et nunc*, to the divine positive law of Christ the King, or are they merely pious admonitions, no more than references to what will take place at the Second Coming? The true import of the new Office can be understood only by examining the one which it replaced, and its meaning must be deduced primarily from what has been removed rather than what has been retained.

A reading of the Office for the Feast of Christ the King in the preconciliar Breviary, and its comparison with the new Office, makes clear the extent of the removal or modification of complete prayers or individual phrases which could not be reconciled with the teaching of *Dignitatis humanae*, that is, prayers which give liturgical expression to the Social Reign of Christ the King, and demand that states as well as individuals must submit themselves to His rule. The same procedure has been applied to the Proper of the Mass for the Feast. An introductory note in the 1952 edition of the St. Andrew Daily Missal explains that:

Pope Pius XI (whose motto was *Pax Christi in regno Christi*) instituted the Feast of Christ the King as a solemn affirmation of Our Lord's Kingship of every human society. He is King not only of the soul and conscience, intelligence and will of all men, but also of families and cities, peoples and states and the whole universe. In his encyclical letter *Quas primas*, the Pope showed how laicism or secularism, organizing society without any reference to God, leads to the apostasy of the masses and the ruin of society, because it is a complete denial of Christ's Kingship. This is one of the great heresies of our time, and the Pope considered that this annual

public, social, and official assertion of Christ's divine right of Kingship over men in the liturgy would be an effective means of combatting it.

Pope Pius XI wrote in his encyclical *Quas primas*, 11 December 1925, that:

Nations will be reminded by the annual celebration of this feast that not only private individuals but also rulers and princes are bound to give public honour and obedience to Christ.

Forty years later, almost to the day, by the promulgation of *Dignitatis humanae* on 7 December 1965, the Church ceased to demand that rulers give public honour and obedience to Christ. The title of the Declaration itself, "The Dignity of the Human Person", epitomizes the man-centered ethos of the Declaration. It is no longer the rights of Christ the King which must take priority but the so-called rights of contemporary man, rights which he ascribes to himself in virtue of his developing consciousness of his own dignity. In an address to the last Council meeting, on the very day of the promulgation of the Declaration, Pope Paul VI remarked:

One must realize that this Council, which exposed itself to human judgement, insisted very much more upon this pleasant side of man, rather than his unpleasant one. Its attitude was very much and deliberately optimistic. A wave of affection and admiration flowed from the Council over the modern world of humanity. Errors were condemned, indeed, because charity demanded this no less than did truth, but for the persons themselves there was only warning, respect, and love. Instead of depressing diagnoses, encouraging remedies; instead of direful prognostics, messages of trust issued from the Council to the present-day world. The modern world's values were not only respected but honoured, its efforts approved, its aspirations purified and blessed.²

The values of the modern world are now clearly apparent even in nominally Catholic countries today in the legalization of divorce, contraception, pornography, sodomy, and abortion. Pope Paul's illusion that his Council would purify the aspirations of the modern world was finally dispelled for him when he wept at the establishment of an abortion clinic in Rome itself before his death in 1978.

The Breviary Office of Christ the King

The hymn *Te saeculorum Principem* of First Vespers has had the following verses omitted:

The wicked mob screams out.
 "We don't want Christ as king,"
 While we, with shouts of joy, hail
 Thee as the world's supreme King.

May the rulers of the world publicly
 honour and extol Thee;
 May teachers and judges reverence Thee;
 May the laws express Thine order
 And the arts reflect Thy beauty.

May kings find renown in their submission
 and dedication to Thee.
 Bring under Thy gentle rule our
 country and our homes.

Glory be to Thee, Jesus, supreme over
 all secular authorities;
 And glory be to the Father and
 The loving Spirit through endless ages.

A Collect which was included several times in the pre-conciliar Office contained a phrase asking that *nations* should submit to the supreme authority of Christ. This has been replaced by one asking that every *individual* (*tota creatura*) "liberated from servitude may serve and together praise Thy Majesty." (*Tota creatura* is translated by ICEL as "the whole of creation".) The changes made in this particular prayer provide an excellent illustration of the manner in which the new Office must be judged by what it omits rather than what it contains. Read simply within the context of the new Office there is nothing in the revised prayer to which any Catholic could take exception:

Almighty, ever-living God
it is your will
to unite the entire universe
under your beloved Son,
Jesus Christ, the King of heaven and earth.
Grant freedom to the whole of creation,
and let it praise and serve your majesty for ever.

But when compared with the same Collect from the pre-conciliar Office the significance of the changes becomes very clear. It should be noted that the same Collect was included in the Proper of the Mass for the Feast of Christ the King, and the same change made.

Almighty, everlasting God,
who in Thy beloved Son, King of the whole world,
hast willed to restore all things anew,
grant in Thy mercy that *all the families of nations*,
rent asunder by the wound of sin,
may be subjected to His most gentle rule (my emphasis).

The hymn *Aeterna Imago Altissimi* has been transferred from Matins to Lauds, and the following changes made. The last two lines of the second verse stated that the Father had entrusted to Christ, as His right, "absolute dominion over the peoples" (*Cui iure sceptrum gentium Pater supremum credidit*). This has been replaced by an admonition that we, as individuals, should willingly submit ourselves to Christ (*tibi volentes subdimur qui iure cunctis imperas*).

The following verses have, not surprisingly, been omitted completely:

To Thee, Who by right claim rule over all men,
We willingly submit ourselves;
To be subject to Thy laws
Means happiness for a state and its peoples.

Glory be to Thee, Jesus,
 Supreme over all secular authorities;
 And glory be to the Father and
 The loving Spirit through endless ages.

A version of the *Vexilla Regis* has been abolished completely. Originally found in Lauds, some of its verses read:

Christ triumphantly unfurls His
 Glorious banners everywhere;
 Come nations of the world, and
 On bended knee acclaim the King of kings.

How great is the happiness of a country
 That rightly owns the rule of Christ and
 Zealously carries out the commands God gave to men.

The plighted word keeps marriage unbroken,
 The children grow up with virtue intact and
 Homes where purity is found abound also in the other virtues of
 home life.

Beloved King, may the light from Thee
 That we desire, shine on us in all its glory;
 May the world receive the gift of peace,
 Be subject to Thee and adore Thee.

A number of readings from *Quas primas* itself were included in the Office, and they explained the traditional teaching on Church and State with great clarity. They have all been removed, showing how blatantly the compilers of the new Breviary went about their task of eliminating liturgical references to the Social Kingship of Our Lord Jesus Christ. The removal of these readings from *Quas primas* must certainly be seen as an affront to the memory and the teaching of Pope Pius XI, at whose behest the Office had been composed only forty years earlier, with the specific aim of reminding rulers that they are bound to give public honour and obedience to

Our Lord. Could this great Pope possibly have imagined that within four decades he would have a successor who would totally mutilate the Office that he had approved so recently, and that this mutilation would have the objective of removing any suggestion that rulers are bound to give honour and obedience to Our Lord? Pope Paul VI stated explicitly to the rulers of the world that the Church asked no more of them than freedom to pursue its mission.³

The thoroughness with which Archbishop Bugnini's *Consilium* expunged every specific expression of Our Lord's Social Kingship from the liturgy can hardly be denied. Its members did not even miss a reference to Our Lord's Social Kingship in the Good Friday liturgy. The first of the Solemn Collects, the one for the Church, read:

Let us pray, dearly beloved, for the holy Church of God:
that our God and Lord may be pleased to give it peace,
keep its unity and preserve it throughout the world:
subjecting to it principalities and powers;
and may He grant us, while we live in peace and tranquility,
grace to glorify God the Father almighty (my emphasis).

This prayer has been replaced by the following:

Let us pray, dear friends,
for the holy Church of God throughout the World,
that God, the almighty Father
guide it, and gather it together
so that we may worship him in peace and tranquility.

Lest anyone should imagine that an undue significance has been placed upon changes in the Breviary and Missal relating to the doctrine of Christ the King, a comment by Archbishop A. Bugnini, Great Architect of the Liturgical Revolution, should prove very illuminating.

In the ecumenical climate of Vatican II, some expressions in the *Orationes sollemnes* of the Good Friday service had a bad ring to them. There were urgent requests to tone down some of the wording.

It is always unpleasant to have to alter venerable texts that for centuries have effectively nourished Christian devotion and have about them the spiritual fragrance of the heroic age of the Church's beginnings. Above all, it is difficult to revise literary masterpieces that are unsurpassed for their pithy form. It was nevertheless thought necessary to face up to the task, lest anyone find reason for spiritual discomfort in the prayer of the Church.

The revisions, limited to what was absolutely necessary, were prepared by study group 18bis. In Intercession I: "For the Church", the phrase *subiciens ei principatus et potestates* ("subjecting principalities and powers to it [the Church]") was omitted: even though this was inspired by what St. Paul says about the "angelic powers" (Col. 2:15), it could be misinterpreted as referring to a temporal role which the Church did indeed have in other periods of history but which is anachronistic today.⁴

The Feast of Christ the King has not simply been modified to conform to *Dignitatis humanae*, but has been transferred from the end of October to the end of November. According to Msgr. Lefebvre this change was also motivated by the desire to conform the liturgy to the teaching of *Dignitatis humanae*. He noted that the fact that the Feast occurred at the end of October, before the Liturgical Year was over, signified the reign of Our Lord over time, over all peoples, over all nations. Its transference to the end of the Liturgical Year signifies that the Social reign of Our Lord Jesus Christ is no longer considered possible, and that He will not reign until the end of time. Msgr. Lefebvre cites a conversation that he had in Bern on 31 March 1976 with Msgr. Marchioni, the Apostolic Nuncio to Switzerland, in which he asked him to explain his attitude to the Social reign of Christ the King in view of the suppression of Catholic States following Vatican II:

Archbishop Lefebvre: But the Social reign of Our Lord Jesus Christ, what are you doing about that?

The Nuncio: You know, that is impossible now; perhaps in the distant future? . . . Right now this reign is in individuals. We have to open ourselves up to the masses.

Archbishop Lefebvre: But the encyclical *Quas primas*, what do you do with that?

The Nuncio: Oh, the Pope would not write that any more now!
Archbishop Lefebvre: Did you know that in Colombia it was the Holy See that asked for the suppression of the Christian constitution of the State?

The Nuncio: Yes, and here also.

Archbishop Lefebvre: In the Valais?*

The Nuncio: Yes, in the Valais. And now, you see, I am invited to all the meetings.

Archbishop Lefebvre: Then you approve the letter that Msgr. Adam (Bishop of Sion, in the Valais) wrote to the faithful of his diocese to explain to them why they should vote for the law of separation of Church and State?

The Nuncio: You see, the Social Kingship of Our Lord is very difficult now.⁵

Msgr. Lefebvre is not alone in reading this meaning into the transference of the Feast. Professor J.P.M. van der Ploeg, O.P. commented in the October 1979 issue of *Christian Order*:

Formerly, it was celebrated on the last Sunday of October, close to the Feast of All Saints; now it is celebrated at the end of the Ecclesiastical Year to mark the "eschatological" meaning of the Feast. Christ will be King of the World at the end of time.

* Valais is the Catholic canton in Switzerland where the seminary founded by Msgr. Lefebvre at Ecône is situated. Its Catholic constitution was abolished at the behest of the Holy See to bring it into conformity with the teaching of *Dignitatis humanae*.

NOTES

¹ A detailed explanation of Cranmer's liturgical changes is available in my book *Cranmer's Godly Order* (Angelus Press, 1987).

² Xavier Rynne, *The Fourth Session* (London, 1966), p. 323.

³ Abbott, p. 693.

⁴ A. Bugnini, *The Reform of the Liturgy 1948-1975* (Liturgical Press, Collegeville, Minnesota, 1990), p. 119.

⁵ M. Lefebvre, *They Have Uncrowned Him* (Angelus Press, Kansas City, MO, 1988), p. 100.

APPENDIX I

The Authority of Vatican II

What is the precise legal authority of the documents of Vatican II? The Council itself was undoubtedly an authentic Ecumenical Council of the Catholic Church. It is necessary to stress this because a few confused individuals, claiming to be traditional Catholics, have gone to the extreme of questioning the Council's legitimacy. Thus, as a General Council, teaching in conformity with the Pope, Vatican II was in a position to impose definitive teaching with the authority of the Extraordinary Magisterium, which would demand our absolute internal assent. *But it did not do so.* As will be shown, the Council deliberately refrained from imparting to any of its documents the infallible status of a definition of the Extraordinary Magisterium.

Some conservative Catholics have concluded that because a General Council can teach infallibly, that is, without the possibility of error, that all its teaching must come into this category. A typical example of such a claim comes in *The Pope, the Council, and the Mass*, a book produced by Catholics United for the Faith:

This, then, is the traditional teaching of the Church: the teachings of an Ecumenical Council are protected from error and their decisions are binding on all Catholics. Ludwig Ott says: "It has been the constant teaching of the Church from the earliest times that the resolutions of General Councils are infallible."¹

This statement is typical of a number made by conservative defenders of *Dignitatis humanae*, and, if correct, would mean that there was no point in so much as discussing the conformity of *Dignitatis humanae* to the traditional teaching as there would be no possibility of this not being the case. Put in syllogistic form the conservative argument would seem to be as follows:

The teaching of an Ecumenical Council is protected from error. *Dignitatis humanae* is the teaching of an Ecumenical Council. *Dignitatis humanae* is protected from error.

The mistake of the authors of *The Pope, the Council, and the Mass* occurs in the major premiss of the syllogism, and it is a basic mistake in logic, that of treating the middle term, "teaching", as univocal when, in fact, it is equivocal (using the term "equivocal" in its logical sense as "having different meanings equally possible"). The teaching of an Ecumenical Council can be invested with the authority of the Extraordinary Magisterium, in which case it is protected from error, or it can be invested only with the authority of the Ordinary Magisterium, in which case the possibility of error cannot be excluded. A fuller quotation from the passage from Ludwig Ott cited by the author reads:

Two forms of the activity of the teaching office of the whole Episcopate are distinguished—an extraordinary form and an ordinary one. The Bishops exercise their infallible teaching power in an extraordinary manner at a General or Ecumenical Council. It is in the decisions of the General Councils that the teaching activity of the whole teaching body instituted by Christ is most decisively exercised. It has been the constant teaching of the Church from the earliest times that the resolutions of the General Councils are infallible.²

As will be explained in detail below, the terms "infallible" and "protected from error" can be taken as equivalent. An infallible pronouncement is simply one that is protected from error. It does not in any way imply that the pronouncement is inspired. Inspiration ended with the death of the last Apostle. Nor does it imply that the pronouncement is expressed in the clearest possible manner, or that the doctrine which it teaches could not be presented more clearly in some future pronouncement.

The authors of *The Pope, the Council, and the Mass* failed to realize that the explanation given by Ott applies only to the resolutions of General Councils presented to us as acts of the Extraordinary Magisterium. It should be noted that the term "resolutions of General Councils" is not one that is found in theological manuals, and it is probable that the word in Ott's original German, translated here as

“resolutions”, would have been better translated by the technical term “definitions”, which will be explained in detail later. There are no definitions in this technical sense in the teaching of Vatican II, but this semantic distinction will not be insisted upon, and “resolutions” will be taken as the equivalent of “teaching”. This appendix will prove beyond any possible doubt that the teaching of the Second Vatican Council is invested only with the authority of the Ordinary Magisterium, which means that it does not carry the note of infallibility, and hence is not certainly and necessarily protected from error.

The reason that the middle term of the syllogism must be regarded as equivocal is, as has just been explained, that although the “teaching of an Ecumenical Council” could refer to teaching presented with the authority of the Extraordinary Magisterium, which is indeed protected from error, the term could also apply, as in the case of Vatican II, to teaching invested only with the authority of the Ordinary Magisterium, and hence open to the possibility of error. The Fathers of Vatican II could indeed have invested their teaching with infallible authority, the authors of *The Pope, the Council, and the Mass* may well wish that they had done so, but nothing can change the indisputable fact that they did not. The conclusion of the syllogism is, therefore, untenable.

In his classic study, *The Church of the Word Incarnate*, Cardinal Journet distinguishes between “those organs by which the Magisterium *can*, when it acts *suprema intensione*, speak with absolute authority and irrevocably”, and “the organs by which the Magisterium can speak only with a prudential authority and in a non-definitive way” (emphasis in the original).

The three organs by which the Magisterium *can* teach infallibly if it so decides, by making it clear beyond any possible doubt that it is acting *suprema intensione*, are: “the Sovereign Pontiff teaching alone (Solemn Magisterium not communicable to the Roman Congregations), the Sovereign Pontiff teaching conjointly with the bishops assembled in General Council (Solemn Magisterium), the Sovereign Pontiff teaching conjointly with the bishops dispersed throughout the world (Ordinary Magisterium).”³ (Journet is using the term “Solemn Magisterium” as equivalent to “Extraordinary Magisterium”.)

The term *suprema intensione* can best be defined as signifying beyond any possible doubt the intention of binding the Universal Church finally and irrevocably to an internal assent. A detailed explanation of the requirements for an infallible definition will be provided at the conclusion of this appendix.

It is not within the scope of this appendix to examine in detail the manner in which teaching coming only with the authority of the Ordinary Magisterium can be regarded as infallible. This depends largely upon the frequency and solemnity with which a particular teaching has been repeated by the popes, and by the unanimity with which it has been accepted by the bishops dispersed throughout the world. The fact that contraception is intrinsically evil might well be regarded as having been taught infallibly by the Ordinary Magisterium. It has been proclaimed consistently and authoritatively by successive popes, and, until the aftermath of Vatican II, was received and taught by the bishops dispersed throughout the world in complete unanimity with the popes. Dissenters from *Humanae vitae* point out correctly that it is not in itself an infallible pronouncement, as it pertains only to the Ordinary Magisterium, but they fail to explain that it fulfils all the conditions for a teaching on faith or morals taught infallibly by the Ordinary Magisterium. Thus, although a particular pronouncement of the Magisterium may not in itself be infallible, it may well contain infallible teaching.

The decision of the Fathers of Vatican II not to invest their teaching with infallible authority, not to teach *suprema intensione*, can be compared with the case of a driver taking out insurance for his automobile. He can, if he so wishes, opt for fully comprehensive insurance which will cover him even for accidents caused by his own negligence. If, however, he decides to save money by opting only for third party, fire, and theft, he could hardly expect to be reimbursed by his insurance company if he damaged his car by backing it into a lamppost.

Infallible or Non-Infallible?

The testimonies which follow should be more than adequate to convince any reasonable person that the documents of Vatican II

do not pertain to the Extraordinary Magisterium, and are, therefore, not infallible, and, therefore, not divinely protected from error. It is not my purpose in this appendix to claim that they actually contain error, simply to prove that they are not protected from such a possibility.

The first testimony should, in itself, suffice to do this, as it is the testimony of a Sovereign Pontiff, Pope Paul VI. In his General Audience of 12 January 1966, he explained:

In view of the pastoral nature of the Council, it avoided any extraordinary statements of dogmas endowed with the note of infallibility, but it still provided its teaching with the authority of the Ordinary Magisterium which must be accepted with docility according to the mind of the Council concerning the nature and aims of each document.

What could be more clear? Pope Paul states unequivocally that the documents of Vatican II do not pertain to the Extraordinary Magisterium, and that they are not endowed with the note of infallibility.

The next testimony could, short of being a statement of the Sovereign Pontiff, hardly be more authoritative. It is an explanation given by the Council's own Theological Commission, cited by the Secretary of the Council, Archbishop Pericle Felici, in a theological note appended to the Dogmatic Constitution on the Church:

In view of conciliar practice and the pastoral purpose of the present Council, this sacred Synod defines matters of faith and morals as binding on the Church only when the Synod itself openly declares so.⁴

Needless to say, as was made clear in the subsequent statement by Pope Paul VI, which has already been quoted, the Council did not invest any of its teaching with the note of infallibility. This was made very clear in an article by Bishop B.C. Butler, one of England's most active and most Liberal Council Fathers, in which he explained that not "all teachings emanating from a pope or an ecumenical council are infallible. There is no single proposition of Vatican II—except where it is citing previous infallible definitions—which is in itself infallible."⁵

The Bishop has made an important distinction here. The documents of Vatican II do contain infallible teaching, but this teaching is infallible because it had already been proclaimed as such, and not because it is contained in a document of the Council.

An article by Father E. Doronzo, OMI, which appeared in the 14 September 1972 edition of *L'Osservatore Romano*, made a distinction between infallible and non-infallible statements of the Extraordinary Magisterium. What Father Doronzo is evidently attempting to do here is to stress the fact that the two sources of the Extraordinary and Infallible Magisterium, the Pope and a General Council, are not infallible in all their pronouncements. He explains:

The Extraordinary Magisterium consists in a formal, explicit, and solemn declaration of doctrine made only by the supreme authority, expressed by the formula or mode of declaration; this Magisterium can be either infallible or non-infallible. Examples of the former are the definitions of the primacy and infallibility of the Pope by the First Vatican Council, of the Immaculate Conception by Pope Pius IX, and of the Assumption by Pope Pius XII. Examples of the non-infallible Extraordinary Magisterium include the various documents of Vatican II and most of the great papal Encyclicals from Leo XIII to Paul VI.

The fact that the Magisterium can indeed present teaching that cannot be said with certainty to be free from error was admitted candidly by the German Bishops in a very important Joint-Pastoral in September 1967. Their concern was principally with what the attitude of the faithful should be to such teaching, the attitude of theologians in particular. That there can be magisterial teaching open to the possibility of error was taken for granted.

Beyond her guardianship of the inner substance of the faith the Church has, even at risk of going sometimes into error, to formulate teachings which have a certain degree of authority, while yet, since they are not definitions of faith, they are sufficiently provisional to admit a possibility of error.⁶

Dignitatis humanae would certainly appear to come within this category of teaching. It is (a) teaching with a certain degree of

authority; (b) it is not a definition of faith (and, therefore, not infallible); (c) it is sufficiently provisional to admit a possibility of error.

In his article "Magisterium" in *A Catholic Dictionary of Theology*, Father Joseph Crehan, S.J., provided an interesting insight into the degree of assistance given by the Holy Spirit to the Magisterium when it is not producing infallible decrees:

If, as Molina held, human weakness is a limiting factor even in the work of an Ecumenical Council, so that we ultimately get only the decrees that we deserve and not all that the Spirit might have given us, then much more reasonably is a place to be found for human weakness in the day-to-day working of the Magisterium.⁷

Father Crehan also drew our attention to the fact that the Council accepted the fact that it had "put forth its teaching without infallible definitions" by concluding the decree on the Church "with the words *decernimus ac statuimus* ('We decree and establish') and not with the word *definimus*."⁸ The same formula was used for all the sixteen promulgated documents of the Council. It will be explained in great detail below that infallibility pertains only to definitions. As Bishop B.C. Butler remarked in respect to papal definitions, but with equal applicability to those of a General Council: "Infallibility is involved only when the papal definition is propounded as binding the whole Church finally and forever."⁹

In a profound study intended to enhance the authority of the Ordinary Magisterium, Dom Paul Nau, O.S.B., cites a number of authors who reckon the duty of Catholics when confronted with a document of the Ordinary Magisterium "to be that of inward assent, not as of faith, but as of prudence, the refusal of which could not escape the mark of temerity, unless the doctrine rejected was an actual novelty or involved a manifest discordance between the pontifical affirmation and the doctrine which had hitherto been taught."¹⁰

Dom Paul, basing himself upon the Encyclical *Humani generis*, insists that this attitude of mere prudence cannot be made a general rule to be observed towards the Ordinary Magisterium, and he is undoubtedly correct. He warns, with equal correctness, that a pronouncement of the Magisterium "always has the right to claim the

benefit of any doubt." He adds that *Humani generis* reserves such an attitude to an isolated pronouncement having a bearing on a matter which is still in dispute:

In this event, if the Sovereign Pontiff does not mean to commit himself to pronouncing a conclusive judgement, such a judgement would not fulfil the conditions required for infallibility and consequently it could not call for faith, but only for a respectful and prudent obedience.¹¹

It is hard to imagine a more evident case of a document than *Dignitatis humanae* to which the Sovereign Pontiff did not wish to commit himself to pronouncing a conclusive judgement. It would also be hard to imagine a document which, to a greater extent than *Dignitatis humanae*, contained teaching that was "an actual novelty or involved a manifest discordance between the pontifical affirmation and the doctrine which had hitherto been taught."

A comment on the possibility of a magisterial pronouncement being open to the possibility of error by Dr. Germain Grisez in the July 1984 *Homiletic and Pastoral Review* is very pertinent:

Obviously, teachings which are proposed infallibly leave no room for dissent on the part of faithful Catholics. However, other teachings of the Ordinary Magisterium can be mistaken, even though they may require and demand religious submission of mind and will. Such teachings can deserve acceptance inasmuch as they are the Magisterium's current best judgement of what God's word requires of Christians. However, that judgement, on the leading edge of developing doctrine and in truly prudential matters, can be mistaken, and faithful Christians can be led by superior claims of faith itself to withhold their submission to it.¹²

Dom Paul Nau's insistence that the withholding of submission of inward assent to a pronouncement of the Ordinary Magisterium could only occur in the most exceptional circumstances is echoed by Dr. Ludwig Ott. He explains our duty towards the teaching of the Ordinary Magisterium as follows:

The ordinary and usual form of the Papal teaching activity is not infallible. Further, the decisions of the Roman Congregations (Holy Office, Bible Commission) are not infallible. Nevertheless normally

they are to be accepted with an inner assent which is based on the high supernatural authority of the Holy See (*assensus internus supernaturalis, assensus religiosus*). The so-called *silentium obsequiosum*, that is "reverent silence", does not generally suffice. By way of exception, the obligation of inner agreement may cease if a competent expert, after a renewed scientific investigation of all grounds, arrives at the positive conviction that the decision rests on an error.¹³

As was stated above, this appendix is not intended to prove that any teaching contained in *Dignitatis humanae* is actually erroneous. It is intended simply to prove that the teaching of the Declaration is not divinely protected from error. The documentation already provided should have been more than sufficient to demonstrate this. It can be well summarized in a quotation from an article by William H. Marshner, Theological Editor of *Faith and Reason*, in the Fall 1983 issue of that journal. This issue was devoted almost entirely to the question of a possible contradiction between the traditional teaching and the teaching of *Dignitatis humanae*. Marshner's testimony is particularly useful as his conclusion is that the Declaration can be reconciled with the previous teaching, which he designates correctly "as irreformable *ex magisterio ordinario*". But he adds:

At the same time, however, I join with all other theologians in saying that the new ground is non-infallible teaching. So when I say that the possibility exists that Vatican II is wrong on one or more crucial points of *Dignitatis humanae*, I do not simply mean that the Council's policy may prove unfruitful. I mean to signal a possibility that the Council's teaching is false.

But may a Catholic theologian admit that such a possibility exists? Of course he may. The decree (sic) *Dignitatis humanae* is a non-infallible document, and the teaching which it presents is admitted to be a "new development", hence not something which is already acknowledged dogma *ex magisterio ordinario*. Therefore the kind of religious assent which Catholics owe to that teaching is the kind of assent which does not exclude the logical possibility that the teaching is wrong; rather our assent excludes any probability that the teaching is wrong.

It now remains to explain in detail the conditions necessary for

a magisterial teaching to be classified as a definition of the Extraordinary Magisterium, but before doing so it is necessary to understand the precise meaning of infallibility.

What is Infallibility?

God alone is absolutely infallible. The infallibility with which He endowed His Church has limits and conditions. Infallibility is concerned primarily with certainty rather than with truth. The dogma of the Immaculate Conception was as true before the Bull *Ineffabilis Deus* of Pope Pius IX in 1854 as it was after the definition. The definition gave us certainty of the truth of the dogma. Infallibility is the impossibility of falling into error, and an infallible pronouncement is one that is incapable of error or deception. The Church is infallible in her office of teaching owing to the perpetual assistance of the Holy Ghost promised to her by Our Lord, when, either in the exercise of her Ordinary and Universal Magisterium, or by a solemn pronouncement of the supreme authority (Extraordinary Magisterium) she proposes, for the acceptance of the universal Church, truths of faith or morals that are either revealed in themselves or connected with revelation. This appendix is concerned only with the Extraordinary Magisterium. The supreme authority of the Church, her Extraordinary Magisterium, is exercised by the Roman Pontiff when he speaks *ex cathedra*—that is, when by virtue of his supreme apostolic authority, he defines a doctrine regarding faith or morals to be held by the universal Church.

The definitions of a General Council also constitute an exercise of the Extraordinary Magisterium and are infallible providing that they are ratified by the Pope. But the Pope does not require the ratification of a General Council or of the bishops of the Church for his own definitions.

Pastor Aeternus, the First Dogmatic Constitution on the Church of Christ of the First Vatican Council, teaches that “such definitions of the Roman Pontiff are irreformable of themselves, and not in virtue of the consent of the Church.” *Pastor Aeternus* declared the extent of infallible teaching to be the same for the Pope and the Church. The full text of the solemn definition of *Pastor Aeternus*

follows, and what it states with regard to an *ex cathedra* definition of the Pope applies equally to a doctrinal definition of a General Council. The four conditions which are necessary for a papal or a conciliar definition to be considered infallible will be explained in detail after the definition.

The Solemn Definition

Therefore, faithfully adhering to the tradition received from the beginning of the Christian faith for the glory of God our Saviour, the exaltation of the Catholic religion, and the salvation of Christian people, with the approval of the sacred council, We teach and define that it is a dogma divinely revealed: that the Roman Pontiff, when he speaks *ex cathedra*, that is, when, in discharge of the office of pastor and teacher of all Christians, by virtue of his supreme Apostolic authority, he defines a doctrine regarding faith or morals to be held by the Universal Church, is, by the divine assistance promised to him in Blessed Peter, possessed of that infallibility with which the Divine Redeemer willed that His Church should be endowed in defining doctrine regarding faith and morals; and that, therefore, such definitions of the Roman Pontiff are of themselves, and not from the consent of the Church, irreformable.

Canon

But if anyone, which may God avert, presume to contradict this Our definition, let him be anathema.¹⁴

Infallible Definitions

The conditions for an infallible definition of the Extraordinary Magisterium are, therefore:

- (1) It must be a definition of the supreme teaching authority in the Church, either the Pope alone teaching *ex cathedra* in his official capacity as shepherd and pastor of all Christians; or the bishops of the world assembled together in union with the Pope in an Ecumenical Council.¹⁵
- (2) An infallible definition must concern a matter of faith or morals. The Revelation committed to the Church by Our Lord Jesus Christ, and which ended with the death of the last Apostle, is the direct or primary object of infallibility. But the scope of infallibility is not

confined to Revelation. There is an indirect or secondary object of infallibility. This is comprised of truths which, though not formally revealed, are so intimately connected with revealed truth that one could not be denied logically without denying the other. Teaching which comes within the scope of the Church's secondary infallibility is known either as a theological conclusion or a dogmatic fact.¹⁶

(3) The decision must bind the Universal Church (*ab universa Ecclesia tenendam definit*). Decrees which bind only part of the Church are not definitions. It is not absolutely necessary that the decree should be directly sent or addressed to the entire Church. It is sufficient for the supreme authority to make clear its intention of binding the Universal Church. A pope could address the hierarchy of a single country, condemning a heresy prevalent within that country, but using terms which made it clear that the heresy, no matter where it manifested itself, was not compatible with the Catholic faith.¹⁷

(4) The intention of binding the Universal Church must be exteriorized, that is, made clear beyond any possible doubt. It must be manifest that the definition constitutes an explicit, final, and irrevocable judgement binding the entire Church to an irrevocable internal assent. No specific formula is essential to prove the final and irrevocable nature of the definition. All that is necessary is that it should be the manifest intention of the supreme authority to settle the matter for ever. This is because no believer who pays due attention to Christ's promises can refuse to assent with absolute and irrevocable certainty to a definition of the Extraordinary Magisterium. But before being bound to give such assent the believer has a right to be certain that the teaching in question is definitive (since only definitive teaching is infallible).^{*} The clear principle governing the interpretation of the authority of a teaching of the Magisterium is that given in the

* The imposition of a definition under pain of anathema (excommunication) is a common but not essential method of indicating that the supreme teaching authority has made a final decision. Some expressions universally accepted as certainly signifying a definitive decision are: *definimus* and *auctoritate apostolicae definimus*. Thus, in defining the Dogma of the Immaculate Conception, Pope Pius IX gave irrefutable proof of the definitive nature of the decree with the words: "By the authority of Our Lord Jesus Christ and of the Blessed Apostles Peter and Paul, and by Our own authority, We declare, pronounce, and define the doctrine . . . to be revealed by God and, as such, to be firmly and immutably held by all the faithful."¹⁸

Code of Canon Law, i.e., where the Church's intention to bind definitively is not expressed clearly there is no right to speak of an infallible decree. But even here there is a final but vital restriction on the scope of infallible teaching. Where a document of the Magisterium contains a doctrine which is to be treated as definitive and infallible, it is only that part of the document containing the actual definition which is infallible. For example, the Bull *Ineffabilis Deus*, proclaiming the Immaculate Conception is quite lengthy, but the strictly definitive and infallible portion is comprised in the concluding sentences only, beginning with the words; "To the glory and honour of the holy and undivided Trinity . . ." In the documents of Trent and Vatican I, statements of Church teaching, which are sometimes very detailed, are summarized in brief "canons" imposing the essence of this teaching under pain of anathema. The reasons and arguments upon which a definition is based do not form part of the infallible definition itself, unless these reasons or arguments are expressly defined. The solemn definition of papal infallibility from *Pastor Aeternus*, cited above is, in itself, an excellent example of an infallible definition of the Extraordinary Magisterium.¹⁹

NOTES

- ¹ J. Likoudis & K. Whitehead, *The Pope, the Council, and the Mass* (Massachusetts, 1981), p. 38.
- ² L. Ott, *Fundamentals of Catholic Dogma* (Cork, 1966), p. 300.
- ³ C. Journet, *The Church of the Word Incarnate* (London, 1955), pp. 349-50.
- ⁴ Abbott, p. 98.
- ⁵ B. C. BUTLER, *In the Light of the Council* (London, 1968), p. 55.
- ⁶ *A Catholic Dictionary of Theology*, vol. III (London, 1971), p. 227.
- ⁷ *Ibid.*, p. 228.
- ⁸ *Ibid.*, p. 227.
- ⁹ *The Tablet*, 8 November 1975, p. 1078.
- ¹⁰ P. Nau, *The Ordinary of the Mass Theologically Considered* (Published in English as an *Approaches* supplement, but now out of print), p. 26.
- ¹¹ *Ibid.*
- ¹² *Homiletic & Pastoral Review*, July 1984, p. 14.
- ¹³ *Op. cit.*, note 2, p. 10.
- ¹⁴ *Papal Teachings*—"*The Church*" (St. Paul Editions, Boston, 1962), p. 217.
- ¹⁵ CE, vol. IV, p. 676.

¹⁶ *Op. cit.*, note 2, p. 299.

CE, vol. IV, p. 676, col. 1; vol. VII, p. 799, col. 1.

DTC, vol. VII, col. 1699.

¹⁷ CE, vol. IV, p. 676, col. 1.

DTC, vol. VII, col. 1700.

¹⁸ DTC, vol. VII, col. 1703

¹⁹ CE, vol. IV, p. 676, and vol. VII, pp. 796 & 800. DTC, vol. VII, col. 1699-1703

APPENDIX II

Quanta cura and the *Syllabus of Errors* of Pope Pius IX

The idea of drawing up a list of the principal errors of modern times originated with Cardinal Pecci, Archbishop of Perugia, later Pope Leo XIII, while taking part in the provincial Council of Spoleto in 1849. He persuaded the Council to lay a petition before Pope Pius IX in that same year, to bring together under a constitution the chief errors of the time and to condemn them. Preparations for the project began in 1853, and then, in 1860, Msgr. O.P. Gerbet, the Bishop of Perpignan in France, published a Pastoral Instruction for his clergy listing 85 modern errors. The Pope was so impressed with this Instruction that he decided that it should form the basis of his own projected *Syllabus*. The 85 errors were condensed into a list of 61 untenable theses with the appropriate censures. The list was approved by three hundred bishops who had assembled in Rome in 1862 for the canonization of the Japanese Martyrs. Work continued on the project until, on 8 December 1864, it was promulgated together with the Encyclical *Quanta cura*. The full title of the document was "A *Syllabus* containing the most important errors of our time which have been condemned by our Holy Father Pius IX in Allocutions, at Consistories, in Encyclicals and other Apostolic Letters." Eighty errors were eventually condemned, and, as the title indicates, they had all been condemned previously in official declarations of Pope Pius IX, and the original source of each condemned thesis in the teaching of the Pope was indicated so as to determine the true meaning and theological value of the subjects treated.

The *Syllabus* was arranged under ten headings beginning with "Pantheism, Naturalism, and Absolute Rationalism", and concluding with "Errors having Reference to Modern Liberalism". Its format can be made clear by quoting Section X in its entirety, bearing in mind that, as will be made clear below, Catholics are bound to hold the opposite of the condemned proposition.

77. In the present day it is no longer expedient that the Catholic Religion should be held as the only religion of the State, to the exclusion of all other forms of worship. — Allocation *Nemo vestrum*, 26 July 1855.

Thus, every Catholic is bound to believe that: "It is expedient that the Catholic religion should be held as the only religion of the State, to the exclusion of all other forms of worship." This, of course, refers to the ideal situation, and does not preclude acceptance of the fact that in a particular state at a particular time the common good can require the toleration of false religions as the lesser of two evils. The remaining three condemned theses in this concluding section are:

78. Hence it has been wisely decided by law, in some Catholic countries, that persons coming to reside therein shall enjoy the public exercise of their own peculiar worship. — Allocation *Acerbissimum*, 27 September 1852.

79. Moreover, it is false that the civil liberty of every form of worship, and the full power, given to all, of overtly and publicly manifesting any opinions whatsoever and thoughts, conduce more easily to corrupt the morals and minds of the people, and to propagate the pest of indifferentism. — Allocation *Nunquam fore*, 15 December 1856.

80. The Roman Pontiff can, and ought to, reconcile himself, and come to terms with progress, Liberalism, and modern civilization. — Allocation *Iamdudum cernimus*, 18 March 1861.

The Authority of *Quanta cura* and the Syllabus

It is a legitimate theological opinion that the condemnations of *Quanta cura* and the Syllabus are infallible, but the obligation of every Catholic to hold the opposite of the condemned propositions is in no way dependent upon his acceptance of their infallibility. *The Catholic Encyclopedia* and *The New Catholic Encyclopedia* both insist that the authority of these documents is such that all Catholics are bound to hold the opposite of the condemned propositions.

The 1913 edition of *The Catholic Encyclopedia* includes the following in its entry "Syllabus":

Binding Power.—The binding power of the Syllabus of Pius IX is differently explained by Catholic theologians. All are of the opinion that many of the propositions are condemned if not in the Syllabus, then certainly in other final decisions of the infallible teaching authority of the Church, for instance in the encyclical *Quanta cura*. There is no agreement, however, on the question of whether each thesis condemned in the Syllabus is infallibly false merely because it is contained in the Syllabus. Many theologians are of the opinion that to the Syllabus as such an infallible teaching authority is to be ascribed, whether due to an *ex cathedra* decision by the Pope or to the subsequent acceptance by the Church. Others question this. So long as Rome has not decided the question, everyone is free to follow the opinion he chooses. Even should the condemnation of many propositions not possess that unchangeableness peculiar to infallible decisions, nevertheless the binding force of the condemnation in regard to all the propositions is beyond doubt. For the Syllabus, as appears from the official communication of Cardinal Antonelli, is a decision given by the Pope speaking as universal teacher and judge to Catholics the world over. All Catholics, therefore, are bound to accept the Syllabus. Exteriorly they may neither in word nor in writing oppose its contents; they must also assent to it interiorly.¹

It will be noted that the Encyclopedia ascribes even greater authority to *Quanta cura* than to the Syllabus.

The 1967 edition of *The New Catholic Encyclopedia* explains the authority of the Syllabus with equal clarity:

Theologians dispute about the authority of the condemnations in the Syllabus itself, although there is unanimity that the errors are condemned if not in the Syllabus, at least in the papal documents from which they were taken. Many theologians attribute infallible teaching authority to the Syllabus itself, while others deny this. Nevertheless the Syllabus must be accepted by all Catholics, since it comes from the Pope as universal teacher and judge . . . Its contents cannot be challenged by Catholics, and they are to give assent to it, holding the opposite of the condemned propositions.²

A Contradiction?

In Chapter XXI Father Brian Harrison was quoted as accepting that *Dignitatis humanae* contained certain ideas "which bear at

least a *prima facie* appearance of contradicting previous papal statements." In the same chapter Father Yves Congar is quoted as making an even more radical concession. He accepts, apropos Article 2, that:

It cannot be denied that a text like this does materially say something different from the Syllabus of 1864, and even almost the opposite of propositions 15 and 77-9 of that document.

Propositions 77-9 have already been cited. Condemned proposition 15 reads:

15. Every man is free to embrace and profess that religion which, guided by the light of reason, he shall consider true. — Allocution *Maxima quidem*, 9 June 1862; *Damnatio "Multiplices inter"*, 10 June 1851.

It is somewhat strange that a theologian as allegedly erudite as Father Congar should cite Proposition 15 in this way as, whatever else can be alleged against *Dignitatis humanae*, it cannot be accused of teaching the indifferentism condemned in this proposition. As is made clear in Chapter XXII, neither the Declaration nor Father Murray claims that anyone has a right to embrace, profess, or propagate error, only that those who do so have a right not to be prevented from propagating error within the limits of the just requirements of public order. In this same chapter I have attempted to show that, on the contrary, the Popes have taught that no one has a right not to be prevented from propagating error, and that, therefore, it would appear that the teaching of *Dignitatis humanae* cannot be reconciled with the traditional teaching of the Popes.

Other critics of *Dignitatis humanae* have laid great stress upon the fact that, as Fathers Congar and Harrison accept, certain passages in *Dignitatis humanae* bear at least a *prima facie* appearance of contradicting previous papal teaching, notably that of *Quanta cura* and the Syllabus. While establishing such a contradiction is not essential for the veracity of my own thesis, the contrasting texts certainly merit examination. If the teaching contained in a key passage of *Quanta cura* is placed parallel with that of *Dignitatis humanae* the apparent contradiction will be made clear. Reference to Appendix I will make it clear that *Quanta cura* certainly fulfils all the requirements for an infallible pronouncement — although its infallibility will not be insisted

upon for the purposes of this appendix. The relevant section of *Quanta cura* reads:

Contrary to the teaching of the Holy Scriptures, of the Church, and of the Holy Fathers, these persons do not hesitate to assert that: "The best condition of human society is that wherein no duty is recognized by the Government of correcting, by enacted penalties, the violators of the Catholic religion, except when the maintenance of the public peace requires it." From this totally false notion of social government, they fear not to uphold that erroneous opinion most pernicious to the Catholic Church, and to the salvation of souls, which was called by Our Predecessor, Gregory XVI, (lately quoted) the insanity (*deliramentum*) (Encyclical, 13 August 1832): namely, "that the liberty of conscience and of worship is the peculiar (or inalienable) right of every man, which should be proclaimed by law, and that citizens have the right to all kinds of liberty, to be restrained by no law, whether ecclesiastical or civil, by which they may be enabled to manifest openly and publicly their ideas, by word of mouth, through the press, or by any other means."

Three condemned propositions will now be extracted from this passage, propositions which Catholics are forbidden to hold. It is important that we should understand the precise nature of the obligations which these condemnations impose upon us. For example, the first one forbids us to hold that the best condition of society is one in which violators of the Catholic religion are not corrected except when the maintenance of the public peace requires it. We are not required to believe that the State must always punish such violators under all circumstances. We could even maintain that under present day circumstances the common good would best be served by a universal toleration. All that we are forbidden to maintain is that a society in which they remain uncorrected, except when the maintenance of the public peace requires it, is the best form of society. The three propositions will be placed parallel with three propositions from *Dignitatis humanae* in order to facilitate an examination of the extent to which the Declaration appears to declare licit what *Quanta cura* condemned.

Quanta cura

Propositions Condemned

A. The best condition of human society is that wherein no duty is recognized by the Government of correcting, by enacted penalties, the violators of the Catholic religion except where the maintenance of the public peace (*pax publica*) requires it.

B. Liberty of conscience and worship is the peculiar (or inalienable) right of every man.

C. (which) right should be proclaimed by law . . .

Dignitatis humanae

Propositions Taught

A. In matters religious no one is to be . . . restrained from acting in accordance with his own religious beliefs, whether privately or publicly, whether alone or in association with others, within due limits, i.e. provided the requirements of public order (*iustus ordo publicus*) are observed.

B. This Vatican Synod declares that the human person has a right to religious freedom (in the external forum).

C. This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil right.

It is very hard to see how the teaching of the Syllabus and *Quanta cura* can be reconciled with that of *Dignitatis humanae*, or how the latter is a genuine development of the former. It is also of very great significance that, in view of the important place held by these documents in the corpus of Catholic teaching on religious liberty, neither is mentioned in a single footnote to *Dignitatis humanae*. The same is true of the encyclical *Mirari vos* of Pope Gregory XVI. But a distinction must be made between a failure to reaffirm former teaching and a formal contradiction of that teaching. As is shown in Chapter XX, the *iustus ordo publicus* of *Dignitatis humanae* is broader in scope

than the *pax publica* of *Quanta cura*. The claim that a formal contradiction exists between the two A propositions, made by some traditionalist writers, derives from taking the two terms to be identical, a mistaken opinion which I held for some years. Father Brian Harrison deserves great credit for making it clear that the terms *pax publica* and *iustus ordo publicus* are not identical. The inclusion of "the objective moral order" as a constituent part of *iustus ordo publicus* is of particular importance in this respect.

As regards the two B propositions, the liberty of conscience referred to in *Quanta cura* must be taken in the exact sense that it is used here, that is as the "insanity" condemned rightly by Pope Gregory XVI in *Mirari vos*, and quoted directly here by Pope Pius IX, that is to say, "the right to all kinds of liberty, to be restrained by no law". Newman's spirited defence of the papal condemnation of such a *deliramentum* is contained in Chapter VII. By no possible stretch of the imagination could the religious freedom referred to in the *Dignitatis humanae* B proposition be equated with the *deliramentum* of Pope Gregory XVI. The *deliramentum* is an alleged right to believe and to propagate error, i.e. the indifferentism which both the Declaration and Father Murray repudiated. The freedom referred to in the *Dignitatis humanae* proposition B is a freedom not to be prevented from propagating error, subject to the requirements of a *iustus ordo publicus*. This is the same freedom that *Dignitatis humanae* proposition C suggests should be recognized by constitutional law, not the *deliramentum* referred to in *Quanta cura* proposition C. Having conceded this, it must be stressed that the teaching of *Quanta cura* and the Syllabus have been abandoned completely by *Dignitatis humanae*, and that, taken as a whole, the teaching of the Declaration cannot be reconciled with the teaching of these documents, as scholars from every shade of opinion have testified in Chapter XXI.

One instance in which it appears impossible to deny the existence of a formal contradiction is that of Proposition 78 of the Syllabus, which has already been cited in this appendix:

Hence it has been wisely decided by law, in some Catholic countries, that persons coming to reside therein shall enjoy the public exercise of their own peculiar worship.

Dignitatis humanae most certainly appears to contradict this proposition by teaching that non-Catholics shall enjoy the public exercise of their own peculiar worship in every Catholic country, hence the changes in the Spanish Constitution documented in Appendix III.

NOTES

¹ CE, vol. XIV, p. 368, col. 2.

² *New Catholic Encyclopedia* (New York, 1967), vol. XIII, p.855, col.2.

APPENDIX III

Dignitatis Humanae and Spain

The Constitutions of a number of Catholic countries, and concordats with the Holy See, were modified in order to take account of *Dignitatis humanae*. The application of the Declaration in practice can best be illustrated by the changes made in the Spanish Constitution. Father Harrison disagrees with a thesis put forward by some commentators who claimed that the Declaration would not necessarily preclude a Catholic State from prohibiting all non-Catholic propaganda. Such an interpretation, he pointed out, "would contradict the mind of the chief legislator, Pope Paul VI, disciple of Maritain's 'integral humanism', who was notoriously unsympathetic to Franco's regime in Spain, and who after the Council put his weight behind the immediate revision of the Holy See's Concordat with that nation, so as to remove the legal disabilities attaching to non-Catholic religious services and propaganda. It seems highly doubtful whether Paul VI would have approved of such disabilities in any other conceivable society today—even in the Wallis and Futuna Islands where no organized religion other than Catholicism as yet exists."¹

The Holy See and Spain had signed a concordat as recently as 1953. Article 1 stated: "The Catholic, Apostolic, and Roman Religion continues to be the religion of the Spanish nation . . ." The 1953 concordat in no way annulled the Spaniard's Charter of 13 July 1945 (*Fuero de los Españoles*). Article 6 of the Charter stated:

1. The profession and practice of the Catholic Religion, which is that of the Spanish State, will enjoy official protection.
2. No-one shall be disturbed for his religious beliefs nor the private exercise of his religion. There is no authorization for external ceremonies or manifestations other than those of the Catholic religion.

This article was modified by the law of 28 June 1967 which had been approved by the Holy See before publication. In order to neutralize the strong opposition to this revision within Spain a

preamble was added stressing that this change had been made to conform Spanish law to the teaching of Vatican II. The preamble reads:

The fundamental law of 17 May 1958, in virtue of which Spanish legislation must take its inspiration from the doctrine of the Catholic Church, forms the basis of the present law.

Now, as is known, the Second Vatican Council approved the Declaration on Religious Freedom on 7 December 1965, stating in Article 2: "The right to religious freedom has its foundation in the very dignity of the human person, as this dignity is known through the revealed word of God, and by reason itself. This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil right."

After this declaration of the Council, the necessity arose of modifying article 6 of the Spaniards' Charter in virtue of the aforementioned principle of the Spanish State.

This is why the organic law of the State dated 10 January 1967 has modified the aforementioned article 6 as follows: "The profession and practice of the Catholic religion, which is that of the Spanish State, enjoys official protection. The State guarantees the protection of religious liberty, which shall be guaranteed by an effective juridical provision which will safeguard morals and public order."

From that date onwards any sect was free to proselytize in Spain without restraint, and the inevitable outcome of the decision to conform the Spanish Constitution to *Dignitatis humanae* was reported in the 20 July 1978 issue of *The Wanderer*:

The Spanish Chamber of Deputies has voted approval of article 15 of the country's draft constitution which decrees that there will be no State religion and guarantees freedom of all religions.

The vote was 197-2, with 112 abstentions.

The legislators added a provision that the state authorities "will take into account the religious beliefs of Spanish society and will maintain relations of co-operation with the Roman Catholic Church and other confessions."

Under General Francisco Franco, Catholicism was the State religion, with Catholic doctrine and authority prevailing in education.

The law of 28 June 1967 guaranteed the safeguard of morals and public order by effective juridical provision, but, far from this being

the case, Spain soon conformed to the pattern of a typical European society today with legalized pornography, contraception, divorce (legalized in 1981), sodomy, and abortion (legalized in 1983). In its 21 November 1991 issue *The Wanderer* reported that: "In Spain, the New Criminal Code will contain provisions banning discrimination against homosexuals." The law has thus been changed from penalizing those who perpetrate acts which constitute a sin crying out to heaven for vengeance to penalizing those who discriminate against such people. Needless to say, the Church has never condemned having a homosexual orientation as sinful, and the law has never penalized anyone for having such an orientation. But the Church has rightly condemned as a sin, and the law has rightly punished as a crime, any physical sexual activity between persons of the same sex, although where the law is concerned prosecutions have been confined almost exclusively to male homosexuals.

In fairness to *Dignitatis humanae*, it must be stated unequivocally that in view of the amendment made to Article 7 by Archbishop Wojtyla, stipulating that the exercise of religious liberty must be "controlled by juridical norms that are in conformity with the objective moral order" (see page 193), pornography, contraception, divorce, sodomy, and abortion could still be made illegal in Spain or any other country not simply without conflicting with the teaching of the Declaration but in conformity to it. What has happened in Spain, Portugal, Italy and other Catholic countries where legislation concerning public morality is concerned represents a pragmatic rather than a doctrinal response to *Dignitatis humanae*. The legalization of Liberal principles in a Catholic country, initiated by granting non-Catholic sects the right not to be restrained from acting in accordance with their beliefs in public, initiates a momentum that cannot be controlled. Thus, although the teaching of *Dignitatis humanae* does not condone the moral decadence of contemporary Spain, but, rather, demands its prohibition, the changes to the Spanish Constitution made to bring it into line with the Declaration must be accepted as having set in motion a train of events that led inevitably to that moral decadence.

Father Harrison points out correctly that the Declaration does

not preclude a Catholic State from granting a privileged status to the Catholic Church, as is the case with the Concordat between the Holy See and Colombia in 1973. But it does preclude the legal prohibition of the public expression of heresy, no matter how privileged the status of the Church. This is made clear in Article 1 of this Concordat which Father Harrison cites:

The State, out of regard for the traditional Catholic sentiment of the Colombian nation, considers the Catholic, Apostolic and Roman religion as a fundamental element of the common good, and of the integral development of the national community . . . The State guarantees to the Catholic Church and to its members the full enjoyment of their religious rights, without prejudice to the just religious liberty of other confessions and their members, and indeed of every citizen.²

Far from granting anything to the Catholic Church, this article deprives it of the right pertaining to it by its very nature, as the one, true, divinely revealed religion, of having the exclusive right to manifest its beliefs in the public forum, a right accorded to it under the pre-conciliar concordat. Protestant sects are now waging an only too successful campaign in Colombia to convert the Catholic citizens from truth to error. *Dignitatis humanae* must be held directly responsible for this deplorable situation in Spain, Colombia and all the other Catholic States where such proselytism was prohibited by pre-conciliar constitutions and concordats. It could be argued that Article 4 of the Declaration could be invoked to restrict the high-powered proselytism now being undertaken in Catholic countries such as Spain, Poland, and, above all, in South America. In Brazil alone, for example, the percentage of Protestants in the population has risen from 6.3% in 1970 to 14% today, about 21 million people. The National Conference of Brazilian Bishops accepts that 600,000 Catholics are leaving the Church each year to join Protestant sects.³

Article 4 of the Declaration includes the following:

Religious bodies also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word.

This must, surely, be one of the most incredible statements to appear in any official document of the Catholic Church. It continues:

However, in spreading religious faith and in introducing religious practices, everyone ought at all times to refrain from any manner of action which might seem to carry a hint of coercion or of a kind of persuasion that would be dishonourable or unworthy, especially when dealing with poor or uneducated people. Such a manner of action would have to be considered an abuse of one's own right and a violation of the rights of others.

In Article 7 "the effective safeguard of the rights of all citizens" is cited as a justification for the intervention of government "against possible abuses committed on pretext of freedom of religion". While Father Harrison is almost certainly correct in maintaining that the Declaration precludes a Catholic State from prohibiting all non-Catholic propaganda, it would appear that, in theory at least, under the terms of Articles 4 & 7, it could restrict the type of "unworthy" proselytism employed by Protestant sects in South America and still conform to the teaching of *Dignitatis humanae*, but in practice this will never happen. Who is to decide what constitutes dishonourable or unworthy coercion? Strictly speaking, any attempt to persuade a Catholic to leave the one, true Church for a sect is unworthy, as any such persuasion *must* be based on falsehood. No argument denying the unique and divinely founded nature of the Church can possibly be based on truth, and, as Pope Leo XIII explained in *Immortale Dei*: "Whatever, therefore, is opposed to virtue and truth, may not rightly be brought temptingly before the eye of man, *much less sanctioned by the favour and protection of the law*" (my emphasis).

Articles 4 & 7 of the Declaration must also be read within the context of Article 3 which states that religious acts whether carried out in public or private "transcend by their very nature the order of terrestrial and temporal affairs", and that a government "would clearly transgress the limits set to its power were it to presume to direct or inhibit acts that are religious." It also states in Article 6 that wrong is done when a government uses any means to hinder "men from joining or leaving a religious body".

The entire thrust of the Declaration is to proclaim the neutrality

of the State in religious matters, and, despite the strictures on unworthy proselytism contained in Article 4, the teaching of several other articles would make it virtually impossible for any government to restrict proselytism without appearing to violate the Declaration. This illustrates yet again the accuracy of Professor Cullmann's observation of the extent to which the documents of Vatican II are "compromise texts" in which opposing views are juxtaposed "without establishing any genuine internal link between them" (see page 174).

Where Church and State were united in such countries as preconciliar Spain or Colombia, the Jehovah's Witnesses could be prevented by law from teaching "poor or uneducated" Catholics that the Catholic Church is the harlot "Babylon the Great" of the Apocalypse because, when the State is united to the Church, it accepts the guidance of the Church on questions of religious truth. But, separated from the Church, what basis can there possibly be for a government to insist that the Catholic Church is not Babylon the Great, and that teaching poor or uneducated people that she is constitutes dishonourable or unworthy proselytism? It is an indisputable fact that Article 4 of *Dignitatis humanae* has not been invoked on a single occasion in a single Catholic country to restrict proselytism, and it would be naive in the extreme to imagine that it ever will be.

In his visit to Brazil in October 1991 Pope John Paul II urged Catholics to crusade against sects offering what he termed "false mirages" to an impoverished people.⁴ But he did not suggest legal action to restrict such sects. As a disciple of Vatican II, how could he? In a visit to Malta in December 1989 he assured the President that the Church did not seek a privileged status at the expense of the State but that, rather, the Church "desires to balance her activity within the areas of competence proper to her with the activities of the State in the realm of its own competence."⁵ Malta is now saturated with every variety of sect, and no action is taken by the government to restrict their activities. How could such action be taken? It is for the government to decide what constitutes unworthy proselytism according to *Dignitatis humanae*, but it cannot do so because, according to *Dignitatis humanae*, it is incompetent to pronounce on religious questions! The disastrous effects of modifying the constitutions of

countries such as Malta where Church and State were united, in order to implement *Dignitatis humanae*, make clear the wisdom of Pope St. Pius X when, basing himself upon the teaching of his predecessor, Pope Leo XIII, he warned in his encyclical *Vehementer nos* of 11 February 1906:

That the State must be separated from the Church is a thesis absolutely false, a most pernicious error. Based, as it is, on the principle that the State must not recognize any religious cult, it is in the first place guilty of a great injustice to God; for the Creator of man is also the Founder of human societies, and preserves their existence as He preserves our own. We owe Him, therefore, not only a private cult, but a public and social worship to honour Him. Besides, this thesis is an obvious negation of the supernatural order. It limits the action of the State to the pursuit of public prosperity during this life only, which is but the proximate object of political societies; and it occupies itself in no fashion (on the plea that it is foreign to it) with their ultimate object which is man's eternal happiness after this short life shall have run its course. But as the present order of things is temporary and subordinated to the conquest of man's supreme and absolute welfare, it follows that the civil power must not only place no obstacle in the way of this conquest, but must aid us in effecting it.

The same thesis also upsets the order providentially established by God in the world, which demands a harmonious agreement between the two societies. Both of them, the civil and the religious society, although each exercises in its own sphere its authority over them. It follows necessarily that there are many things belonging to them in common in which both societies must have relations with one another. Remove the agreement between Church and State, and the result will be that from these common matters will spring the seeds of disputes which will become acute on both sides; it will become more difficult to see where the truth lies, and great confusion is certain to arise. Finally, this thesis inflicts great injury on society itself, for it cannot either prosper or last long when due place is not left for religion, which is the supreme rule and the sovereign mistress in all questions touching the rights and duties of men. Hence the Roman Pontiffs have never ceased, as circumstances required, to refute and condemn the doctrine of the separation of Church and State.

In presenting the final draft of *Dignitatis humanae*, Msgr. de Smedt stated in his *relatio*:

Some Fathers affirm that the Declaration does not sufficiently show how our doctrine is not opposed to ecclesiastical documents up till the time of the Supreme Pontiff Leo XIII. As we said in the last *relatio*, this is a matter for future theological and historical studies to bring to light more fully.

In the interest of strict historical accuracy the bishop should have included all the popes up to and including Pope Pius XII, and, to a large extent, Pope John XXIII. Almost thirty years have passed since Msgr. de Smedt made this statement, and no one has as yet made a coherent, let alone a convincing, attempt to reconcile the teaching of *Dignitatis humanae* with the traditional teaching of the popes. How the teaching of the Declaration can possibly be construed as a development of this citation from *Vehementer nos* is and must remain a mystery.

NOTES

¹ H, pp. 86-7.

² Ibid., p. 82.

³ Statistics taken from *The Catholic World Report*, February 1992 issue, p. 22.

⁴ Ibid.

⁵ *The Wanderer*, 18 January 1990.

APPENDIX IV

Bishop de Smedt's *Relatio* (introduction)
to the Chapter of *De Oecumenismo* on Religious Liberty
19 November 1963

Very many Conciliar Fathers have insistently demanded that this Sacred Synod clearly explain and proclaim the right of man to religious liberty. Among the reasons given, four principal ones should be listed:

1. *Truth*: The Church must teach and defend the right to religious liberty because there is question of truth, the care of which was committed to her by Christ;

2. *Defence*: The Church cannot remain silent today when almost half of mankind is deprived of religious liberty by atheistic materialism of various kinds;

3. *Peaceful Social Life*: Today in all nations of the world, men, who adhere to different religions or who lack all religious belief, must live together in one and the same human society; in the light of truth, the Church should point the way towards living together peacefully;

4. *Ecumenism*: Many non-Catholics harbour an aversion against the Church or at least suspect her of a kind of Machiavellianism because we seem to them to demand the free exercise of religion when Catholics are in a minority in any nation and at the same time refuse and deny the same religious liberty when Catholics are in the majority.

Religious liberty is such a grave problem in modern society that it cannot be omitted in a pastoral decree on Ecumenism. Therefore, we submit to your deliberations this fifth chapter of our schema on Ecumenism. The Secretariat for Promoting Christian Unity, to the best of its ability, has carefully watched over the preparation of this material.

Since we are treating a most difficult question and at the same time one of great importance in modern life, the authors of the

schema cherish the hope that your attention and pastoral consideration will emend what needs emendment and perfect what is still imperfect in the schema now offered to you.

The term "Religious Liberty" has a definite meaning in our text. In the forthcoming discussion, great confusion might arise if any of the Fathers give to the expression a meaning that differs from the one intended by the text.

When religious liberty is defended, it is not asserted that it is proper for man to consider the religious problem according to his own whim without any moral obligation and decide for himself according to his own will whether or not to embrace religion (religious indifferentism).

Nor is it affirmed that the human conscience is free in the sense that it is as it were outside of the law, absolved from any obligation towards God (laicism).

Nor is it said that falsehood is to be considered on an equal footing with truth, as though there were no objective norm of truth (doctrinal relativism).

Nor is it admitted that man in any way has a quasi-right to maintain a peaceful complacency in the midst of uncertainty (dilettantistic pessimism).

If anyone were to insist upon giving any of the aforesaid meanings to "Religious Liberty", he would attribute to our text a meaning which neither the words nor our intention possess.

What therefore is meant in the text by "Religious Liberty"? Positively, religious liberty is the right of the human person to the free exercise of religion according to the dictates of his conscience. Negatively, it is immunity from all external force in his personal relations with God, which the conscience of man vindicates to itself.

Religious liberty implies human autonomy, not from within certainly but from without. From within, man is not freed of the obligations towards the religious problem. From without his liberty is offended when obedience to the dictates of his conscience in religious matters is impeded.

At this point, two questions must be asked: 1. Can each man claim for himself religious liberty as a sacred right given to him

by God? 2. Is there, and to what extent is there, a duty on the part of others to recognize the aforesaid religious liberty?

Our decree, since it is pastoral, tries to treat the present matter especially from the practical point of view and, after the manner of John XXIII, will carefully strive to remove the whole question from that world of abstractions which was so dear to the nineteenth century. The question is put therefore regarding real man in his real dealings with other men, in contemporary human and civil societies.

I

The first pastoral problem which must be examined now by this Sacred Synod is this: *how must Catholics because of their faith conduct themselves towards men who do not belong to the Catholic faith?* We propose the following answer for your deliberations:

1. All Catholics are invited by Christ to strive by prayer, penance, witness and evangelizing in the Holy Spirit to bring our non-Catholic brothers to the blessing of the evangelical light and of the life of the Church. The sacred, absolute rights of God as well as the evangelical and natural truths must always and everywhere be honoured and observed by them.

2. They must abstain from all direct and indirect coercion. Although God wills all men to be saved and to come to the knowledge of the truth, the disciples of Christ may not infringe upon the religious liberty of the individual person. On the contrary, they must respect and esteem the right and duty of non-Catholics to follow the dictate of their own conscience even when, after sincere and sufficient study, it errs in good faith.

What is the reason of faith why non-Catholics can be forced by no one to admit the Catholic doctrine against their conscience? This reason is found in the very nature of the act of faith. For this act, on God's part, is a supernatural gift, which the Holy Spirit most freely gives to whom and when He wills; and, on man's part, it is and must be an assent which man freely gives to God.

3. All Catholics are bound, by the command of the Lord, to love and to help their non-Catholic brothers with a sincere and active charity.

II

At this point, the schema takes a step forward and asserts that each and every man, who follows his conscience in religious matters, has a natural right to true and authentic religious liberty. In this second part, it is proposed that the Sacred Synod solemnly demand religious liberty for the whole human family, for all religious groups, for each human person whether his conscience be sincere (*rectam*) and true or sincere and false concerning faith, provided only that he sincerely follow the dictate of conscience. Therefore, a general principle is laid down: *no human person can be the object of coercion or intolerance.*

What is the reason why observance of religious liberty is demanded of all? The human person, endowed with conscious and free activity, since he can fulfil the will of God only as the divine law is perceived through the dictate of conscience, can obtain his ultimate end only by prudently forming the judgement of conscience and by faithfully carrying out its dictate.

From the nature of things, in forming this judgement, whereby man tries freely to conform to the absolute demands of God's rights, neither any other man nor any human institution can take the place of the free judgement of man's conscience. Therefore, the man who sincerely obeys his own conscience intends to obey God Himself, although at times confusedly and unknowingly, and is to be considered worthy of esteem.

When religious liberty is violated, then the very freedom of the human person is violated in its principal matter, in a fundamental demand, in man's ordination to the supreme and ultimate end. The greatest injury is to prevent a man from worshipping God and from obeying God according to the dictate of his own conscience.

III

The schema takes still another step forward and enters upon a most difficult question. Religious liberty would be fruitless and empty if men were not able to carry out the dictate of their conscience in external acts whether in private life, in social life, or in public life, or if human persons were prevented from forming religious groups whose

members could worship the Supreme Deity by common and social acts and lead a religious life.

Here, however, there arises a most difficult problem. For, if a human person carries out the dictate of his conscience by external acts, there is danger of violating the rights and duties of another or of others. Since man is a social being and since in the human family men are subject to error and to sin, the conflict of rights and the conflict of duties cannot always be avoided.

From this it is evident that *the right and duty to manifest externally the dictate of conscience is not unlimited, but can be and at times must be tempered and regulated for the common good.*

This ordering of the common good must be done juridically in human society and belongs to public authority (*potestati publicae*). "One of the fundamental duties of civil authorities, therefore," we read in *Pacem in terris* [trans. NCWC rev. 62], "is to coordinate social relations in such fashion that the exercise of one man's rights does not threaten others in the exercise of their own rights nor hinder them in the fulfilment of their duties. Finally, the rights of all should be effectively safeguarded and, if they have been violated, completely restored."

How is public authority to carry out this duty? In establishing order for the common good, public authority can never act contrary to the order of justice established by God. As St. Thomas says: "Human law is truly law to the extent that it is in accordance with right reason; and therefore it is evident that it is derived from the eternal law. In so far as it departs from reason, it is a so-called 'wicked law', and therefore is not truly a law but a kind of violence" (ST, I, II, Q. 93, art. 3, AD. 2).

Recent Roman Pontiffs again and again have bewailed the fact that not a few governments have gone too far in this matter, ignoring and violating religious liberty. In our own day, there are some regions in which tolerance in religious matters has been so little observed that the Supreme Pontiff, Paul VI, in his allocution to the Fathers of the Second Vatican Council on 29 September, 1963, said, speaking of the violated right to religious liberty:

"Because of sufferings of this kind, with what sadness are We

affected, and how deeply We are grieved, when We behold that in some territories religious liberty, together with the other principal rights of man, is suppressed by the principles and arts of those who do not tolerate opinions different from theirs on politics, on races of men, or on religion of any kind. We are sorrowed also by the many injuries which are done to those who would like to profess their religion honestly and freely."

IV

In order that we might clearly understand the doctrine of the Church on the extent and limits of the civil power's duty relating to religious liberty, we must, in a few words, develop the history of this doctrine. Bear with me, Venerable Fathers, if I seem to make more than just demands on your patience. But the Secretariat for Promoting Christian Unity is convinced that many difficulties and confusions can be avoided in the study of the schema if, before the discussion begins, I show very briefly what the Supreme Pontiffs since the time of Pius IX have taught concerning the duties of public authority in religious matters.

On the question of religious liberty, the principal document is the encyclical *Pacem in terris*, in which Pope John XXIII especially developed these two points of doctrine: 1. By the law of nature, the human person has the right to the free exercise of religion in society according to the dictates of a sincere conscience (*conscientia recta*) whether the conscience be true (*conscientia vera*), or the captive either of error or of inadequate knowledge of truth and of sacred things. 2. To this right corresponds the duty incumbent upon other men and the public authority to recognize and respect that right in such a way that the human person in society is kept immune from all coercion of any kind (cf. AAS 55, 1963, p. 299; p. 264 and pp. 273-274).

Moreover, this doctrine must be understood as the contemporary terminus of a process of evolution both in the doctrine on the dignity of the human person and in the Church's pastoral solicitude for man's freedom. This doctrinal evolution took place according to a two-fold law:

1. *Law of continuity*: The Church's doctrine and solicitude are always self-consistent, always remain the same. This perennial doctrine can be expressed in the words of Pope John: "The dignity of the human person demands this, that in his actions man should enjoy his own counsel and freedom" (ibid. p. 265). This doctrine has its deepest roots in the Sacred Scriptures which teach that man was made to the image of God. From this doctrine stems the continual pastoral solicitude of the Church for man's true freedom.

2. *Law of progress*: The ecclesiastical magisterium adapts, explains, and defends genuine doctrine according to the demands of errors which are spread and according to the needs which arise from the development of man and of society. By this progress, the mind of the Church is led to search more deeply into doctrine and to understand it more clearly.

In this way, there has arisen in two areas a distinction which no one has explained more clearly than Pope John XXIII in his encyclical *Pacem in terris*: 1. A clearer distinction between false *philosophical teachings* and the *endeavours and institutions* which these ideologies give rise to or nourish. While on the one hand the ideologies are always to be condemned, on the other hand the economic, social and civil institutions which have arisen therefrom can contain something that is good and worthy of approval. 2. A clearer distinction between *errors* and the person who *errs* in good faith. While on the one hand errors must always be rejected, on the other hand the man in error "does not cease to be endowed with human nature, nor does he ever lose his dignity as a person, due consideration of which must always be maintained (ibid. pp. 299-300).

These two laws of continuity and progress must be kept before our eyes always when the documents of the Apostolic See are read and interpreted.

V

In this way the door is opened to a correct understanding of many pontifical documents which in the nineteenth century treated of religious liberty in such words that this liberty appeared as something that had to be condemned. The clearest example is found in

the encyclical *Quanta cura* of Pius IX, in which we read: "From this completely false concept of social rule (naturalism), they do not hesitate to foster that erroneous opinion which is especially injurious to the Catholic Church and the salvation of souls, called by our predecessor Gregory XVI *deliramentum*, namely that the freedom of conscience and of cults is the proper right of each man, and this should be proclaimed and asserted in every rightly constituted society" (ASS 3, 1867, p. 162).

As is evident, this freedom of conscience is condemned because of the ideology of the rationalists who founded their conclusions upon the principle that the individual conscience is under no law, and, therefore, is subject to no divinely given norms. (Cf. *Syllabus*, prop. 3, ASS 3, p. 168.) Freedom of worship is condemned also when it is based upon religious indifferentism (*ibid.*, prop. 15, p. 170). Finally, there is condemned that separation of the Church from the State which is based upon the rationalistic principle of the juridical omnicompetence of the State, according to which the Church is to be incorporated into the monistic organism of the State and is to be subjected to its supreme authority (*ibid.*, prop. 39, p. 172).

To understand these condemnations correctly, we must see in them the constant doctrine and solicitude of the Church concerning the true dignity of the human person and his true liberty (law of continuity). For the ultimate basis of human dignity lies in the fact that man is a creature of God. He is not God himself, but an image of God. From this absolute dependence of man upon God there flows every right and duty of man to claim for himself and for others true religious liberty. For man is subjectively bound to worship God according to the sincere dictate of his own conscience (*juxta rectam suae conscientiae normam*) because objectively he is absolutely dependent upon God.

In order, therefore, that his absolute dependence upon God might not be infringed in any way, man must not be impeded in any way by others or even by public authority from freely practising his religion. Therefore, in opposing the philosophical and political tenets of laicism, the Church was fighting for the dignity and true liberty of the

human person. In accordance with the law of continuity, then, the Church, in spite of changing conditions, has remained consistent both in the past and in the present.

Leo XIII had already started this doctrinal development when he distinguished clearly between the Church, the People of God, and the civil society, a terrestrial and temporal people (cf. *Immortale Dei*, ASS 18, 1885, pp. 166-7). By this means, he opened the way to a new affirmation of the due and lawful autonomy which belongs to the civil order and to its juridical dispositions. Because of this, it was possible to take a step forward (law of progress) towards a new judgement on "modern freedoms".

These freedoms can be tolerated (cf. *ibid.*, p. 174; *Libertas praestantissimum*, ASS 20, 1887, pp. 609-610). And yet they were to be *tolerated* only. The reason was evident. For at that time in Europe, the régimes which proclaimed the modern freedoms, religious liberty among them, consciously drew their inspiration from the laicist ideology. There was danger, therefore—and Leo XIII sensed this—that the civil and political institutions of this kind of republic, since they were of laicist orientation, would lead to such abuses that they would necessarily do violence to the dignity and true liberty of the human person. In accordance with the law of continuity, what was dear to Leo XIII is always dear to the Church—the safeguarding of the human person.

With the rise of State-Totalitarianism in its various forms, Pope Pius XI brought the pastoral and doctrinal development to a new height. There is no longer any danger, as there was in the nineteenth century, that the false concept of liberty might do violence to human dignity. There is a new danger, that every kind of human and civil liberty, and above all religious liberty, will be destroyed. For this reason, the Church is beginning in a new way to manifest her concern, which through the centuries has never wavered, for human liberty and dignity. With the increase of her pastoral concern, the Church's doctrine continues to develop.

Faithfully observing the law of continuity, Pius XI maintained the unstinting opposition of the Church to anti-religious laicism: "Those things which Pius X condemned we also condemn; as often as there

is in 'laicism' any meaning or purpose that is harmful or contrary to God or religion, we condemn laicism, and openly declare that it must be condemned, as alien to God and religion" (*Maximam gravissimamque*, AAS 16, 1924, p. 10).

But observing the rule of progress no less, Pius XI introduced a new distinction which was of great importance for a deeper understanding of Catholic doctrine. He made a distinction between the "freedom of consciences" and the "freedom of conscience". The latter he rejected as "equivocal", as often used by the laicist to signify "an absolute independence of conscience, which is an absurdity in man who was created and redeemed by God"; the former however, "freedom of consciences", he accepted, stating that he would joyfully fight the good fight for "freedom of consciences" (*Non abbiamo bisogno*, AAS 23, 1931, pp. 301-2).

Moreover, Pius XI not only fought for the religious liberty of the faithful, but he was at the same time compelled to show the pastoral concern of the Church on a wider basis. For not only Christian, but human reality was at stake, if we can rightly distinguish between two things that are in reality one.

By the way of new advances, Pius XI developed a truly liberal and Christian doctrine when he taught: "man as a person possesses God-given rights which must remain immune from all denial, privation, or interference on the part of society" (*Mit brennender Sorge*, AAS 29, 1937, p. 159). And he continues in no ambiguous words: "The believer possesses the inalienable right to profess his faith and to practise it in a proper way. Laws which interfere with or render difficult this profession and practice are in contradiction to the natural law" (*ibid.*, p. 160). No one, who understands the condition of the times and the purposes of this encyclical, can fail to understand the universal intent of this statement.

Deeply sharing the pastoral solicitude of his predecessor, Pius XII developed further and expanded his doctrine (law of progress). One thing he kept before his mind, the human person, created by God, redeemed by Christ, yet placed in stringent circumstances and surrounded on all sides by dangers.

In this context of doctrine and pastoral solicitude (law of continuity) must we read the text which in this matter is supreme. Enumerating "the fundamental rights of the person" which must be recognized and respected in every well-ordered society, he repeats the doctrine of Pius XI and vests it with new authority, affirming "the right to the private and public worship of God, including religious '*actio caritativa*'" (*Nuntius radiophonicus* 24 Dec. 1942, AAS 35, 1943, p. 19).

The Roman Pontiff did not propose this doctrine as a tenuous opinion or as a theory belonging to the schools. On the contrary, he carries the doctrine to its juridical conclusions so that it becomes a principle according to which just limits are placed on public authority: "The chief duty of any public authority is to safeguard the inviolable rights that are proper to men and so to provide that each one might more easily fulfil his duties" (*Nuntius radiophonicus* 1 June, 1941, AAS 33, 1941, p. 200).

Here we must recall especially the doctrine of Pius XII on the limitation of the State, because it deals with the suppression of errors within society: "Could it be that in certain circumstances He (God) would not give men any mandate, would not impose any duty, and would not even communicate the right to impede or to repress what is erroneous and false? A look at things as they are gives an affirmative answer." Then, having cited the example of divine providence, he proceeds: "Hence the affirmation: religious and moral error must always be impeded, when it is possible, because toleration of them is in itself immoral, is not valid absolutely and unconditionally. Moreover, God has not given even to human authority such an absolute and universal command in matters of faith and morality. Such a command is unknown to the common convictions of mankind, to Christian conscience, to the sources of revelation, and to the practice of the Church" (*Ci riesce*, AAS 45, 1953, pp. 798-9).

This declaration (law of progress) is of the greatest importance for our question, especially if we keep in mind what was in the past held concerning the role of the State.

At the end of this historical development comes the encyclical *Pacem in terris*. This document comes forth as the ripe fruit of a

slow process of growth which has taken place within the Church, under the light of the Holy Spirit, throughout the whole of the last century.

Our schema had already been prepared and had been studied by the Central Commission and by the Commission for Coordination when Pope John, on 11 April of this year, published his last encyclical *Pacem in terris*. We believe that our text is in complete conformity with his pellucid doctrine, which was received within the Church and outside of the Church with unprecedented praise.

We now submit this text for your consideration. In the historical conspectus of this doctrine, we have shown that, in the pontifical documents, along with continuity, we must look for a progressive spelling out of doctrine. It is evident that certain quotations from the Popes, because of a difference of words, can be put in opposition to our schema. But I beseech you, Venerable Fathers, not to force the text to speak outside of its historical and doctrinal context, not, in other words, to make the fish swim out of water.

Let our document be studied as it stands. It is not a dogmatic treatise, but a pastoral decree directed to men of our time. The whole world is waiting for this decree. The voice of the Church on religious liberty is being waited for in universities, in national and international organizations, in Christian and non-Christian communities, in the papers, and in public opinion—and it is being waited for with urgent expectancy.

We hope that it will be possible to complete the discussion and the approbation of this very brief, but very important, decree before the end of this second session. How fruitful our work would appear to the world if the Conciliar Fathers, with the voice of Peter's successor, could announce this liberating doctrine on religious liberty!

Venerable Fathers, we will add our labours to yours. Our Secretariat will study your emendations most attentively and also with the utmost speed. We will work day and night. But our hope is in the Lord. May Jesus Christ assist all of us with His grace. If at the end of this session He asks of us: "Young men, do you have any fish?", seeing the faith and good will of this Council, He might say to their successors what once He said to the Apostles: "Cast the net to the right of the boat: and you will find" (Jn. 21:6).

APPENDIX V

Central Pontifical Commission
preparatory to the Second Vatican Council

“Constitution on the Church”
A Schema Proposed by the Theological Commission

Second Part

Chapter IX

On the Relations Between the Church
and the State and On Religious Tolerance

Most Eminent and Reverend
Cardinal Alfredo Ottaviani, Chairman

N.B. The doctrinal schema presented by Cardinal Ottaviani comprised in its original Latin version seven pages of text and sixteen pages of references, going from Pius VI (1790) to John XXIII (1959). It was set aside, from the first session of the Council, to the benefit of the schema drawn up by the Secretariat for Christian Unity under Cardinal Bea. This latter schema, which was intended to be pastoral, extended to fourteen pages, *without any reference* to the magisterium that preceded it.

The Ottaviani schema does not enjoy a magisterial authority, but it represents the state of Catholic doctrine on the question on the eve of Vatican II and expresses substantially the doctrine that the Council would have had to propose if it had not been turned away from its purpose by the *coup d'état* of those who made of it the “States general of the people of God,” a second 1789! Let us add finally that the Council would have been able to bring to this statement all useful points of precision or improvements.

1. *Principle: Distinction between the Church and civil Society, and subordination of the goal of the City to the goal of the Church.*

Man, destined by God for a supernatural end, needs both the

Church and civil Society in order to attain his full perfection. Civil Society, to which man belongs because of his social character, must watch over earthly goods and act in such a way that, on this earth, the citizens can lead a "calm and peaceful life."¹ The Church, into which man must incorporate himself because of his supernatural vocation, has been founded by God in order that, always expanding more and more, it may lead its faithful by its doctrine, its sacraments, its prayer, and its laws, to their eternal end.

Each of these two societies is rich with the necessary resources to accomplish its own mission as it should. Each is also perfect, that is to say, supreme in its class and thus independent of the other, holding the legislative, judicial, and executive powers. This distinction of the two cities, as a constant tradition teaches it, rests on the words, of the Lord: "Render therefore to Caesar what is Caesar's, and to God what is God's."²

Nevertheless, as these two societies exercise their power over the same persons and often with regard to one same object, they cannot ignore each other. They must even proceed in perfect harmony, in order to flourish themselves, no less than their common members.

The Holy Council, with the intention of teaching which relations must exist between these two powers, according to the nature of each of them, declares in the very first place the firm obligation of holding that both the Church and civil Society have been instituted for the usefulness of man; that temporal happiness, entrusted to the care of the civil Authority, nevertheless is worth nothing for man if he is going to lose his soul.³ And that therefore the end of civil Society must never be sought by excluding or by endangering the ultimate end, namely, eternal salvation.

2. *The power of the Church and its limits; the duties of the Church towards the civil Authority.*

As the power of the Church thus extends to everything that

¹ 1 Tim. 2:2.

² Matt. 22:21.

³ Cf. Matt. 16:26; Mark 8:36; Luke 9:25.

leads men to eternal salvation; as that which concerns only temporal happiness is placed, as such, under the civil authority; it follows from this that the Church is not concerned with temporal realities, except to the extent that they are ordered to the supernatural end. As for the acts ordered to the end of the Church as well as to that of the City, like marriage, the education of children, and other similar things, the rights of the civil Authority must be exercised in such a way that, in the judgement of the Church, the higher goods of the supernatural order do not undergo any injury. In the other temporal activities which, divine law remaining unharmed, can be considered or accomplished legitimately and in diverse manners, the Church does not interfere in any way. Guardian of its own rights, perfectly respectful of the rights of others, the Church does not reckon that there belongs to it the choice of a form of government, or that of the institutions proper to the civil domain of the Christian nations: of the diverse forms of government, it does not disapprove of any, on the condition that religion and morals are safe. Likewise, indeed, as the Church does not renounce its own liberty, in the same way it does not prevent the civil Authority from freely making use of its laws and its rights.

What great benefits the Church procures for civil Society while accomplishing its mission, the heads of nations should recognize. Indeed, the Church itself cooperates in the citizens' becoming good by their virtue and their Christian piety. And if they are such as Christian doctrine prescribes, in the testimony of Saint Augustine,¹ beyond any doubt, great will be the public welfare. The Church also imposes onto the citizens the obligation of complying with legitimate orders "not only through fear of chastisement, but from a motive of conscience."² As for those to whom the government of the country has been entrusted, it warns them of the obligation to exercise their function, not through the desire for power, but for the good of the citizens, as having to render an account to God,³ of their power received from God.

¹ *Ep. ad Marcellinum*, 138, 15.

² Romans 13:5.

³ Cf. Hebrews 13:17.

Finally, the Church inculcates the observance as well of the natural laws as of the supernatural ones, thanks to which all civil order, and order among citizens and among the nations, can be realized in peace and in justice.

3. *Religious duties of the civil Authority.*

The civil Authority cannot be indifferent with regard to religion. Instituted by God in order to help men acquire a truly human perfection, it must not only supply its subjects with the possibility of procuring temporal goods for themselves, either material or intellectual, *but besides favour the abundance of spiritual goods, permitting people to lead a human life in a religious manner.* Now, among these goods, nothing is more important than to know and to recognize God, and then to fulfil one's duties towards God: here indeed is the foundation of all private and, still more, public virtue.

These duties towards God oblige, towards the divine Majesty, not only each one of the citizens but also the civil Authority, which, in its public acts, incarnates civil Society. God is indeed the author of civil Society and the source of all the goods which flow down through it to all its members. Civil Society must therefore honour and serve God. As for the manner of serving God, this can be no other, in the present economy, than that which He Himself has determined, as obligatory, in the true Church of Christ; and this not only in the person of the citizens, but equally in that of the Authorities who represent civil Society.

That the civil Authority has the power to recognize the true Church of Christ is clear from the manifest signs of its divine institution and mission, signs given to the Church by its divine Founder. The civil Authority also, and not only each of the citizens, has the duty of accepting the Revelation proposed by the Church itself. Likewise, in its legislation, it must conform itself to the precepts of the natural law and take a strict account of the positive laws, both divine and ecclesiastical, intended to lead men to supernatural happiness.

Just as no man can serve God in the manner established by Christ if he does not know clearly that God has spoken through Jesus Christ,

likewise civil Society itself cannot do this, if the citizens do not have at first a sure knowledge of the fact of Revelation, just like the civil Authority, to the extent that it represents the people.

It is thus in a very particular way that the civil Authority must protect the full liberty of the Church and not prevent it in any way from integrally carrying out its mission, either in the exercise of its sacred magisterium, or in the arrangement and performance of its worship, or in the administration of the sacraments and the pastoral care of the faithful. The freedom of the Church must be recognized by the civil Authority in everything that concerns its mission, especially in the choice and the formation of its aspirants to the priesthood; in the election of its bishops; in the free and mutual communication between the Roman Pontiff and the bishops and the faithful; in the foundation and the government of institutes of the religious life; in the publication and propagation of writings; in the possession and administration of temporal goods; as also, in a general way, in all those activities which the Church, without disregarding civil rights, judges appropriate for leading men towards their ultimate end, not making an exception of secular education, social works, and so many other miscellaneous resources.

Finally, it devolves seriously upon the civil Authority to exclude from legislation, government, and public activity everything which it would judge to be capable of impeding the Church from attaining its eternal end; indeed further, it must apply itself to facilitating the life which is founded on principles that are Christian and consistent at their highest point with this sublime end for which God has created men.

4. General principle of application of the doctrine set forth.

That the ecclesiastical authority and the civil Power maintain different relations according to the manner in which the civil Authority, personally representing the people, understands Christ and the Church founded by Him—this is what the Church has always recognized.

5. *Application in a Catholic City.*

The whole doctrine, put forth above by the Holy Council, cannot be applied except in a city where the citizens not only are baptized but profess the Catholic faith. In this case it is the citizens themselves who freely choose that civil life be formed according to Catholic principles and that thus, as Saint Gregory the Great says, "The road to Heaven be more widely opened."¹

Nevertheless, even in these fortunate conditions, the civil Authority is not permitted in any way to compel consciences to accept the faith revealed by God. Indeed the faith is essentially free and cannot be the object of any constraint, as the Church teaches by saying, "That no one be compelled to embrace the Catholic Faith unwillingly."²

Still, this does not prevent the civil Authority from having to procure the intellectual, social, and moral conditions required in order that the faithful, even those less versed in knowledge, be able to persevere more easily in the faith received. Thus then, in the same way that the civil Authority judges that it has the right to protect public morality, likewise, in order to protect the citizens against the seductions of error, in order to keep the City in the unity of faith, which is the supreme good and the source of manifold, even temporal, benefits, the civil authority can, by itself, regulate and moderate the public manifestations of other cults and defend its citizens against the spreading of false doctrines which, in the judgement of the Church, put their eternal salvation at risk.

6. *Religious tolerance in a Catholic city.*

In this safeguarding of the true faith, one must proceed according to the requirements of Christian charity and of prudence, in order that the dissidents be not alienated from the Church through terror, but rather drawn to it; and that neither the City nor the Church undergo any damage. Therefore, both the common good of the Church and the common good of the State always have to be considered, by

¹ *Ep. 65, ad Mauricium.*

² Code of Canon Law, Canon 1351.

virtue of which a just tolerance, even sanctioned by laws, can, according to the circumstances, be imposed onto the civil Authority. This, on the one hand, would be in order to avoid greater evils, such as scandal or civil war, a hindrance to conversion to the true faith, and other evils of this kind; on the other hand, in order to obtain a greater good, like civil cooperation and the peaceful coexistence of citizens of different religions, a greater freedom for the Church, and a more effective accomplishment of its supernatural mission, and other similar goods. In this question, there must be taken into consideration not only the good of national order, but the welfare of the universal Church besides (and of international civil welfare). By this tolerance the Catholic civil Authority imitates the example of divine Providence, which permits evils from which it draws greater goods. This tolerance is to be observed chiefly in the countries where, for centuries, there have existed non-Catholic communities.

7. Application in a Non-Catholic City.

In the cities where a great part of the citizens do not profess the Catholic faith or do not even know the fact of Revelation, the non-Catholic civil Authority must, in matters of religion, conform at least to the precepts of the natural law. Under these conditions, this non-Catholic Authority should concede civil liberty to all the forms of worship that are not opposed to natural religion. This liberty is not opposed in such a case to Catholic principles, it being given that it suits the good of the Church as well as that of the State. In the cities where the Authorities do not profess the Catholic religion, the Catholic citizens have above all the duty to bring it about, through their virtues and civic actions. By means of these, united with their fellow citizens, they promote the common good of the State, that there be granted to the Church the full freedom to accomplish its divine mission. From the free action of the Church, indeed, the non-Catholic city also suffers no harm and even derives numerous and remarkable benefits. In this way, then, the Catholic citizens must do their best so that the Church and the civil Authority, although still separated juridically, lend each other a mutual benevolent aid.

In order not to harm either the Church or the State through un-concern or imprudent zeal, the Catholic citizens, in the defence of the rights of God and of the Church, must submit to the judgement of the ecclesiastical authority: to it belongs judgement on the good of the Church, according to the diverse circumstances, and the directing of Catholic citizens in the civil actions intended to defend the altar.

8. *Conclusion.*

The Holy Council recognizes that the principles of the mutual relations between the ecclesiastical authority and the civil authority must not be applied otherwise than according to the rule of conduct given forth above. Nevertheless, it cannot permit these same principles to be obscured by some false laicism, even under pretext of the common good. These principles, indeed, rest on the absolutely firm rights of God; on the unchangeable constitution and mission of the Church; also on the social nature of man, which, remaining always the same, across all the centuries, determines the essential purpose of civil Society itself, notwithstanding the diversity of political systems and the other vicissitudes of history.¹

¹ Translated from a French translation drawn up with the valuable cooperation of Professor Gabriel Chabot. N.B. We have omitted the numerous notes which this document carried. If anyone wants to become familiar with these, let him refer to the original Latin text.

APPENDIX VI

The Discourse *Ci riesce* A Commentary and the Text (My emphasis throughout.)

This discourse was delivered on 6 December 1953 to participants in the fifth national convention of the Union of Italian Catholic Jurists.* It examined the problems which would confront a predominantly Catholic State which entered into a juridical community with other sovereign states, some of which were not Catholic. Each state would have retained its sovereignty, but would have united freely into the juridical community which required that for the whole of its territory the citizens of every member-state should be allowed the exercise of their own beliefs and ethical religious practices, as long as these did not contravene the penal laws of the state in which they were residing.

Pope Pius XII explained to the jurists the consequences arising from the co-existence of Catholic and non-Catholic states in such a community. Two questions arose. The first concerned the obligation of the conscience to what is objectively true and good, which was not a matter for discussion. The second concerned the attitude of the individual state towards the international community in what regards religion and morality. The Pope reiterated the traditional Catholic teaching that "no human authority, no state, no community of states, whatever be their religious character, can give a positive command or positive authorization to teach or to do that which would be contrary to religious truth or moral good . . . Not even God could give such a positive command or positive authorization, because it would be in contradiction to His absolute truth and sanctity."

The Pope then dealt with the second question:

* Reported in *Osservatore Romano*, Dec. 7-8, 1953 and in *Acta Apostolicae Sedis*, v. 45, pp. 794-802 (Dec. 16, 1953). Italian text. Translation by Vatican Press Office.

The occasion for this discourse was a special audience which the Holy Father granted to participants in the fifth national convention of the Union of Italian Catholic Jurists. The audience comprised a large number of magistrates and university professors as well as lawyers, both clerical and lay, and was received by the Holy Father in Consistorial Hall at the Vatican.

Could the norm be established in a community of states — at least in certain circumstances — that the free exercise of belief and of a religious or moral practice which possesses validity in one of the member states, be not hindered throughout the entire territory of the community of nations by state laws or coercive measures? In other words, the question is raised whether in these circumstances *non impedire* or *toleration* is permissible, and whether, consequently, *positive repression* is not always a duty.

The Pope answered this question in the affirmative. He reiterated the traditional position that although “that which does not correspond to truth or to the norm of morality objectively has no right to exist, *to be spread or to be activated* . . . failure to impede this with civil laws and coercive measures can nevertheless be justified *in the interests of a higher and more general good.*”

What is this higher and more general good within the context of *Ci riasce*? There is not the least suggestion on the part of Pope Pius XII that non-Catholics in a Catholic State could possess any natural right not to be prevented from spreading their erroneous views. Throughout the discourse he refers clearly and only to toleration. The Catholic State entering into the juridical community would commit itself to the toleration of religious error for “the good which, according to a wise prognosis can be derived from toleration for the international community as such, and indirectly for the member state.” The higher and more general good to which the Pope referred was evidently that of peace. It is, he explained, “precisely the will to prevent threatening conflicts that urges men toward a supranational juridical community.”

Once a Catholic State had entered freely into such a juridical community, after having weighed carefully “the dangerous consequences that stem from toleration against those from which the community of nations will be spared, if the formula of toleration be accepted”, and after having also asked “for the judgement of the Church”, above all that of “the Roman Pontiff”, then the right to “impede or repress what was erroneous and false” would no longer exist within that state providing its penal laws were not infringed. Pope Pius even went to the extent of stating that in such circumstances God Himself would

not "give men any mandate, would not impose any duty, and would not even communicate the right to repress what is erroneous and false." The fact that before adopting the formula of toleration, Catholic statesmen are required to judge whether the conditions specified by the Pope are "verified in the concrete", and to consult the Holy See, indicates a concession to be made in particular cases rather than a universal mandate for toleration.

It is evident that it would be the fact that the Catholic State had entered freely into a juridical agreement that would remove its right to repress what is erroneous and false. Pope Pius' reference to "certain circumstances" when God would not communicate to men the right to repress error has been interpreted as implying that he might have envisioned such circumstances in cases other than that of a Catholic State entering into such a juridical agreement, but this is pure speculation. The Pope certainly gave no hint of any such instance in the discourse. He stated the traditional position that the duty of repressing moral and religious error is not the ultimate norm of action, but that it must be subordinated to "what is demanded for safeguarding and considering the *bonum commune* (common good)." By no possible stretch of the imagination could *Ci riesce* be interpreted as teaching, even implicitly, that the absence of a right to repress error within a Catholic State which had entered into such a juridical union could stem from any *natural right* on the part of its non-Catholic citizens not to be prevented from propagating their erroneous beliefs in public. They would enjoy a civil right to the public expression of their beliefs. This right would be owed to them in justice as it would have been granted by a just law (see page 221). It would be a purely civil right and not a natural right founded in the dignity of the human person.

The Discourse *Ci riesce*

International Community and Religious Tolerance

*To participants in the Fifth National Convention of the
Union of Italian Catholic Jurists, 6 December 1953*

It gives Us great satisfaction, beloved sons of the Union of Catholic

Jurists, to see you gathered round Us here and to bid you heartfelt welcome.

In the beginning of October another congress of jurists, dealing with international penal law, gathered in Our summer residence. Your convention is rather national in character, but the subject it is treating, "The Nation and the International Community," touches again the relations between peoples and sovereign states. It is not by chance that congresses are multiplying for the study of international questions, be they scientific, economic or political. The clear fact that relations between individuals of various nations and between nations themselves are growing in multiplicity and intensity, makes daily more urgent a right ordering of international relations, both private and public; all the more so since this mutual drawing together is caused not only by vastly improved technological progress and by free choice but also by the more profound action of an intrinsic law of development. This movement, then, is not to be repressed but fostered and promoted.

I

In this work of expansion, communities of states and peoples, whether already existing or only a goal to be achieved, have naturally a special importance. They are communities in which sovereign states, that is to say, states which are subordinate to no other state, are united into a juridical community to attain definite juridical ends. It would give a false idea of these juridical communities to compare them to world empires, of the past or of the present, in which different racial stocks, peoples and states become fused, whether they want it or not, into a single conglomeration of states. In the present instance, however, states, remaining sovereign, freely unite into a juridical community.

In this connection, the history of the world, which shows a continuous succession of struggles for power, no doubt might make the establishment of a juridical community of free states seem almost utopian. The conflicts of the past have too often been motivated by a

desire to subjugate other nations and to extend the range of one's own power, or by the necessity of defending one's liberty and one's own independent existence. This time, on the contrary, it is precisely the will to prevent threatening conflicts that urges men toward a supranational juridical community. Utilitarian considerations, which certainly carry considerable weight, point toward the working out of peace; and finally, perhaps, it is precisely this mingling of men of different nations because of technological progress that has awakened the faith, implanted in the hearts and souls of individuals, in a higher community of men, willed by the Creator and rooted in the unity of their common origin, nature and final destiny.

II

These and other similar considerations show that advance toward establishing a community of peoples does not look, as to a unique and ultimate norm, to the will of the States but rather to nature, to the Creator. The right to existence, the right to respect from others and to one's good name, the right to one's own culture and national character, the right to develop oneself, the right to demand observance of international treaties, and other like rights, are exigencies of the law of nations, dictated by nature itself. The positive law of different peoples, also indispensable in the community of states, has the office of defining more exactly the rights derived from nature and of adapting them to concrete circumstances, also of making other provisions, directed, of course, toward the common good, on the basis of a positive agreement, which once freely entered into, has binding force.

In this community of nations, then, every state becomes a part of the system of international law, and hence of natural law, which is both foundation and crown of the whole. Thus the individual nation no longer is — nor in fact was it ever — “sovereign”, in the sense of being entirely without restrictions. “Sovereignty” in the true sense means self-rule and exclusive competence concerning what has to be done and how it is to be done in regard to the affairs of a definite territory, always within the framework of international law, without however becoming dependent on the juridical system of any other

state. Every state is immediately subject to international law. States which would lack this fullness of power, or whose independence of the power of any other state would not be guaranteed by international law, would not be sovereign. But no state could complain about a limitation of its sovereignty if it were denied the power of acting arbitrarily and without regard for other states. Sovereignty is not a divinization of the state, or omnipotence of the state in the Hegelian sense, or after the manner of absolute juridical positivism.

III

There is no need to explain to you students of law how the setting up, maintenance and operation of a real community of states, especially one that would embrace all peoples, give rise to many duties and problems, some of them extremely difficult and complicated, which cannot be solved by a simple yes or no answer. Such would be the question of race and origin, with their biological, psychological and social consequences; the question of language; the question of family life, with its relations varying according to nation, between husband and wife, parents, the larger family group; the question of the equality or equivalence of rights in what regards goods, contracts and persons for the citizens of one sovereign state who either live for a short time in a foreign state or, retaining their own nationality, establish permanent residence there; the question of the right of immigration or of emigration, and other like questions.

The jurist, the statesman, the individual state, as well as the community of states should here take account of all the inborn inclinations of individuals and communities in their contracts and reciprocal relations: such as the tendency to adapt or to assimilate, often pushed even to an attempt to absorb; or contrariwise, the tendency to exclude and to destroy anything that appears incapable of assimilation; the tendency to expand, to embrace what is new, as on the contrary, the tendency to retreat and to segregate oneself; the tendency to give oneself entirely, forgetful of self, and its opposite, attachment to oneself, excluding any service of others; the lust for power, the yearning to keep others in subjection, and so on.

All these instincts, either of self-aggrandizement or of self-defence, have their roots in the natural dispositions of individuals, of peoples, of races, and of communities, and in their restrictions and limitations. One never finds in them everything that is good and just. God alone, the origin of all things, possesses within Himself, by reason of His infinity, all that is good.

From what We have said, it is easy to deduce the fundamental theoretical principle for dealing with these difficulties and tendencies: within the limits of the possible and lawful, to promote everything that facilitates union and makes it more effective; to remove everything that disturbs it; to tolerate at times that which it is impossible to correct but which, on the other hand, must not be permitted to make shipwreck of the community, from which a higher good is hoped for. The difficulty rests in the application of this principle.

IV

In this connection, We wish to treat with you who are happy to profess yourselves Catholic jurists, concerning one of the questions which arise in a community of peoples, that is, the practical co-existence (*convivenza*) of Catholic with non-Catholic states.

Depending upon the religious belief of the great majority of citizens, or by reason of an explicit declaration of law, peoples and member states of the international community will be divided into those that are Christian, non-Christian, indifferent to religion or consciously without it, or even professedly atheist. The interests of religion and morality will require for the whole extent of the international community a well-defined rule, which will hold for all the territory of the individual sovereign member-states of the international community. According to probability and depending on circumstances, it can be foreseen that this ruling of positive law will be thus enunciated: within its own territory and for its own citizens, each state will regulate religious and moral affairs by its own laws. Nevertheless, throughout the whole territory of the international community of states, the citizens of every member-state will be allowed the exercise of their own beliefs and ethical and religious practices, in so far as these do not contravene the penal laws of the state in which they are residing.

For the jurist, the statesman and the Catholic state arises here the question: can they give their consent to such a ruling when there is question of entering and remaining in an international community?

Now, in regard to religious and moral interests, a twofold question arises: the first deals with the objective truth and the obligation of conscience toward what is objectively true and good; the second deals with the practical attitude of the international community toward the individual sovereign state and the attitude of the individual State toward the international community in what regards religion and morality.

The first question can hardly be a matter for discussion and legal ruling between the individual states and the international community, especially in the case of a plurality of different religious beliefs within the international community. On the other hand, the second question can be of extreme importance and urgency.

V

Now to give the right answer to the second question. Above all, it must be clearly stated that no human authority, no state, no community of states, whatever be their religious character, can give a positive command or positive authorization to teach or to do that which would be contrary to religious truth or moral good. Such a command or such an authorization would have no obligatory power and would remain without effect. No authority may give such a command, because it is contrary to nature to oblige the spirit and the will of man to error and evil, or to consider one or the other as indifferent. Not even God could give such a positive command or positive authorization, because it would be in contradiction to His absolute truth and sanctity.

Another question, essentially different, is this: Could the norm be established in a community of states—at least in certain circumstances—that the free exercise of a belief and of a religious or moral practice which possess validity in one of the member states, be not hindered throughout the entire territory of the community of nations by state laws or coercive measures. In other words, the question is raised whether in these circumstances *non impedire* or toleration

is permissible, and whether, consequently, positive repression is not always a duty.

We have just adduced the authority of God. Could God, although it would be possible and easy for Him to repress error and moral deviation, in some cases choose the *non impedire* without contradicting His infinite perfection? Could it be that *in certain circumstances* He would not give men any mandate, would not impose any duty, and would not even communicate the right to impede or to repress what is erroneous and false? A look at things as they are gives an affirmative answer. Reality shows that error and sin are in the world in great measure. God reprobates them, but He permits them to exist. Hence the affirmation: religious and moral error must always be impeded, when it is possible, because toleration of them is in itself immoral, is not valid *absolutely and unconditionally*.

Moreover, God has not given even to human authority such an absolute and universal command in matters of faith and morality. Such a command is unknown to the common convictions of mankind, to Christian conscience, to the sources of revelation and to the practice of the Church. To omit here other Scriptural text which are adduced in support of this argument, Christ in the parable of the cockle gives the following advice: let the cockle grow in the field of the world together with the good seed in view of the harvest (cf. Matt. 13: 24-30). The duty of repressing moral and religious error cannot therefore be an ultimate norm of action. It must be subordinate to *higher and more general* norms which *in some circumstances* permit, and even perhaps seem to indicate as the better policy, toleration of error in order to promote a *greater good*.

Thus the two principles are clarified to which recourse must be had in concrete cases for the answer to the serious question concerning the attitude which the jurist, the statesman and the sovereign Catholic State is to adopt in consideration of the community of nations in regard to a formula of religious and moral toleration as described above. First: that which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread, or to be activated. Secondly: failure to impede this with civil laws and coercive

measures can nevertheless be justified in the interests of a higher and more general good.

Before all else the Catholic statesman must judge if this condition is verified in the concrete—this is the “question of fact”. In his decision he will permit himself to be guided by weighing the dangerous consequences that stem from toleration against those from which the community of nations will be spared, if the formula of toleration be accepted. Moreover, he will be guided by the good which, according to a wise prognosis can be derived from toleration for the international community as such, and indirectly for the member state. In that which concerns religion and morality he will also ask for the judgement of the Church. For her, only he to whom Christ has entrusted the guidance of His whole Church is competent to speak in the last instance on such vital questions, touching international life: that is, the Roman Pontiff.

VI

The institution of a community of nations, which today has been partly realized but which is striving to be established and consolidated upon a higher and more perfect level, is an ascent from the lower to the higher, that is, from a plurality of sovereign states to the greatest possible unity.

The Church of Christ has, in virtue of a mandate from her Divine Founder, a similar universal mission. She must draw to herself and bind together in religious unity the men of all races and of all times. But here the process is in a certain sense the contrary: she descends from the higher to the lower. In the former case, the superior juridical unity of nations was and still is to be created. In the latter, the juridical community with its universal end, its constitution, its powers and those in whom these powers are invested, are already established from the beginning, by the will and decree of Christ Himself. The duty of this universal community from the outset is to incorporate all men and all races (cf. Matt. 28: 19) and thereby to bring them to the full truth and the grace of Jesus Christ.

The Church, in the fulfilment of this her mission, has always

been faced and is still faced in large measure by the same problems which the functioning of a community of sovereign states must overcome; only she feels them more acutely, for she is obligated to the purpose of her mission, determined by her Founder Himself, a purpose which penetrates to the very depths of the spirit and heart of man. In this state of affairs conflicts are inevitable, and history shows that there have always been conflicts, there still are, and, according to the words of the Lord, there will be till the end of time.

For the Church with her mission has been, and is, confronted with men and nations of marvellous culture, with others of almost incredible lack of civilization, and with all possible intermediate degrees: diversity of extraction, of language, of philosophy, of religious belief, of national aspirations and characteristics; free peoples and enslaved peoples; peoples that have never belonged to the Church and peoples that have been separated from her communion.

The Church must live among them and with them; she can never declare before anyone that she is "not interested". The mandate imposed upon her by her Divine Founder renders it impossible for her to follow a policy of non-interference or *laissez faire*. She has the duty of teaching and educating in all the inflexibility of truth and goodness, and with this absolute obligation she must remain and work among men and nations that in mental outlook are completely different from each other.

Let Us return now, however, to the two propositions mentioned above: and in the first place to the one which denies unconditionally everything that is religiously false and morally wrong. With regard to this point there never has been, and there is not now, in the Church any vacillation or any compromise, either in theory or in practice.

Her deportment has not changed in the course of history, nor can it change whenever or wherever, under the most diversified forms, she is confronted with the choice: either incense for idols or blood for Christ. The place where you are now present, Eternal Rome, with the remains of a greatness that was and with the glorious memories of its martyrs, is the most eloquent witness to the answer of the Church. Incense was not burned before the idols, and Christian

blood flowed and consecrated the ground. But the temples of the gods lie in the cold devastation of ruins howsoever majestic; while at the tombs of the martyrs the faithful of all nations and all tongues fervently repeat the ancient Creed of the Apostles.

Concerning the second proposition, that is to say, concerning tolerance in determined circumstances, toleration even in cases in which one could proceed to repression, the Church—out of regard for those who in good conscience (though erroneous, but invincibly so) are of a different opinion—has been led to act and has acted with that tolerance, after she became the State Church under Constantine the Great and the other Christian emperors, always for higher and more cogent motives. So she acts today, and also in the future she will be faced with the same necessity. In such individual cases the attitude of the Church is determined by what is demanded for safeguarding and considering the *bonum commune*: on the one hand, the common good of the Church and the State in individual states, and on the other, the common good of the universal Church, the reign of God over the whole world. In considering the “pro” and “con” for resolving the “question of fact”, as well as what concerns the final and supreme judge in these matters, no other norms are valid for the Church except the norms which We have just indicated for the Catholic jurist and statesman.

VII

The ideas We have set forth may also be useful for the Catholic jurist and statesman when, in their studies or in the exercise of their profession, they come in contact with the agreements (Concordats, Treaties, Agreements, *Modus vivendi*, etc.) which the Church (that is to say, for a long time now, the Apostolic See) has concluded and still concludes with sovereign states. The Concordats are for her an expression of the collaboration between the Church and State. In principle, that is, in theory, she cannot approve complete separation of the two powers. The Concordats, therefore, must assure to the Church a stable condition in right and in fact in the state with which they are concluded, and must guarantee to her full independence in the fulfilment of her divine mission.

It is possible that the Church and the State proclaim in a Concordat their common religious conviction; but it may also happen that a Concordat have, together with other purposes, that of forestalling disputes with regard to questions of principle and of removing from the very beginning possible matters of conflict. When the Church has set her signature to a Concordat, it holds for everything contained therein. But, with the mutual acknowledgment of both high contracting parties, it may not hold in the same way for everything. It may signify an express approval, but it may also mean a simple tolerance, according to those two principles which are the norm for the co-existence (*convivenza*) of the Church and her faithful with the civil powers and with men of another belief.

This, beloved sons, is what We intended to treat of with you rather fully. For the rest, We are confident that the international community can banish every danger of war and establish the peace, and, as far as the Church is concerned, can guarantee to her freedom of action everywhere, so that she may be able to establish in the spirit and the heart, in the thoughts and the actions of men, the Kingdom of Him Who is the Redeemer, the Lawgiver, the Judge, the Lord of the world, Jesus Christ, Who rules as God over all things, blessed forever (Rom. 9,5).

While with Our paternal good wishes We follow your work for the greater good of nations and for the perfecting of international relations, from the fulness of Our heart We impart to you, as a pledge of the richest divine graces, the Apostolic Benediction.

APPENDIX VII

The Evolution of *Dignitatis humanae*

1960

At the end of 1960 members of a subcommission *ad hoc* of Cardinal Bea's Secretariat for Christian Unity, including Bishop de Smedt of Bruges, meet in Fribourg, Switzerland to prepare a preliminary draft on the subject of religious liberty. The draft becomes known as "The Fribourg Document."¹

1962

Prior to the Council the Theological Commission prepares two schemata that are fundamentally the same as Chapter IX of the eventually discarded schema on the Church (see Appendix V).²

18 June 1962

The Fribourg draft is presented by the Unity Secretariat to the Central Preparatory Commission as Chapter V for the schema on Ecumenism. It is rejected as the Secretariat does not have commission status and does not have the authority to present schemata.³

July 1962

Pope John XXIII establishes an *ad hoc* commission with the object of reconciling the schemata of the Unity Secretariat and the Theological Commission.⁴

15 July 1962

The Unity Secretariat submits a revised compromise schema to the *ad hoc* commission.⁵

2 August 1962

Negotiations between the Unity Secretariat and the Theological Commission collapse.⁶

11 Oct. - 8 Dec. 1962

FIRST SESSION OF THE COUNCIL

22 October 1962

The Secretariat for Christian Unity is granted commission status by Pope John XXIII empowering it to submit schemata to the Council.⁷

January 1963

The subject of religious liberty is removed from the Council agenda by the Coordinating Commission.⁸

Spring 1963

Murray is forbidden to lecture at the Catholic University of America at the instigation of the Apostolic Delegate.⁹

4 April 1963

Murray is invited to the Council as a *peritus* at the insistence of Cardinal Spellman.¹⁰ From the day of his arrival in Rome for the Second Session Murray was destined to play a central role in framing the eventual Declaration on Religious Freedom.¹¹ The Unity Secretariat schema is restored to the agenda as a result of pressure by the American bishops upon the Council Presidency at the behest of Murray. It would not have been restored to the agenda without this strong American intervention.¹²

29 Sept. – 4 Dec. 1963

SECOND SESSION OF THE COUNCIL

12 November 1963

The Theological Commission votes in favour of submitting Chapter V of the schema on Ecumenism to the Council Fathers as a basis for discussion.¹³

19 November 1963

The schema is handed to the Council Fathers.¹⁴

2 April 1964

The second schema, *Declaratio prior*, is drafted between sessions.¹⁵ Murray does not take part in its preparation but becomes involved in the redrafting of it in the Autumn of 1964.¹⁶ From this point onwards his influence in the various redactions is greater than that of any other individual, and with each redaction his own theory is

expressed more clearly until it emerges virtually *in toto* in the Declaration itself.

14 Sept. – 21 Nov. 1964

THIRD SESSION OF THE COUNCIL

23–28 September 1964

The schema is debated.

17 November 1964

The third schema, *Textus emendatus*, is distributed to the Fathers as an independent document.¹⁷

14 Sept. – 8 Dec. 1965

FOURTH SESSION OF THE COUNCIL

15–17 & 20 Sept. 1965

The fourth schema, *Textus reemendatus*, is debated.¹⁸

21 September 1965

It is approved as follows: *Placet*: 1997; *Non placet*: 224.¹⁹

26–27 October 1965

The fifth schema, *Textus recognitus*, is approved. The voting on Articles 1–5 is *Placet*: 1539; *Non placet*: 65; *Placet juxta modum*: 534.²⁰

19 November 1965

The sixth schema, *Textus denuo recognitus*, is approved as follows: *Placet*: 1954; *Non placet*: 249.²¹

7 December 1965

The Declaration itself, *Dignitatis humanae*, is approved as follows: *Placet*: 2308; *Non placet*: 70. It is promulgated on the same day.²²

NOTES

¹ M. Wallace, *The Right to Religious Liberty and its Basis in the Theological Literature of the French Language* [1940–1980] (The Catholic University of America, 1987). This PH.D thesis makes clear the difference in the alleged basis

for religious liberty posited by certain French theologians and bishops, and that put forward by Father Murray, but is concerned primarily with the theories of four French theologians. The author comments in her introduction that:

John Courtney Murray had argued that the nature of the right to religious liberty involved a negative right to immunity from coercion; and he had seen religious liberty primarily as a juridical and constitutional question. But before, during and after the Council an alternative view of religious liberty was proposed, especially by a number of bishops belonging to a French-speaking group. Their understanding of religious liberty was primarily seen as a positive right, namely the right to develop freely according to the judgement of conscience in view of the inalienable dignity of the person and the person's corresponding love for objective truth. The grounding of this right was linked both to theological and ethical concerns such as Sacred Scripture and the freedom of the act of faith. Although the final document on religious liberty is generally interpreted as reflecting more the approach of John Courtney Murray, there are also traces of the theories of the French-speaking group of bishops and theologians, as will be indicated in this dissertation.

A preliminary version of this French view is contained in the Fribourg document which is included in full (in French) in Marilyn Wallace's dissertation. I have not examined the French theories which were gradually superseded by the Murray thesis in my book as I am concerned primarily with the finalized text of the Declaration, which is virtually the Murray thesis. An authorized facsimile of the Wallace dissertation can be obtained from U.M.I., 300 North Zeeb Road, Ann Arbor, MI 48106, U.S.A. (Order number 8803896).

² COD, p. 49.

³ Op. cit. note 1, p. 8. COD, p. 50.

⁴ TIC, p. 81.

⁵ Ibid.

⁶ Ibid.

⁷ COD, pp. 50-1.

⁸ RFT, p. 159.

⁹ TIC, p. 81, OC, p. 15.

¹⁰ Ibid.

¹¹ TIC, p. 82.

¹² Ibid.

¹³ Ibid.

¹⁴ COD, p. 51.

¹⁵ Ibid.

¹⁶ Op. cit., note 1, p. 21, citing J. Hamer, *Vatican II: La Liberté religieuse: Déclaration "Dignitatis humanae personae"* (Paris, 1965), p. 73.

¹⁷ COD, p. 52-3.

¹⁸ Ibid., p. 56.

¹⁹ Ibid., p. 57.

²⁰ H, p. 67.

²¹ COD, p. 62.

²² Ibid.

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- APSVC Yzermans, V.A., *American participation in the Second Vatican Council* (New York, 1967).
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- COD Vorgrimler, H. (Editor), *Commentary on the Documents of Vatican II* (London, 1965).
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