

## CHAPTER SIXTEEN: THE SIGNIFICANCE OF RADICAL DISSENT

A. Mater, si! Magistra, si!

5 On May 15, 1961, Pope John XXIII issued the encyclical, Mater et Magistra, to re-affirm and develop the Church's moral teaching with respect to social justice. John is aware that it is hard to apply this teaching, for each person has a deep-rooted and immoderate love of his or her own interests; even Catholics are heavily influenced by the current materialistic philosophy of life. John notes also that many people are preoccupied with an inordinate desire for enjoyment, a desire whose satisfaction is altogether incompatible with the ascetical style of life required of Christians.[1]

10 With these obstacles in mind, John insists that when the magisterium speaks authoritatively in social matters, its judgment is to be obeyed promptly by Catholics. "For it is the Church's right and duty not only to safeguard principles relating to the integrity of religion and morals, but also to pronounce authoritatively when it is a matter of putting these principles into effect." [2] Like Leo XIII, John affirms the duty to follow the Church's teaching even in the concrete details of life.

15 Laypersons, who have primary responsibility in the secular domain of Christian action, not only must be technically competent,

20 . . . but also should conform their activity to the teachings and norms of the Church in social matters. Let them put sincere trust in her wisdom; let them accept her admonitions as sons. Let them reflect that when in the conduct of life they do not carefully observe principles and norms laid down by the Church in social matters, and which we ourselves reaffirm, then they are negligent in their duty and often injure the rights of others. At times, matters can come to a point where confidence in this teaching is diminished, as if it were indeed excellent but really lacks the force which the conduct of life requires.[3]

25 Failure to conform to the Church's teaching undermines confidence in it.

30 In the fall of 1961, William F. Buckley, a Catholic layman who defends so-called "conservative" positions on socioeconomic questions, gave a lecture at Georgetown University, where I was then a professor. Buckley rejected as socialist a number of points taught by John XXIII in the recent encyclical. Moreover, while declaring himself a loyal Catholic, Buckley impugned the right of the magisterium to make judgments which would incur adversely upon the socioeconomic values sacred to his own class. The audience at Georgetown, consisting mainly of upper-middle-class and wealthy students, greatly appreciated Buckley's thrusts, which he carried out with great style and humor. Reducing his own view of the magisterium to an oversimplified slogan, Buckley drew enthusiastic applause when he declared the Church his mother but not his teacher: "Mater, si! Magistra, no!"

40 I sat in the balcony of the packed auditorium listening to Buckley's lecture, more and more appalled and outraged as he proceeded. Not only was he misrepresenting the Church's teaching, as I understood it, and setting it aside with sophistic arguments, he was pretending to be a faithful Catholic while displaying far more loyalty to the values of his own socioeconomic class than to the Catholic Church. Moreover, in dividing the Church as mother from the Church as teacher, Buckley seemed to me to be creating a schism within Catholic life which would both cripple the Church and destroy the souls of those who followed Buckley's leadership.

45 For this reason, I attempted in the discussion which followed Buckley's lecture to challenge him. From my place in the balcony, I managed to say that dissent such as Buckley's is impossible for a loyal Catholic; one cannot have the Church as mother without accepting her as teacher, for her mothering is very significantly, although not solely, in her teaching. Buckley replied with verve and handled me easily. Lacking a microphone, I was buried under brilliant ridicule--to the delight of the audience.

50 In the remainder of this chapter, I will be dealing not with Buckley's dissent, but with that of theologians since Humanae Vitae. Their dissent--and so my discussion--centers upon a limited field of morality: the area of norms regarding sex and innocent life. I consider this area to be important to human persons and Christian life. However, except to the extent that in this area also justice is at stake--for example, in life and death issues--I consider the field of social justice even more important than that in which recent theological dissent centers.

55 When Charles E. Curran and his associates published their apology for their dissent after Humanae Vitae, they used Buckley's dissent as one instance to show that even prior to the controversy over contraception there were "developing reinterpretations of the 'right to dissent' as proposed in the manuals." [4] Richard A. McCormick, S.J., has used two social encyclicals, Rerum Novarum and Populorum Progressio, to exemplify his claim that the magisterium's teaching is only pastoral in character--that it is concerned only with prudential determinations which are open to change.[5]

60 Curran and McCormick could make technical distinctions; they might somehow be able to defend these particular points. Probably they will say that in the field of social justice, Catholics should obey the Church's teaching, just as Pope John said they should.

70 Still, I point out the consistency of my own position. If we Catholics are to fulfill our prophetic role, if we are to communicate divine truth and life, we must live our whole lives by the Church's teaching and consistently explain our lives by this same teaching. What becomes of our witness when we applaud and endorse those teachings of the Church--for example, of John Paul II during his visit to America--which secular humanists also applaud and endorse, while we sigh sadly and dissent from precisely those points of teaching which would require us to show that our worldview and commitment is different from and more personally demanding than that of any secular humanist?

80 Many who dissent from the Church's teaching in the field of sexual morality probably would like to obtain from so-called conservative Catholics a higher level of assent and conformity to her social teaching. I would like to obtain it myself, and most bishops and priests surely would also. Can Charles Curran, Richard McCormick, and their associates seriously contend that their work of the last eleven years helps this cause?

This consideration does not show that radical theological dissent is wrong. It

does show something of its significance for the Church--that is, for our common life whose sign-value is shadowed, whose prophetic voice is stifled, whose apostolic action is crippled by the division and lack of discipline from which we at present suffer.

5 Charles Curran himself wrote in 1978 that the present situation ought not to continue. His proposed solution is that "the pope and bishops must be willing to publicly admit that the previous teaching is wrong" or "at least to acknowledge publicly the legitimacy of dissent on this question [contraception] and the ramification of dissent in the entire life of the church." [6]

10 I agree that the present situation ought to end. But my proposed solution is that the radically dissenting theologians should both face up to the ramifications of their dissent in the life of the Church and publicly admit that their position is theologically indefensible. In the remainder of this chapter, I try to show why this proposal ought to be accepted.

## 15 B. A clarification of "radical dissent"

In chapter thirteen, section A, I introduced the expression "radical dissent" by saying that it refers to theologians who accept the proposition: "Anyone may responsibly decide according to his or her conscience that acts of any kind (including a choice to 20 kill the unborn or a choice to have sexual relations with a person not one's spouse) in some circumstances are permissible and even obligatory to preserve and foster greater goods or to avoid greater evils." Many dissenting theologians might object that no one really holds this position, since everyone will consider acts of some kind always wrong. At least, for instance, if one defines "murder" as immoral killing of a person, then an 25 act of murder always will be wrong--by definition.

By "acts of any kind" I do not mean morally defined kinds of acts. Rather, I mean kinds of choices where the choices are specified (made to be of a kind) by the content of the proposal one adopts. (In other words, kinds defined by the object of the act, as 30 explained in chapter nine, section G.) Even so, many theologians who dissent from much received Catholic moral teaching hold that acts of certain kinds always are wrong.

For example, they might say that the choice to compel another to engage in a sexual act unwillingly (rape) always is wrong. They might say this because they think that there never will be enough good consequences of such a choice to outweigh the bad consequences inherent in the very performance of such a rape. In other words, they might say 35 (quite plausibly) that some kinds of acts always are wrong because there never will be an instance in which they would foster a greater good or avoid greater evil. So they can hold that many kinds of acts whose objects are sufficiently specified always would be wrong--for example, a choice to abort a fetus in order to avoid a medical bill. [7]

Not to oversimplify anyone's actual position, then, I now define "radical dissent" 40 more strictly: It is dissent which goes beyond the limits specified in chapter fifteen, section N. In particular, it is dissent from some received Catholic moral teaching which belongs to the universally proposed body of teaching concerning kinds of acts which constitute grave matter of sin. As I explained in chapter fifteen, section J, there is reason to think the norms included in this body of common Catholic moral teaching 45 have been proposed infallibly by the ordinary magisterium.

There are two further characteristics of radical dissent. First, the dissent does not appeal from a teaching proposed by part of the magisterium to a superior theological source (such as Scripture, a defined doctrine, or a teaching proposed infallibly by the ordinary magisterium). Rather, the dissent is grounded upon the argument that in some 50 circumstances there is a proportionate reason for choosing an act of a kind which the magisterium teaches to be wrong regardless of circumstances or consequences. [8] Second, radical dissent is characterized by the fact that those who engage in it not only say they do not think the norm proposed is true, but also tell the faithful they may follow the dissenting opinion instead of the received Catholic norm which the magisterium re- 55 affirms. [9]

The dissent of Charles Curran and his associates immediately after the publication of Humanae Vitae was radical dissent as I have defined it. [10] The dissent was from a norm which--as I think has been shown--has been proposed infallibly by the ordinary magisterium. [11] Even if this thesis is false, the dissent of Curran and his associates 60 from the received Catholic teaching on contraception was not grounded upon a superior theological source. Allegations were made that Paul VI proceeded otherwise than Vatican II said he should, but even if these allegations were correct (and I do not consider them even plausible), they would not show the teaching itself false.

Vatican II recognized and described the problem about contraception, but it ab- 65 stained from determining the question under consideration by Paul VI. At the same time, the Council declared that children of the Church "may not undertake methods of regulating procreation which are found blameworthy by the magisterium in its unfolding of divine law" (GS 51). The dissent after Humanae Vitae was directed toward the faithful, to tell them that they might responsibly decide according to their own consciences to use methods 70 of regulating procreation excluded by the magisterium.

It is very important to notice that radical theological dissent is by no means limited to the Church's teaching on contraception. The so-called "minority report" of Paul VI's Pontifical Commission on Population, Family, and Birth-rate (the "Birth Control Commission") warned that a change in Catholic teaching on contraception entailed a 75 wider change in the norms pertaining to sexuality--in fact, in the norms pertaining to all kinds of acts excluded as always wrong in received Catholic moral teaching. [12] The "majority reply" answered that the approval of contraception would not lead to the approval of other kinds of acts excluded by received Catholic teaching. [13]

By 1978, Charles Curran asserted a generalized thesis: Dissent can be legitimate 80 with respect to any specific moral teaching. [14] Curran himself does not defend exceptions on every specific norm, but does defend at least some exceptions from the Catholic norms concerning abortion, sterilization, remarriage after divorce, and various other matters. [15] Curran points out that "the official teaching" on questions such as contraception, sterilization, masturbation, homosexual acts, adultery, euthanasia, and divorce,

has been challenged by at least some theologians, and he defends the legitimacy of their challenge even if he does not agree with them on every substantive issue.[16]

On December 29, 1975, the Sacred Congregation for the Doctrine of the Faith issued Persona Humana, a declaration on sexual ethics, in which it reaffirmed received Catholic teaching excluding as grave matter any sexual actuation outside marriage; it referred to Humanae Vitae for teaching concerning the norms of sexual life within marriage. Richard McCormick sympathetically reported the widespread dissenting reactions to this declaration.[17]

McCormick has patiently chronicled the development and consolidation of a consensus among radically dissenting theologians. Their common position is that in general the Church has been mistaken in teaching that acts of certain kinds are wrong regardless of circumstances, intentions, and consequences. If particular acts are wrong it must be because considered as a whole (including object, circumstances, and end) the personal non-moral evil outweighs the personal nonmoral good in them, and so there is no proportionate reason to justify them.[18] ("Nonmoral" here refers to what I call "basic human goods" in chapter five, sections E-H; goods such as life and truth are principles of the moral goodness or badness of human acts which bear upon them, and so these basic goods are prior to the ethical distinction between moral good and evil.) McCormick himself holds this position and teaches that people may form their consciences by theological opinions derived from it.[19]

This theological approach is a form of consequentialism, which I have criticized in chapter nine, section C, and chapter fourteen, section K. As far as I know, virtually all radical theological dissent rests on a consequentialist methodology. I say "virtually all" because there are a few exceptions. One of these is the book Human Sexuality, drafted by a committee of the Catholic Theological Society of America and published in 1977. This work avoids consequentialism by passing over the relevance of sexual activity to specific basic human goods, such as life, and instead relating acts to a very vague norm: creative growth toward integration.

Theologians such as McCormick found the abandonment by this work of the unitive and procreative goods unwarranted and its proposed norm much too general to be of any help in sexual ethics.[20] Hence, although he shares some (but not all) the positions of this book and defends the legitimacy of dissent by its authors from the Church's teaching, McCormick does not regard it highly as moral theology--that is, as a well-reasoned position.[21]

I agree with him on this. And, in general, it seems clear to me that no Catholic moralist provides a plausible ground for dissent which is not some form of consequentialism.

#### C. Richard A. McCormick, S.J.

Because McCormick thinks more clearly than most of those who engage in radical theological dissent, he is sensitive to a variety of criticisms of his views. In his most recent writings he makes a number of points which might suggest that he escapes unscathed from my critique of consequentialism, especially from the argument in chapter nine, section C, which I regard as decisive against every form of consequentialism. Therefore, I consider these points of McCormick's as objections to my criticism (although they were not made by him specifically in reference to me, but rather in reference to critics who more or less share my approach).

First, McCormick objects that his view is not consequentialist. Rather, when the object of an act includes harm to an instance of a basic human good, then one needs a proportionate reason for doing the act. This proportionate reason might be found in the consequences, but one need not (and even should not try to) weigh up all the consequences and decide what to do by finding which option would produce the overall best results. For example, in the case of breaking a promise, one assumes it is generally wrong, but at times one has a proportionate reason--some other urgent good--for overriding the good of the personal covenant inherent in the promise itself.[22]

My reply to this objection is that McCormick does not escape by it from consequentialism as I define it, and so he does not escape from my critique of it. My definition of consequentialism (see above, page 9-3, lines 79-83) is that it is an attempt to ground moral judgment between alternative options upon a comparison of the good and bad effects of choosing one or other alternative. Just insofar as consequentialism is claimed to apply, the alternative promising greater good (or lesser evil) is said to be morally right. McCormick's restatement of his view meets this definition.

Sometimes consequentialists are criticized for looking to consequences and ignoring the object of the act. McCormick rightly makes the point that he does not fall into this mistake. Keeping one's promise has an inherent personal value. However, I do not overlook the fact that consequentialists can give this value full consideration, for I do not separate consequences from acts (taken as already constituted). Rather, I assume that any value inherent in the object of the act will be the first consequence consequentialists will consider, for they are trying to guide choices, and a choice bears most obviously upon the proposal it adopts (that is, the object of the act).

Once this confusion is put aside, it is clear that when McCormick talks of a proportionate reason, he refers to a consideration of the value and the disvalue at stake--for example, in choosing to break or to keep a promise--and claims that in some cases one can tell that a definitely greater good or lesser evil can be projected by making one choice rather than another. The comparative weight of good and evil, on McCormick's view, can make an act which otherwise would be morally evil into a moral obligation. By my definition, this claim constitutes consequentialism. It is refuted because it assumes the possibility of a determinate comparison between the values promised by morally significant alternatives, but such a comparison would be incompatible with a free (and so morally significant) choice between them.

In chapter fourteen, section L, I quoted and criticized one of McCormick's attempts to escape from the difficulty that the goods promised by different alternatives (between which one must make a morally significant free choice) are not commensurable. The

attempt is his suggestion that we commensurate the objectively incommensurable by adopting a hierarchy of values.[23] My criticism was that this move settles by choice the question of moral truth which was (according to the theory) to have been settled rationally prior to choice.

5 McCormick might object that the adoption of a hierarchy of values to settle conflict situations is not necessarily impossible or inappropriate. One must not consider the problem from a merely individualistic viewpoint. "Being naturally social and Christianly communal, we look to our tradition and to our community as the context in which moral learning is achieved, hence the context in which any weighing of values ought to occur." [24] Thus an individual can commensurate and judge what is the lesser evil in conflict situations by using the community's adopted hierarchy of values.

10 McCormick certainly is right in thinking that at times individuals solve moral problems in this way. But by appealing to community standards, he is changing the subject of discussion. The standards of the Christian community which lead to judgments of conscience are moral norms. I do not think any of these have been arrived at by a choice on the part of the Christian community. But even if they had been established in this way (as canon law is), such norms would not authorize exceptions to other norms proposed in the constant and very firm teaching of the same Christian community as immune from just the exceptions McCormick wishes to justify. Some Christian moral standards do define proportionate reasons to make exceptions to derivative norms. But this fact does not argue in favor of consequentialism, as I showed in chapter fourteen, sections G, K, and M.

15 McCormick might reply that while the received community standards do not justify exceptions on matters he is concerned with--for example, certain choices to kill the unborn--newly emerging standards do justify such exceptions. I agree. But the question is whether the newly emerging standards are those of the Christian community, or only those of certain Christians who are being unfaithful to their basic commitments.

20 One who chooses to identify with those, for instance, who defend contraception will think his or her opinion part of the sensus fidelium, and will dismiss the contrary judgment as outdated. But the contrary judgment is maintained by a large part of the faithful--which happens to include John Paul II--and it also is part of an inheritance lived through the centuries by faithful Catholics. One who understands the unity of the Church in the light of faith will not compare opinions of Catholics without counting not only those now living but also those who have died in the faith.

35 Sometimes McCormick himself seems to realize this, for he talks of the Christian tradition as a community which hierarchizes values and thus provides a basis for norms which is resistant to the tendency of the surrounding culture to distort what is truly human.[25] If McCormick consistently followed out this line of thought, it would lead him back to acceptance of the whole body of common Catholic moral teaching.

40 Sometimes McCormick suggests that the incommensurability of goods can be overcome by considering them in their interrelationship. For example, he suggests, contraception might be justified in blocking the good of procreation when doing this contributes to marriage and family life necessary for the pursuit of this very good.[26] In attempting this solution, McCormick is assuming that the only noncommensurability is between basic goods diverse in category--for example, procreation and marital love. I am partly responsible for his noticing this noncommensurability, since I emphasized it in my own early work.

45 But goods specifically the same can be noncommensurable options--a fact one notices when one must choose which of two party invitations to accept. Where there is choice, there is noncommensurability of the nonmoral goods between which one has a choice. It is precisely for this reason that one both must choose and can be guided by moral norms--but only if these norms are not based upon the comparative nonmoral goodness of the options. McCormick himself seems sometimes to realize the difficulty; for he admits that the interrelationship or association of goods involves the adoption of a hierarchy: "Thus, I see 'association of basic values,' 'proportionate reason,' and 'adoption of a hierarchy of values' as attempting to say the same thing, or at least as very closely related." [27]

60 McCormick is commendably concerned that an unrestricted consequentialism could justify horrible acts such as atrocities in war. To protect the goods of persons, he suggests that in such cases one must consider long-run effects, particularly those upon human freedom and responsibility. Thus, one will not have a proportionate reason for doing a nonmoral evil which would not be necessary but for another's evil-doing. One must take one's stand on human freedom to do good, a freedom guaranteed by the grace of Christ.[28]

65 I applaud McCormick's sane and Christian view of this particular matter. Unfortunately, it undermines his argument against the Church's teaching on contraception, since Christian couples are free and have the grace of Christ to express their love in many nongenital ways and by abstinence. Sexual abstinence can be borne with humor, patience, and mutual sympathy if conjugal chastity is sincerely cultivated. Under these conditions, abstinence powerfully builds love. Moreover, McCormick will have a hard time convincing most other consequentialists that there always must be a necessary relationship between the doing of the nonmoral evil and the overriding value for which it is done.[29]

75 Of course, I would agree that one ought not to adopt a proposal to impede or damage or destroy an instance of a basic human good when such a choice is not necessary, but only because I consider such choices wrong regardless of the consequences. If one does not reject consequentialism altogether, one must show that lack of necessary relationship and greater evil always go together--a thesis McCormick probably will not try to defend, considering its implications for contraception.

80 In the last few years, McCormick has begun to claim that Catholic theology traditionally has made exceptions to concrete moral norms by the use of proportionate reason. The only thing new, he says, is the consideration of areas previously exempted from such consequentialism.[30] McCormick asserts that contraception can be justified by concurring personal values, and offers this as an example of a method of judgment adopted by



many contemporary theologians. He adds:

In the *Quaestiones quodlibetales*, St. Thomas laid the foundation for this type of assessment. He wrote: "There are some actions which, absolutely considered, involve a definite deformity or disorder, but which are made right by reason of particular circumstances, as the killing of a man . . . involves a disorder in itself, but, if it be added that the man is an evildoer killed for the sake of justice . . . it is not sinful, rather it is virtuous." Here something which is a "deformity" is "made right by reason of particular circumstances." Contemporary moral theology would say amen to that and would add that the Thomistic phrase "by reason of particular circumstances" can be translated "by reason of the good of the person or persons." [31]

Thus the authority of St. Thomas is claimed for consequentialism.

The first thing to be noted about the argument is that it is an instance of the common consequentialist fallacy by which the derivative character of most moral norms is claimed in support of consequentialism, as if it alone provided a theory of fundamental principles. I already pointed this fallacy out in chapter fourteen, sections G, J, and K. The next thing to be noted is that if traditional moralists sometimes propose arguments which sound consequentialist, they do not articulate a consequentialist theory.

St. Thomas certainly never sets out such a theory. He does not say that capital punishment and killing in just wars are justified by a "proportionate reason." I have treated his handling of these matters elsewhere; it does not seem to me sound, but it certainly is not consequentialist. [32] One reason why it is not, is clear in the very article from which McCormick quotes. St. Thomas goes on to explain that supervening circumstances can totally empty out the disorder and make the act upright. [33] The deformity or disorder he is speaking of is not nonmoral evil; rather it is the moral evil usually involved in killing a human person, but not in those cases which Thomas accepts (on nonconsequentialist principles) as exceptions. (I think that the real reason why Thomas accepts these exceptions is that they seem to be authorized in sacred Scripture.)

McCormick also neglects to inform his readers that unlike contemporary theologians, St. Thomas in the very article McCormick uses describes another class of human acts: "For there are some which have deformity inseparably annexed to them, such as fornication, adultery, and others of the sort, which in no way can be done morally." True, even in the case of such acts, Thomas considers that the behavior could be justified if it were done in the carrying out of a divine command, for then he thinks the behavior would not require a choice of fornication or adultery. [34]

At one point, McCormick suggested that one might use preference-principles to test rationally the value assessments implicit in choices. For example, in conflict situations, a more foundational value (such as life) should be preferred over a higher value (such as preaching the Gospel to a starving person). Or, others things equal, the common good is to be preferred to the good of the individual. Again, other things equal, we should prefer the good of those with a special relationship to our responsibility. [35]

This approach has not been developed in McCormick's more recent writings. Perhaps the difficulties inherent in it discouraged him. They are at least two. First, how can one establish a principle like the one about foundational values? In fact, it seems not to hold as a general rule, since one may be called on to sacrifice one's life, as Jesus did, out of faithfulness to one's commitment to another good. Second, a multitude of preference principles with other-things-equal clauses will settle little or nothing in any very interesting moral problem.

McCormick has admitted that there are serious and unresolved problems in the use of expressions such as "lesser evil" and "proportionate reason." But he claims that anyone who makes any exception to a prescription such as "Thou shalt not kill" has the same problem. [36] This claim is false. In various works I have articulated a consistent account of the ethics of killing, which excludes absolutely any choice to bring about death, but does not exclude absolutely other choices whose execution causes death as a foreseen and accepted side-effect. Such other choices will be justified, not by a consequentialist weighing of values, but by moral norms such as impartiality, duty, and so on. [37]

For instance, to justifiably kill someone attacking one's child in the process of defending one's child's life, one does not need a "proportionate reason," but only needs conditions such as the following: 1) that one's act is physically necessary and minimally effective to stop the attack; 2) that one is trying to stop the attack, and does not propose to kill the attacker; 3) that one would be willing to be stopped by similar means if one were to attack someone else's child in a similar way; 4) that one acts out of parental responsibility, which prevents one from suffering the violence patiently. When traditional moralists talked about "proportionate reason" in their discussions of the principle of double-effect, they perhaps slipped into consequentialism (which they had never articulated as a general theory). But I think that in many cases they referred, as I do, to moral norms which govern the acceptance of side-effects.

The one point which should be retained from this analysis of McCormick's position is his admission: "That there are serious and unresolved theoretical problems involved in the use of terms such as 'the lesser evil,' 'proportionate reason,' and so on, I do not doubt." [38] The very multiplicity of the stories McCormick has offered in trying to give some sense to his consequentialism makes clear that in the end his holding to it, despite its serious and unresolved problems, is a matter of personal commitment, not a matter of knowledge.

Interestingly, in one of his most recent works, McCormick invokes a "moral instinct of faith" and asserts:

I would say that, even though our spontaneous and instinctive moral judgments can be affected by cultural distortions and can be confused with rather obvious but deeply ingrained conventional fears and biases, still they remain a more reliable test of the humanizing and dehumanizing, of the morally right and wrong, of proportion, than our discursive arguments. [39]

Now matters become clear. One has supposed over the years that McCormick wished Catholics to follow the judgment of dissenting theologians rather than the Church's teaching

because in his view their judgments were based on good reasons while the Church's teaching is not rationally defensible. However, as it turns out, the actual situation--according to McCormick himself--is that at bottom moral norms depend on spontaneous and instinctive moral judgments. I criticized this sort of view in chapter fourteen, section H. But if it were right, then I think it would make more sense to entrust oneself to the accumulated wisdom of the Church, proposed with bad reasons by the magisterium, than to entrust oneself to the consensus of the theologians, proposed with bad reasons by Richard McCormick.

10 D. The radicality of radical dissent

Assuming the correctness of the conclusion reached in chapter fifteen, section J, the dissent with which I am concerned at present truly is radical, for it is for the most part the rejection of teaching proposed infallibly by the ordinary magisterium. I say "for the most part," because I think that at least some who are questioning the Church's teaching on the indissolubility of marriage are rejecting doctrine defined by Trent, which I discussed in chapter fifteen, section K. And perhaps in some cases, moral teachings from which there is dissent--for example, the norm that artificial insemination by the husband's semen is excluded--might not meet the requirements for teaching proposed infallibly by the ordinary magisterium.

Against the radicality of most current theological dissent from Catholic moral teachings, two arguments will arise immediately. One argument will be that the limits of dissent as I articulate them in chapter fifteen, section N, are absurdly narrow. Who but a few extreme conservatives would ever affirm such narrow limits, and require so strictly acceptance of the Church's received moral teaching by the consciences of the faithful? Another argument will be a series of objections concerning allegedly similar cases in which it is claimed that the Church has been in error. If she made such mistakes before, how can we know she is not making them still?

Karl Rahner, S.J., is one of the most highly regarded--if not the most highly regarded--among contemporary Catholic theologians. As I have said before, no one should believe any theologian, but only seek the help of theologians to understand the teaching of the Church. Therefore, I do not invoke Rahner as an authority. However, what Rahner said shortly before Vatican II can be used as evidence of theological opinion--and not only the opinion of some conservative theologians--at that time.

About a decade before Humanae Vitae, Rahner published a small book which included an essay entitled, "An Appeal to Conscience"; this essay is in a part of the book subtitled: "Dangers in Catholicism Today." [40] Rahner's essay on conscience was in response to situation ethics, which the Holy Office dealt with in 1956 (cf. DS 3918-3921/--); in certain respects this approach was more radical than most current theological dissent, for it included a position similar to that which I criticized in chapter fourteen, section L; many (or most) theological dissenters today wish to avoid such radical subjectivism.

Still, when Rahner begins to respond to situation ethics, he lays out received Catholic teaching on conscience and its formation. Conscience is the most immediate giver of moral norms; it must be followed even when it is in error. But one must form one's conscience carefully and distinguish it from mere subjective inclination.

And so man has a duty to do everything he can to conform his conscience to the objective moral law, to inform himself and let himself be taught and make himself prepared to accept (how difficult this often is!) instruction from the word of God, the magisterium of the Church and every just authority in its own sphere. [41]

Conscience does sometimes lead individuals to actions unique to themselves, and individuals need to accept personal and mature responsibility. But this maturity requires that one accept binding norms which are valid for human persons as such. Moreover, morality is essential to Christian life; the fulfillment of the commandments is not just a field for faith to manifest itself.

Furthermore, the Church teaches these commandments with divine authority exactly as she teaches the other "truths of the Faith," either through her "ordinary" magisterium or through an act of her "extraordinary" magisterium in ex cathedra definitions of the Pope or a general council. But also through her ordinary magisterium, that is in the normal teaching of the Faith to the faithful in schools, sermons and all the other kinds of instruction. In the nature of the case this will be the normal way in which moral norms are taught, and definitions by Pope or general council the exception; but it is binding on the faithful in conscience just as the teaching through the extraordinary magisterium is.

It is therefore quite untrue that only those moral norms for which there is a solemn definition (and these are criticized from all sides in the "world") are binding in faith on the Christian as revealed by God, and must be accepted by him as the rule for his own behaviour; and of course it is equally untrue--and this is often unadmittedly expected--that the moral law preached by the Church must necessarily receive the assent (even if it is only theoretical) of the non-Christian world. When the whole Church in her everyday teaching does in fact teach a moral rule everywhere in the world as a commandment of God, she is preserved from error by the assistance of the Holy Ghost, and this rule is therefore really the will of God and is binding on the faithful in conscience, even before it has been expressly confirmed by a solemn definition.

A moral norm is by nature universal but, precisely as a universal law, is intended to be the rule for the individual case. And so when it is fully grasped and rightly understood and interpreted (that is, understood as the magisterium means it, not just as the individual thinks fit to interpret it), and bears on an individual case, then this unique individual concrete case is bound by the norm and obliged to abide by it. When, for example, the Church teaches that every directly induced abortion is morally wrong, that every sacramentally contracted and consummated marriage between two baptized persons is indissoluble, then this applies to every individual case quite regardless of the circumstances. [42]

Conscience can err guiltlessly. But one must be careful not to appeal from the norm taught by the Church to one's personal conscience. The good consciences of respectable people cannot be trusted. They only too often reflect blind yet responsible sinfulness.

5 If we Christians, when faced with a moral decision, really realized that the world is under the Cross on which God himself hung nailed and pierced, that obedience to God's law can also entail man's death, that we may not do evil in order that good may come of it, that it is an error and heresy of this eudemonic modern age to hold that the morally right thing can never lead to a tragic situation from which in this world there is no way out; if we really realized that as Christians 10 we must expect almost to take for granted that at some time in our life our Christianity will involve us in a situation in which we must either sacrifice everything or lose our soul, that we cannot expect always to avoid a "heroic" situation, then there would indeed be fewer Christians who think that their situation requires a special ruling which is not so harsh as the laws proclaimed as God's laws by the Church, then there would be fewer confessors and spiritual advisors who, for fear 15 of telling their penitent how strict is God's law, fail in their duty and tell him instead to follow his conscience, as if he had not asked, and done right to ask, which among all the many voices clamoring within him was the true voice of God, as if it were not for God's Church to try and distinguish it in accordance with his law, as if the true conscience could speak even when it had not been informed by 20 God and the faith which comes from hearing.[43]

In a sinful world, God's law seems unrealistic, but the trouble is with the world. The demands of God's law do not take away the freedom of God's children, nor impugn the supreme law of the gift of the Spirit, for one who lives by the Spirit superabundantly fulfills the commandments, not violates them. By the grace of the Spirit, everyone can keep 25 the commandments, but by one's own sin one can violate them. So God's commandments expressed in Jesus still are spoken to us by the mouth of the Church, and our obedience is required whenever we are tempted to disobey.[44]

In 1968, Rahner himself published an essay which, if it did not precisely dissent 30 from Humanae Vitae, provided powerful aid and comfort to those who did.[45] It seems to me that this essay--and certainly the dissent it fostered--is altogether incompatible with the sound and eloquent exposition quoted here. To the best of my knowledge, Rahner never has tried to show that his more recent thinking could somehow be squared with his earlier thinking, and never has explained why he changed his position. About this question I do not speculate. I note only that the conversion is dramatic, and it illuminates 35 the radicality of theological dissent. Such dissent ought not to be considered a normal situation in the Church, even though it now persists into a second decade after Humanae Vitae.

#### 40 E. Some allegedly analogous past errors

"The Church was wrong about Galileo. It had to change on usury. So perhaps it is wrong on contraception, adultery, abortion, and so forth." One often hears this argument. There are endless allegations of past errors. Here I briefly consider only a few. 45 (Usury will be treated later in this chapter, when I discuss the problem of development in moral teaching.)

Galileo was born in 1564, just after the end of the Council of Trent, when the Church was fighting for her life. He became a professional mathematician and physicist. The standard understanding of the solar system was that the earth stands at the center, 50 and the sun, other planets, moon, and stars revolve around it. Nicolaus Copernicus (1473-1543), a Polish astronomer, proposed a simpler account of the astronomical evidence: that the sun stands at the center and the earth and other planets revolve around it. Galileo accepted and began supporting this new theory.

The theory of the solar system was an important part of Aristotle's philosophy, in 55 which physics and metaphysics were closely connected. Aristotle's philosophy had become an important instrument of Catholic theology. Moreover, the centrality of the earth in the universe and the special place of humankind in creation are symbolically related to one another. For these reasons, Galileo's work was bound to draw the interest of the magisterium. The new theory superficially seemed incompatible with certain passages in 60 Scripture, especially that in which God is said to have made the sun stand still (cf. Jos 10.12-13). If the sun always stands still, how could it have been made to do so by a miracle?

In 1616, under Pope Paul V, the Holy Office looked into the matter. Its theological consultants found against the Copernican theory on the basis that it was repugnant 65 to Scripture, and Cardinal Bellarmine, by the authority of the pope, told Galileo not to hold and defend it as unqualifiedly true any longer. Books trying to reconcile the new theory with the Bible also were forbidden, but it was not forbidden to examine the theory as a hypothesis and to make use of it scientifically as such. Galileo accepted the Holy See's decision and was personally reassured by Paul V that all would be well. This reassurance was appropriate because some of Galileo's opponents were taking a much harder 70 line than the Church's official decision.[46]

In 1632 Galileo published a book in dialogue form defending the Copernican theory. Galileo did not say anything about the earlier decisions when he sought and obtained an ecclesiastical license to publish the book. In 1633 Galileo was tried by the Inquisition 75 for violating an order not to teach the Copernican theory in any way. It seems probable that this order was given him in 1616 at the meeting with Bellarmine, but by officials of the Inquisition acting without authorization. Galileo was convicted; he admitted disobedience; the Inquisition sentenced him to life in prison. He was never actually imprisoned (much less tortured or badly treated), but was restricted in his movements and teaching, so that he spent the rest of his life under house arrest.[47] 80

On the basis of these facts, it seems clear to me that there is a real doctrinal issue in the Galileo case. The issue is not in the proceedings of 1633, which were disciplinary in nature, but in the decision of 1616, when it was determined by the authority of Paul V that the Copernican theory is incompatible with Scripture. One might argue

that the position was not proposed as one to be held definitively, but I will grant that it was. Moreover, the decision of 1616 obviously was false. Thus Paul V taught a false proposition and proposed it as a truth pertaining to faith to be held definitively. The ordinary magisterium erred.

5 However, nothing in the historical record shows that the bishops scattered about the world taught (or that many of them ever thought about) the proposition Paul V mistakenly taught. And Paul V's teaching certainly was not ex cathedra. The Galileo case is an example of a situation--such as I discussed in chapter fifteen, section L--in which the magisterium must teach firmly on a new question and can make a mistake. Until  
10 the teaching of the Church as a whole develops by the involvement of the whole collegium or by a papal definition, official teaching in the Church must be obeyed--which, in general, Galileo did. The saddest aspect of the Galileo case is that subordinate officials of the Church probably went beyond their authority and probably were unjustly supported by the Inquisition in its disciplinary judgment of 1633.

15 Someone might argue that the modern birth-control controversy also is a new issue, due to modern insights into conjugal love, problems about population control, new economic conditions, and so on. This argument seems to me very weak. But even if it were granted, the parallel with Galileo's case would fail.

20 Catholic proponents of contraception in the 1960s did not adduce any theological consideration not already advanced by Anglican advocates of change in the 1920s. Casti Connubii was published in 1930 by Pius XI partly in response to the change in position of the Anglican Church at the Lambeth Conference of 1930.[48] From 1930 to 1963, the Catholic bishops of the world knew about contraception; in many ways they taught the received Catholic norm concerning it, and no one has claimed that even one Catholic  
25 bishop dissented from the common teaching during this period. The faithful of the whole Catholic world were taught it as proposed in Casti Connubii, where there is no doubt that each act of contraception is grave matter, where the norm is claimed to be part of Christian tradition handed down from the beginning, and the norm clearly is proposed as absolutely certain (cf. DS 3716/2239).

30 In sum, Paul V's mistaken teaching that the Copernican theory is incompatible with Scripture was not teaching of the Church, but only official papal teaching on a new question. Paul VI's reaffirmation of the received Catholic norm concerning contraception bore upon a proposition which already was teaching of the whole Catholic Church. The error which happened and always can happen in cases similar to the former shows nothing  
35 about cases like the latter, for they are different in kind.

A further point worth noticing is that Galileo's assertion directly bore upon an empirical truth--a question of fact about the physical world. Dissent from the Church's moral teaching bears directly upon moral norms--which are not matters of fact and which  
40 in themselves pertain to Christian life. The decision in the Galileo case could be and was shown to be wrong by growing factual evidence. No amount of factual evidence ever can falsify the Church's moral teaching. The mistake in papal teaching in the Galileo case was a naive reading of Scripture; this error led to some injustice and considerable pain and inconvenience for Galileo. If there were a mistake in the Church's teaching on the moral questions now in dispute it would be in the very substance of a large segment  
45 of the Church's constant and very firm teaching, and this error would have misled all the faithful throughout the centuries, not only causing them pain and inconvenience but also wrongly binding them to a standard of life which was often violated with a sense of grave sin.

50 Between 1905 and 1915, the Pontifical Biblical Commission issued a series of decrees on matters related to the interpretation of Scripture and on factual questions about the Scriptures. Today it is generally admitted that these decrees contain many errors (cf. JBC 72.5, 25). At least with respect to questions of doctrine, scholars were bound to submit to these decrees and to assent to them (cf. DS 3503/2113). The authority of the decrees was modified officially by a letter of the secretary of the Biblical Commission to Cardinal Suhard in 1948 (cf. DS 3862-3864/2302; JBC 72.31). Thus we  
55 have a case of official mistakes and an official reversal.

I think that a careful reading of the document of St. Pius X, issued in 1907, which declared the force of the decrees of the Biblical Commission makes clear that these decrees primarily were disciplinary in character.[49] Their intention was to protect the  
60 faith, but their immediate object was to regulate the work and teaching of scholars. They bound consciences to obedience, but nothing is said which indicates they had to be held as certainly true. Moreover, these decrees primarily were a matter between the Holy See and a certain group--scholars. For this reason, they did not have to be and were not proposed universally by the bishops of the world to the faithful.

65 The moral teaching of the Church with which the radically dissenting theologians take issue is not primarily disciplinary; rather, it is proposed as truth and as an expression of God's will. Its immediate object is the formation of Christian life. It demands not only obedience, but personal appropriation as normative truth. It has been proposed universally by the bishops to the faithful as a whole. The mistakes in the decrees of the Biblical Commission, even to the extent that they are errors in teaching,  
70 are altogether different, and well within the bounds of possible error which I described in chapter fifteen, sections L and N.

A final example. It often is argued that Vatican II changed the Church's teaching on religious liberty. Hence, the Church also can admit the liberty of Catholics to follow  
75 their personal judgments in sexual matters. The first thing to notice about this argument is that it suggests that Vatican II teaches a liberty of conscience which is alien to its doctrine, as I explained in chapter fourteen, sections C and E. Vatican II's true teaching on religious liberty concerns the just liberty of all persons in relation to political authorities. It has nothing to do with some imaginary liberty of children of the Church to call her "Mother" but ignore her teaching.  
80

John Courtney Murray, S.J., the leading theological foundation-builder of Vatican II's teaching on religious liberty, argued that the new teaching would be an authentic and legitimate development of traditional Catholic teaching. His argument was that the question to which Vatican II addresses itself is a new one, because political societies

and their relationship to religion have changed, so that now their chief duty toward religion is to protect the liberty of citizens in this area. Murray also was able to point out properly theological grounds for his argument.[50] Vatican II implicitly accepts Murray's argument; in doing so, it has a basis in faith itself for what is novel in its teaching.

Members of the Birth Control Commission who advocated approval of contraception claimed that this new teaching would be a development of the traditional Catholic sexual morality.[51] Those who considered the proposed new teaching impossible asserted it would represent not development but repudiation of received Catholic teaching.[52] At the same time, some Catholic publicists for contraception were saying that the Church would have to change its teaching on contraception, but in doing so would claim dishonestly that the reversal was only a development. After certain partial documents of the Birth Control Commission were leaked to the press, even some proponents of a new teaching found the argument for development distressingly weak.[53] Paul VI evidently could not find in the theological work of the Commission (or anywhere else) a basis in faith for approving contraception.

Charles Curran, writing in 1978, admits that the argument on the basis of development, which he himself supported before 1968, was attractive because it seemed necessary to facilitate change, but never was plausible. Those who argued against change, Curran admits, had a clearer understanding of the radical character of the problem. He concludes on this subject: "One must honestly recognize that 'the conservatives' saw much more clearly than 'the liberals' of the day that a change in the teaching on artificial contraception had to recognize that the previous teaching was wrong." [54]

#### 25 F. The spread of radical dissent into ecclesiology

The dissenting statement issued by Charles Curran and his associates on July 30, 1968, asserted: "It is common teaching in the Church that Catholics may dissent from authoritative, noninfallible teachings of the magisterium when sufficient reasons for so doing exist." [55] At a meeting with Cardinal O'Boyle, Chancellor of the Catholic University of America, Curran and his associates mentioned the names of several authors of theological manuals as the source of this "common teaching."

As the analysis I gave in chapter fifteen, section N, makes clear, the approved authors never justified dissent: No one of them asserts that theologians may publicly reject any teaching of the magisterium, although all of them admit the possibility that one might not be obliged to assent to certain teachings, namely, ones neither defined nor proposed infallibly by the ordinary magisterium. Moreover, no Catholic theologian before Vatican II ever suggested that theologians might rightly urge the faithful to form their consciences by dissenting theological opinions instead of by the Church's constant and still current moral teaching. At the time he wrote it, every Catholic theologian would have agreed in substance with what Rahner wrote in the work I quoted in section D, above.

Cardinal O'Boyle asked me to look up the authors cited by Curran and his associates, and I did so, although they had provided no precise references. I found the relevant passages and xeroxed the entire sections in which they were contained, which I delivered to the Cardinal together with a brief analysis showing that the approved authors did not teach the legitimacy of anything like what the dissenters were doing. [56]

These Latin texts together with an English translation of certain excerpts later were provided to the committee which inquired into the dissent of Curran and his associates. Hence, they had to provide their own interpretation of these texts. Having done their best, however, they are compelled to admit: "The perspective of the manuals concerning assent and dissent suffers from serious philosophical and theological limitations. The manuals' analyses of the nature of assent is inadequate, and quite oblivious to the crucial questions raised by Newman in his Grammar of Assent." The dissenters proceed to find many other flaws in the treatment of assent in the manualists. [57]

By this defense, Curran and his associates make two things clear. First, I was right: The manualists do not support their position. They had called on the manualists to testify in defense of dissent, but after my mild examination of their witnesses, they were compelled to impeach them. Second, Curran and his associates uttered a false statement when they said: "It is common teaching in the Church. . . ." They might more correctly have said: "We mean to make it be common teaching in the Church. . . ." (Incidentally, had they invoked Newman instead of the manualists in support of dissent, I could as easily have shown their claim to support false.)

Richard McCormick, more clearheaded and straightforward than Curran and his associates, did not claim that common teaching justified radical theological dissent. Instead, he claimed that Vatican II had led to a renewed concept of teaching in the Church, one more open to participation by the whole Church and one less legalistic with respect to the authority of the magisterium. (So far, so good, as my own analysis in chapter fifteen, sections A and H, makes clear.) McCormick claimed that the new concept of teaching has repercussions for the notion of the magisterium and its functioning. [58]

What are these repercussions? First, by its teaching, the magisterium must persuade, not merely command. Second, there is a developing theology, McCormick claims (citing himself as the source!), "which emphasizes a docile personal assimilation and appropriation of authentic teaching as the appropriate immediate response, rather than an unquestioning assent." Third, the reflection of theologians is essential to the work of the magisterium. [59]

McCormick's position amounts to this: There is nothing about the sacramental office of the bishops (including the pope) which specifies that one's response to the magisterium be assent rather than dissent. Rather, the status of the magisterium requires that the faithful think over what reasons it offers. On this view: "Dissent from authoritative noninfallible teaching is but a single aspect of the learning process of the Church. That is, it is the terminus of a sincere attempt to assimilate authentic teaching." [60] Thus McCormick shifts the burden of proof: A Catholic needs no reason for dissenting, but rather should not assent unless he or she finds the magisterium's arguments adequate reasons for assenting.



McCormick says that if the magisterium's teaching must be accepted on its authority, not because of the force of the arguments offered for it, then dissent would be eliminated in principle, and one could do nothing but agree with everything the magisterium says.[61] This assertion obviously is mistaken. For anyone who trusts another can assent without  
 5 reasons, or despite unconvincing reasons, to what he or she says, yet sometimes have reasons for nonassent, namely, when there is a positive reason for thinking a statement false. In respect to the teaching of the magisterium, the basic requirement of assent, which is due irrespective of the magisterium's arguments, does not exclude the possibility of nonassent should the teaching proposed conflict with a superior theological source,  
 10 as I explained in chapter fifteen, section N.

In developing this position, McCormick proposed a reduction in the status of the pope to that of a private theologian, for any theologian, if competent, deserves as much consideration as McCormick urges be given the teachings of the magisterium. Because he had developed this new view, McCormick went on to question whether bishops enjoy any  
 15 special assistance of the Spirit if they do not use the human processes any theologian would have to use to reach their doctrinal judgments.[62] McCormick also provided a consequentialist rationalization for public dissent, saying that its disvalues would be justified if other forms of dissent are ineffective and unopposed error by the magisterium would be very harmful.[63]

In other words, if the magisterium teaches and if theologians do not find its teaching persuasive, they can consider it in error, publicly dissent from it, and urge the faithful to follow theological opinion instead of the Church's teaching. McCormick does not specifically endorse the dissent of Curran and his associates, nor did McCormick  
 20 subscribe to Curran's statement. But neither does McCormick disown that instance of dissent, the most obvious example of what he is talking about. In that instance, the dissenting statement was issued one day after Humanae Vitae was published, and numerous signers subscribed to it.

How such a procedure is an expression of theological scholarship and why any theological work would need the endorsement of persons other than those who shared in doing  
 30 it are questions which never have been answered. It seems clear to me that the statement of Curran and his associates had the character of a revolutionary manifesto, and that their procedure was political rather than scholarly. It is surprising that Richard McCormick was able to rationalize such an operation; only a few years earlier he clearly explained "the inherent reasonableness of an authoritative magisterium." This reasonableness he grounded in the fact that while moral principles are intuitively clear, they  
 35 are hard to articulate, and our perception of moral truths is fragile and difficult.[64]

#### G. The setting aside of Vatican II's teaching

Initially, the support of Vatican II was claimed for radical theological dissent. Thus, even after impeaching the manualists as witnesses for their own position, Curran and his associates point out that at Vatican II three bishops--three!--wanted an amendment to Lumen gentium, 25, to take into account the possibility that a scholar faced  
 40 with a noninfallible teaching might not be able to give it internal assent. The conciliar commission dismissed the proposed amendment with the observation that one might consult the manuals about the matter.[65]

Having advanced this far, the argument then proceeds to claim that Vatican II nevertheless implicitly did what it does not explicitly do: "Post-Vatican II ecclesiology contemporizes the classic 'right to dissent' in a dialogic context. There is, first  
 50 of all, the very experience of the Council." [66] After several more pages of such prose, a conclusion finally is reached: "Lumen Gentium, Gaudium et Spes and the Decree on Eucharism of Vatican II articulate an ecclesiological atmosphere that differs basically from the rather hierarchical character of Humanae Vitae." [67] "Ecclesiological atmosphere"--one expected a theological conclusion and suddenly finds oneself in metaphysical  
 55 meteorology.

Besides what I have already shown about the manualists--the "approved authors"--in chapter fifteen, section N, one further point about their teaching on dissent is worth noticing. In Humani Generis, published in 1950, Pius XII wrote about dissent:

Nor must it be thought that what is contained in encyclical letters does not  
 60 of itself demand assent, on the pretext that the popes do not exercise in them the supreme power of their teaching authority. Rather, such teachings belong to the ordinary magisterium, of which it is true to say: "He who hears you, hears me" (Lk 10.16); very often, too, what is expounded and inculcated in encyclical letters already appertains to Catholic doctrine for other reasons. But if the supreme  
 65 pontiffs in their official documents purposely pass judgment on a matter debated until then, it is obvious to all that the matter, according to the mind and will of the same pontiffs, cannot be considered any longer a question open for discussion among theologians (DS 3885/2313).

Most of the theological manuals cited by Curran and his associates were published before  
 70 1950 and so do not contain a reference to this document. But two of them, those by Francis Sullivan, S.J., and I. Salaverri, S.J., do contain this statement as part of their theology of the teaching of the ordinary magisterium. Thus, one can assume that the commission of Vatican II which referred to approved authors the bishops--all three of them--concerned about scholars who could not assent to magisterial teaching referred, among  
 75 others things, to this clear statement of Pius XII on the subject.[68]

The fact is that nothing in Vatican II supports radical theological dissent. Avery Dulles, S.J., admits that "the Council in its formal teaching did not advance the discussion of dissent beyond where it had been in the previous generation." He claims, nevertheless, that the Council worked indirectly "to undermine the authoritarian theory and  
 80 to legitimate dissent in the Church." [69] Similarly, Curran and his associates claim that the documents of Vatican II were "dated" the day they were published; they think one must not ignore the spirit of the Council in favor of its letter. Theologians began at once to articulate the defects of Vatican II and to make up for them.[70]

Richard McCormick did not dismiss Vatican II so quickly. Not until 1977, and with

the leadership of Dulles, did McCormick write:

Appeal is made repeatedly to no. 25 of Lumen gentium, but it is widely, even if quietly, admitted in the theological community that this paragraph represents a dated and very discussable notion of the Church's teaching office.[71]

- 5 He thinks that the congregations of the Holy See need to be liberated from their single theological language and perspective; perhaps they should avoid doing theology altogether, for the "temptation is almost irresistible for such groups to support the theological views of the officeholders whom they serve." [72] McCormick agrees with Dulles in considering inadequate "the notion of tradition and the magisterium being followed by the pope and many bishops," for according to it theologians are subordinate and instrumental: "They are not teachers in the Church or part of the magisterium." [73]

- 10 According to Dulles, the magisterium should not say anything without consulting theologians. Usually the magisterium should not speak in a binding way without the prior consensus of theologians. Lacking such consensus, the magisterium can humbly propose  
15 its own theological opinion, while admitting that good Christians disagree with it. Dissenters from Church teaching should not consider themselves disloyal, for there is no obligation to assent to it. For the same reason, dissenters should not be silenced. [74]

#### H. The choice each Catholic faces

- 20 On November 11, 1976, the bishops of the United States issued a collective pastoral: To Live in Christ Jesus: A Pastoral Reflection on the Moral Life. In this letter, the bishops reaffirmed Catholic teaching on a number of topics, including racial discrimination, social oppression, unjust acts of war, the indissolubility of marriage,  
25 contraception, sexual intercourse outside marriage, homosexual activity, abortion, and euthanasia.

- On October 5, 1979, Pope John Paul II commends the bishops of the United States for having taught on these matters, since they "needed a clear reaffirmation, because Catholic teaching in their regard had been challenged, denied, or in practice violated."  
30 In respect to contraception, the Pope made his position absolutely clear:

- In exalting the beauty of marriage you rightly spoke against both the ideology of contraception and contraceptive acts, as did the Encyclical, Humanae Vitae. And I myself today, with the same conviction of Paul VI, ratify the teaching of this encyclical, which was put forth by my predecessor "by virtue of the mandate entrusted to us by Christ."  
35

- Thus, the current successor of Peter rejects radical theological dissent in the field of morality. He offers no fresh arguments, although he could easily do so, for he is a very competent scholar in his own right. Instead, he affirms: "Dear brothers: we can be assured that the Holy Spirit is assisting us in our teaching if we remain absolutely  
40 faithful to the universal magisterium." [75]

- Returning to Rome, John Paul II addresses the College of Cardinals, November 5, 1979. Obedience to Vatican II is obedience to the Holy Spirit. The tasks indicated by the Council must be carried out. One cannot go back, but neither may one rush ahead to ways of living, thinking, and preaching Christian faith--to ways of being a Christian--  
45 not envisioned in the integral teaching of Vatican II: "'integral,' that is to say, understood in the light of the whole of sacred tradition and on the basis of the constant magisterium of the church herself." The Church has to try hard to get on the road to putting Vatican II into practice, and "to free herself from contrary proposals, each of which shows itself to be, of its own kind, a departure from this road." [76]

- The first and most important conclusion John Paul II draws from this ecclesiological observation on the present situation concerns the exercise of freedom in the Church. The truth about freedom must be preserved in hearts and consciences. Freedom of choice and personal liberty do not mean freedom to do as one pleases. Christ never taught freedom from responsibilities--such as those of marriage promises and priestly ordination.  
50 Rather He taught freedom for responsible self-giving in the service of genuine love. This meaning and use of freedom is the basis for the whole work of carrying out Vatican II's renewal. [77]

- Obviously, John Paul II does not consider the doctrine of Vatican II dated and discussable, something which has to be set aside as to the letter in favor of its "atmosphere" or "spirit."  
60

- Thus, each Catholic must make a choice. One can accept the authority of Charles Curran, Richard McCormick, and other radically dissenting theologians; one can join them in setting aside many points of common Catholic moral teaching, the ecclesiology of Vatican II, and any responsibility to assent to the teaching of John Paul II when he offers  
65 no new reasons for teachings one finds unsatisfactory. Or one can accept the authority of John Paul II, the bishops of the United States, and most of the bishops of the world; one can join them in affirming all points of Catholic moral teaching which have been held and handed down by the universal magisterium; one can accept the ecclesiology and help to carry out the program of Vatican II; one can bear effective witness to the love and truth of God revealed in our Lord Jesus by conforming one's conscience to the Church's  
70 teaching and by living according to one's Catholic conscience.

- In favor of the first alternative is that the theologians offer one freedom to do as one pleases in respect to whichever moral norm one finds too burdensome. In favor of the latter alternative is that John Paul II and the Church he leads offer one freedom  
75 for love--for the sincere gift of oneself by which and in which alone one finds oneself (cf. GS 24).

#### I. Is there any good reason to follow the radically dissenting theologians?

- 80 One reason often given for following radically dissenting opinions is that so many theologians accept them. Thus, when Joseph Komonchak criticized the position John C. Ford, S.J., and I defend with respect to the infallibility of the Church's moral teaching on contraception, Komonchak's last argument was: "Finally, there is something like a consensus theologorum that the magisterial tradition behind HV's condemnation does not

constitute an infallible exercise of the teaching office." [78] McCormick, modestly designating himself too much a specialist in moral theology to enter the argument, nevertheless quotes this argument from Komonchak. [79]

5 Since Komonchak's article appeared in the same issue of Theological Studies as the article written by Ford and me, and because Komonchak had a year to study our article before completing his own (and McCormick was reviewing both), their invocation of a consensus theologorum means that they were confident that the conclusion defended by Ford and me was rejected and would continue to be rejected by theologians who had never read (and perhaps never will read) our argument--which is by no means a rehash of previous  
10 arguments. In other words, the attitude of Komonchak and McCormick is: Never mind arguments; we outnumber you.

The same attitude is expressed by the constant references to "the majority" and "the minority" in the Birth Control Commission. Ten years after Humanae Vitae, McCormick still harps on Paul VI's rejection of "the majority" opinion, saying it reflects a highly  
15 legal notion of the magisterium and that consultation becomes a disposable luxury when majority opinions are not accepted. [80] He misses the point that the Birth Control Commission was not a legal device, such as a legislature. It was intended to be a study-group. Its members were supposed to marshal reasons and evidence for their views. Reasons subscribed to by sixteen people do not make an argument four times stronger than  
20 reasons subscribed to by four people.

McCormick did not always take so vulgar and political a view of theology. In 1968 he pointed out that a theologian's answer to a question is only his own fallible opinion, with no authority or doctrinal status beyond that of the reasons supporting it. [81] The  
25 following year he wrote that "theology is a scholarly affair, that its only authority is in its arguments and its evidence." [82] These statements are correct. No one ought to believe any theologian. If the evidence and reasons make a good argument, one will understand it for oneself, and the authority of the theologian will be as irrelevant as a clean window opening upon a good view. Only if someone has bad arguments will he seek to enhance them by invoking a consensus theologorum. Sixteen signatures do not transform  
30 a bad argument into a good one, and six hundred names do not make a manifesto into a theological proof.

McCormick demands that the magisterium produce adequate reasons for received Catholic teaching. [83] Since the Holy Spirit is at work in the whole Church, he thinks, the whole must determine doctrine, and the magisterium can propose it only with "proofs from  
35 human experience and with good arguments." [84] If the hierarchy does not listen to the theologians, its efforts to teach are counterproductive. [85] Recently, McCormick has laid down rules for the magisterium's use of theology. The magisterium must not choose theological advisors by the criterion of their assent to the Church's teaching; the magisterium must not teach against a significant theological consensus; the magisterium  
40 must not consider theological dissent objectionable. [86]

These views imply three things. First, McCormick and radically dissenting theologians generally are more and more forgetful of the fact that faith is a presupposition of theology. Second, they not only tend to ignore the divinely appointed leadership  
45 role in the Church of the bishops and the pope, but also tend to deny them even the role which would belong to the managers of any human society, namely, the right and duty to make decisions, to pick advisors, to follow some advice and not to follow other conflicting advice. Third, the radically dissenting theologians more and more pose as the Catholic theological community; those who do not join in radical dissent simply do not count, and their arguments can be ignored.

50 How can radically dissenting theologians justify their preference for their own authority over the authority of the magisterium, which is supported in respect to every point of received Catholic teaching by many nondissenting theologians? Avery Dulles has tried to justify this preference:

55 In the post-Tridentine Church, and in the Neo-Scholastic theology of the nineteenth and twentieth centuries, the dialectical tension between the charisms in the Church is virtually eliminated. All authentic teaching power is simply transferred to the episcopal order. [87]

60 And he argues at length that the situation in which popes and bishops determine points of teaching concerning faith and morals is a relatively recent development--a kind of aberration in the Church due to peculiar, modern conditions.

One of Curran's associates in dissent, Daniel Maguire, made a very similar statement. However, according to him, things went bad earlier, because of a shift to the  
juridical in the eleventh and twelfth centuries. He explains the effect of this shift:

65 After this transition there is a tendency to see the teaching acts of popes and bishops as divinely guaranteed. The teaching of Church officers seems to enjoy an inalienable presumption in its favor, a certain authenticity that other Christian teaching does not have. The magisterial role of the Church at large is neglected in the stress on the prerogatives of officers. The hierarchical emphasis was intensified in the panicked reaction to the Reformation. [88]

70 Thus Maguire also considers the situation in which the hierarchy has real teaching authority an aberration which has existed, unfortunately, for nearly half the life of the Church.

A Protestant scholar, Hans von Campenhausen, examined the relationship between magisterial authority and various other charisms--gifts of the Spirit--in the early  
75 Church. His view is like that of Dulles and Maguire; his study leads him to think that teachers and theologians had some independence through the second century but lost it in the third. He sums up his view:

80 In the course of the third century the exclusive authority of office attains its full stature. It is true that the right to co-operate and share in church decisions is nowhere absolutely denied to the congregation, and that in practice their influence shrank only gradually and step by step before the growing might of the clergy. But everywhere in governing circles we can see the effort to make the effectiveness of clerical authority as unrestricted, unqualified and exclusive as possible. These efforts were especially successful in the western Church, and

Cyprian here marks the terminal point of the process. He formulates for the first time quite unambiguously--and with terrifying precision and candour--the principle that authority resides uniquely with the bishops.[89]

5 Cyprian died in 258. Therefore, on this analysis the situation in which the hierarchy has the kind of teaching authority it claims for itself in Vatican II (cf. LG 25 and DV 10) is an aberration which has existed for seven-eighths of the life of the Church.

10 While von Campenhausen is an admirable and trustworthy scholar, I do not think he has pushed back far enough to find the source of the aberration. At the beginning of Mark's Gospel, Jesus appears in Galilee teaching. People are used to religious teachers, such as the scribes, who were the theological scholars of the day. Jesus is different. When He begins to teach: "The people were spellbound by his teaching because he taught with authority, and not like the scribes" (Mk 1.22). This aberration from past teaching practice was handed on by Jesus when He said first to Peter and then to all the apostles: What you bind on earth is bound in heaven; authority is mine, I authorize you to carry  
15 on my work (cf. Mt 16.17-19; 18.17-18; 28.18-20).

The radically dissenting theologians have produced no good reason whatsoever why Catholics should accept their authority rather than that of the successors of the apostles. When McCormick demands that I choose between his authority and that of John Paul II, I find the choice an easy one to make.

20 J. Are there any superior theological principles for dissent?

On the whole, radically dissenting theologians have made no serious effort to justify dissent by appeal to expressions of faith itself more authoritative than the teachings received and reaffirmed by the magisterium. At times, however, they say things which suggest arguments along this line. Here I review a few such suggestions.

In defending dissenting theologians, Walter J. Burghardt, S.J., says that an important part of a theologian's work is to subject every earthbound expression of faith to the test: "Does it square with, correspond to, adequately represent the Word of God?  
30 In doing so, we are not setting ourselves above the Pope or bishops; we are collaborating with them in a joint effort to understand what God says to us and what God wants of us." [90] Thus Burghardt suggests that theological dissent is justified by the Word of God, and that theologians have access to this Word in a way which can test every "earthbound affirmation of Christian truth."

Unfortunately, he never explains what this access is. If he means that theologians can read the Bible, he is right. But the theological dissent with which I am concerned in this chapter almost never appeals to Scripture as a basis. How could it? Where in Scripture will one find any hint that contraception, homosexual behavior, adultery, abortion, and so on are sometimes good acts? Where in it will one find any hint that theologians have an authority to which bishops must submit? Perhaps Burghardt does not mean Scripture. Perhaps he means that theologians have access to the Word of God quite apart from the earthbound affirmations even of the Bible. A Catholic conception of revelation and faith, along the lines I proposed in chapter thirteen, sections B-D and H, excludes such access.

45 Often theologians appeal to the "sensus fidelium." I have explained in chapter fifteen, section A, why this appeal fails. It is interesting to notice that many theologians who identify "sensus fidelium" with majority opinion when they talk about contraception do not appeal to the sense of the faithful (even in their meaning of the expression) when they talk about homosexual activity. Here, the sense of the faithful (in either its correct or vulgar meaning) is written off to bigotry.

Avery Dulles points out that most laypeople are uninterested in the "liberal" program for reforming the Church: "The majority of the faithful are probably unaware of the reasons for protecting the right of speculative theologians to hold new and untried theories; and they would probably oppose the admission of women to holy orders." [91]  
55 Dulles warns against confusing the sensus fidelium with majority opinion. Nevertheless, he thinks that the hierarchy cannot be relied upon exclusively, because of their "class interests and professional biases." What is needed, he thinks, is a "pluralistic theory of authority in the Church." [92] This theory allows theologians independence. [93]

If radically dissenting theologians really undertook to provide a theological foundation for their opinions, many of the truths of faith which I have tried to articulate in parts two and three of the present volume would block their effort. Nothing I said there establishes that a particular kind of act, such as contraception, always is wrong. But any attempt to argue for it--for example, by appealing to the Christian goodness of conjugal love--will get nowhere if one bears certain truths of faith in mind.

65 For instance: Suffering is part of the Christian vocation; grace is sufficient to fulfill God's will; one's visible worldly life is only the outward appearance of one's real life in Christ, which even now is being built into the fulfillment of eternal life in Him; temptations to violate sexual moral norms must be expected, in the light of our fallen condition; and so forth. With such truths as these in mind, one realizes that  
70 "a true contradiction cannot exist between the divine laws pertaining to the transmission of life and those pertaining to the fostering of authentic conjugal love" (GS 51).

Lacking arguments from theological sources to defend their opinions, radically dissenting theologians have resorted to denying that the Church's substantive moral teaching really is essential to Christian life. Charles Curran, for example, says specific moral issues, such as contraception, "so removed from the core of faith can never be the place where the unity of the Church is to be found." [94] Joseph Fuchs, S.J., argues that since faith and love determine salvation, specific moral practices are "only a secundarium" which can allow various and incompatible moral norms as Christian, provided only that in a given culture they are nonarbitrary and are considered "right." [95]

80 McCormick reports the work of several European moralists who hold for an "autonomous ethics," whose primary thesis is that Christian ethics has no insights unavailable to nonbelievers. McCormick himself allows that faith helps one to see the human clearly, but does not think faith proposes any moral norm not available to reason. [96] McCormick thinks this important for many reasons, not least that "the reason-ability of concrete

moral demands is a strong protection against abuse of authority in teaching morality." [97]

That the Church's substantive moral teaching is an essential part of Christian life is clear at once if one recalls that moral norms bear upon human fulfillment and human fulfillment is an essential part of fulfillment in Christ. Positions like those of Curran and Fuchs probably rest upon a conception of salvation which regards human acts in this life as merely extrinsic means in relation to heaven. If this view were right, it would matter little what we did here.

The positions McCormick discusses and to some extent shares involve a different mistake. They rightly emphasize the humanism of Christian morality; our share in divine life itself does not set norms for human action. (If it did, the human and divine would be commingled in a way analogous to that excluded in the Church's teaching concerning Christ.) However, those who hold this view fail to notice that the universal reality of sin, redemption, and a call to share in the life of Jesus specifically human morality so that it makes demands on all humankind which it would not make if the factual situation were different. For example, human morality demands love of neighbor; Christian morality demands love of enemies. I have discussed this relationship briefly in chapter fourteen, section N, and will explain it more fully in part five.

After Humanae Vitae, Alfons Auer made public a view which was shared by a substantial part of the majority group of theologians on the Birth Control Commission. [98] According to this view, moral norms not only must be reasonable, but also can be generated only by human experience and reflection. The Church can propose moral norms, but this is a subsidiary function, not at all part of her essential task. When humanistic culture was less mature, the Church took responsibility for morality, much as it mixed in politics. But now the time has come for an end to any pretense of special authority by the Church in the moral domain. Faith helps to clarify human judgment, which criticizes norms, but the authority of these norms in no way arises from or is enhanced by faith. On Auer's view, no concrete moral teaching can have the status of a truth of faith. [99]

This view denies the inherent normativity of faith for Christian life, which I treated in chapter thirteen, section J. If Auer is right, revelation simply does not contain divine commandments, and the covenant does not have any specific normative content. In other words, implicitly he denies that any specific norm of natural law is part of divine revelation. I have argued in chapter fourteen, section N, that the whole Catholic tradition holds that at least part of natural law is divinely revealed, and that Vatican II's teaching shows that all of it is.

Lest this position be thought to be peculiar to me, I note that McCormick held the same view, and articulated it very clearly in 1965. He held that in becoming man, God reveals the dignity of man. Also, Christ and Paul insist on natural-law prescriptions. Paul presents them as part of the Gospel. The natural law is within the law of Christ. McCormick also argues that in any case the Church can teach infallibly the whole of the natural law:

. . . even if (per impossible, I should think) the natural law was not integral to the gospel, the Church's prerogative to propose infallibly the gospel morality would be no more than nugatory without the power to teach the natural law infallibly. One could hardly propose what concerns Christian men without proposing what concerns men. The Church could hardly propose Christian love in any meaningful way without being able to propose the very suppositions of any love. In other words, and from this point of view alone, to propose the natural law is essential to the protection and proposal of Christian morality itself, much as certain philosophical truths are capable of definition because without them revealed truths are endangered. Furthermore, charity has no external act of its own. It can express itself only through acts of other virtues. But natural-law demands constitute the most basic demands of these virtues, simply because we can never escape the fact that it is man who is loving and to be loved. Would not, therefore, the ability to teach infallibly the dignity of man (certainly a revealed truth) without being able to exclude infallibly forms of conduct incompatible with this dignity be the ability infallibly to propose a cliché? [100]

#### K. How specific norms fall within the Church's competence

The Church's teaching concerns our relationship with God--the relationship established by revelation and faith. To show in detail how specific norms depend upon the fundamental truths of faith is the purpose not only of this volume but of this entire work. I have shown already in chapters eleven and twelve that Christ reveals to us the appropriate way to respond as human persons to God's love. Here I wish only to sketch certain relationships which will be explained more fully in volume two, when I treat the ethics of sex and life.

God reveals Himself as creator and redeemer. Human life is very closely related to God in both of these relationships. As creator, He is Lord of life; as redeemer, He overcomes death. Life not only has a dignity which should be respected; it has a sanctity which should be revered. Marriage also is closely related to God in both relationships. As creator, He establishes marriage and joins man and woman in it. As redeemer, He marries Himself to humankind and makes Christian marriage be a sacrament of this ultimate covenant.

Because human life and marriage are sacred, because they are intimately linked with each other, and because they are the essential foundation of personal individual and communal existence in every culture, certain norms which must be fulfilled out of reverence for these sacred realities are part of God's basic revelation, and these norms exclude killing the innocent, homosexual activity, adultery, and attempts to dissolve marriage. Killing the innocent violates life sacred to God; the blood (the life) of the innocent calls to heaven for retribution. Homosexual activity, adultery, and attempts to dissolve marriage violate marriage, by substituting for it a different model of interpersonal relationship than that which God has designed and chosen to use as the form of His own relationship with humankind. Homosexuality, for example, symbolically suggests that either humankind is inherently as divine as God or God of Himself is as human as we.



Killing the innocent violates a sacred life after it is begun; contraception violates the sanctity of life in its transmission. Homosexual activity, adultery, and attempts to dissolve marriage violate the sacredness of the covenant relationship by substituting a different model of relationship; masturbation and fornication between unmarried persons violate marriage by rejecting interpersonal relationship or refusing commitment to it. A sign of the deep structure of the Christian norms concerning sex and life is that almost no one sets aside--I do not mean sinfully violates, but rejects as non-binding--the norm forbidding contraception without approving at least some choices to kill the innocent, no one sets aside the norm forbidding masturbation without approving at least some choices to engage in homosexual activity, and no one sets aside the norm forbidding fornication without approving at least some choices to engage in adulterous intercourse.

Moreover, no one who approves killing the innocent, homosexual activity, and adultery (including as adultery the attempt to dissolve marriage) can continue to maintain a Christian understanding of the sanctity of life and of marriage. And no one who yields this understanding can continue to think and live a Christian relationship with God, the lord and redeemer of life, the joiner of man and woman, and the husband of His own People.

The fundamental character of these moral norms is suggested by the historical fact that they have been much more durable than many important but subordinate doctrines. Despite the split between the Jewish and Christian communities, there is little difference even today between the moral standards of Orthodox Jews and of Roman Catholics. The same can be said for Eastern Orthodox Christians and Roman Catholics. Until the last century, the same was true for Protestants and Roman Catholics, except with respect to divorce--and this difference was more a matter of a disagreement in sacramental theology than in moral theology.

Moral norms are not an optional extra in any community. They express its very identity; they require what must be required for the community to live and hand itself on. Societies can be pluralistic with respect to morality only if and to the extent that they concern themselves with certain limited aspects of life, as political society, for instance, concerns itself mainly with bare survival and mutual protection, and so need not insist upon all the norms of personal morality. But the community of friendship with God concerns the whole of a person; nothing remains private in relation to God.

Hence, Christian morality necessarily embraces the whole of life and leaves nothing to individual arbitrariness. If the Church were a political society, it would have to be totalitarian or its morality would necessarily be a mere legal code of behavior--which explains what happened when state and Church were too closely connected. Since the Church is a communion of love, not of power, it can embrace the whole person without reducing his or her unique individuality, as I explained in chapter six.

Because of the place of moral norms in the life of the Church, dissenting theologians have undertaken a very difficult task. They can succeed in changing the norms only if they can change the character of the community. To accomplish this, they must either convert the leadership to their view, or assume leadership themselves and transform the Church by revolutionary action. Until *Humanae Vitae*, the theological dissenters were attempting to convert the leadership; since then, they have been attempting to execute a coup, especially with respect to the Holy See. At the same time, they wish to convert bishops and priests to their view.

Solidarity among the clergy creates a special difficulty for the dissenting theologians, since their effort to subordinate the magisterium of the pope is naturally felt by most bishops and by clearheaded priests to be a threat to themselves.

John Paul II is a rock in the way of the dissenting theologians. His sophisticated conviction concerning traditional teaching renders hopeless his conversion to dissenting opinions; his popularity with the faithful renders hopeless any effort to convince the membership of the Church that he is not their head and appropriate spokesperson--whether or not they agree with what he says.

The logical preconditions for any authoritative change in the Church's moral teaching never have been understood clearly by the dissenting theologians. The teaching has been and still is widely accepted by the Church, especially by her leadership. Therefore, to change it one must try to show it false or doubtful. To show a universal norm doubtful, one must show that in some case one ought to act contrary to it. To show this plausibly, one must make a case at least consonant with faith itself for setting aside the received norm. If one thinks one has made such a case, one must propose it to the leadership of the Church. This is what happened in the Birth Control Commission.

For this reason, the Commission was unable simply to tell Pope Paul to say that the received teaching on contraception was uncertain and no longer binding. They had to tell him to say that "in fulfillment of its mission the church must propose obligatory norms of human and Christian life." [101] They had to tell him to say that "responsible parenthood is a fundamental requirement of a married couple's true mission." [102] They had to tell him to say that "if they are to observe and cultivate all the essential values of marriage, married people need decent and human means for the regulation of conception." [103] They had to tell him to say that "the means which are chosen should have an effectiveness proportionate to the degree of right or necessity of averting a new conception temporarily or permanently." [104] Finally, although they did not have to tell the pope to say it, the proponents of contraception had to tell him that abstinence from intercourse is not always an adequate and morally acceptable means.

The official documents of the Birth Control Commission did not make clear precisely what these assertions implied concerning what the pope would be doing if he approved contraception. However, Paul VI was fully informed by means of other documents about the implications of the official documents, along the following lines. To say the things proposed would amount to saying this: "Until now, I have been telling you that practicing contraception is a grave matter. Now I must tell you that you have a grave obligation to begin practicing it, if it is the method most suited to you for fulfilling your obligation to regulate conception. In other words, what it was a mortal sin to do last night might well be a mortal sin to omit tonight."

Moreover, Paul VI also was fully informed that the Church could not change its

moral teaching only on contraception. The reason was that any plausible account of the change on contraception could not consistently exclude change on other matters. So the Commission was implicitly telling Paul VI to say: "Until now I have been telling you that masturbation, fornication, homosexual relations, abortion, adultery, and so forth all involve grave matter. Now I must tell you that what was a mortal sin until this moment might well be a mortal sin to omit from now on. Sorry about this folks, but you know the Church can make mistakes."

Anyone who does not have responsibility for the Church's teaching can grasp Paul VI's problem only by putting oneself in his place.[105] The ordinary priest or theologian thinks about the problems of the faithful in living up to the teaching, and perhaps thinks about his or her own reasons and rationalizations for changing it. The pope must ask himself whether a proposed new teaching could possibly be true if it rather clearly amounts to the Church as teacher utterly discrediting her own claim to communicate divine truth to humankind.

#### L. Dissenting criticisms of the magisterium's appeal to natural law

Radically dissenting theologians often criticize the magisterium's references to natural law. Such criticism was especially prevalent after Humanae Vitae. Curran and his associates rejected "some of the specific ethical conclusions contained in the Encyclical. They are based on an inadequate concept of natural law: the multiple forms of natural law theory are ignored and the fact that competent philosophers come to different conclusions on this very question is disregarded." [106]

In fact, the moral teaching of Humanae Vitae is not based on any concept of natural law or any philosophical argument at all. It is received teaching in the Church, and it originated (probably before Christ) before there was any natural law theory to articulate and defend it. Natural law theories are theology; the Church's moral teaching is part of the Judaic-Christian heritage. Moreover, no one except certain consequentialists had argued that natural law theory of any sort supports the approval of contraception. Thus the dissenting criticism amounts to saying that Paul VI was wrong because he did not agree with consequentialist arguments for contraception. In view of the indefensibility of consequentialism, this criticism is not telling.

Curran and his associates also attacked what they called "biologism" in Humanae Vitae: "Other defects include: overemphasis on the biological aspects of conjugal relations as ethically normative; undue stress on sexual acts and on the faculty of sex viewed in itself, apart from the person and the couple. . . ." [107] Richard McCormick also talks of "biologism." [108] Moreover, he urges that the moral criterion must be the whole person, not part of the person, and cites Vatican II's statement that the moral criteria for birth regulation must be based on "the nature of the human person and his acts" (GS 51).

The argument about biologism can be taken as an expression of self-body dualism. In the Birth Control Commission, proponents of contraception implicitly asserted such dualism by saying that biological fecundity "ought to be assumed into the human sphere and be regulated within it." [109] This statement implies that those who made it think of the fecundity of human persons as in itself outside the human and personal, since one need not assume what one already is. I have explained this point at length elsewhere. [110]

The dissenting theologians could grant that human sexuality is personal of itself, yet claim it is only one part of the person, whose fulfillment can be outweighed by other parts. This move is the one made by talking about the whole person and by referring to Vatican II. The Council teaches that there must be objective criteria for birth regulation and it does say these should be based on the "nature of the human person and his acts," but it adds immediately that they must "preserve the full sense of mutual self-giving and human procreation in the context of true love" (GS 51). This last phrase with its reference to the full sense of human procreation, is regularly omitted by the dissenting theologians. They likewise omit what the Council immediately adds about the need to cultivate the virtue of marital chastity and to conform one's conscience to the teaching proposed by the magisterium. In short, dissenting theology builds this argument on a selected phrase from the Vatican II document.

In context, what the Council teaches cannot support the approval of contraception unless one reads into the Council a consequentialist theory of moral judgment. If one does this, one can suppose that the full sense of procreation in conjugal acts can be preserved in marriage as a whole while being excluded from most of its acts, on the supposition that this exclusion is a lesser evil outweighed by the overriding value of the contribution regular orgasm makes to marital love. (I put the issue thus because married couples can and do make physical love without contraception and without pregnancy--without genital intercourse and orgasm.) Again, the problem is that consequentialism is indefensible; the argument collapses.

In articulating his theory of natural law, St. Thomas Aquinas asks about the unity of its norms in application to cases. To answer this question, he borrows a distinction from Aristotle's physics between what is universal and necessary, and what is particular and subject to chance variation. Applying this distinction, he says that the basic principles of natural law are the same for all, but at the concrete level the proper principles which guide action hold for most cases, yet because of special conditions can be subject to exceptions. [111] Many radically dissenting theologians quote or cite this one article of Thomas--although they freely reject or ignore almost everything else in his thought--to support their case that one must responsibly decide in each case whether a received moral norm must be fulfilled or is overridden by other considerations.

The first thing to notice about this argument is that the point St. Thomas is making can be true with respect to derivative moral norms, which must be applied and limited by basic moral norms, as I explained in chapter fourteen, section G. The next thing to notice is that Thomas in his actual moral thinking--as distinct from his reflection upon natural law--holds that there are norms which do not admit of exception, as I explained in section C, above. In any case, Thomas does not articulate a consequentialist theory and he nowhere suggests that any Christian can dissent from received moral teaching.

Beyond these considerations, I think it must be said that this particular position of St. Thomas is a mistake and that his Aristotelian argument for it is fallacious. The structure of the moral domain is not exactly parallel to that of the natural world. The whole morally significant content of one's action must be intelligible, since one is responsible only for what one understands. For this reason, proposals which one adopts by choice never are particularized by unique, unrepeatable, material, contingent factors. The really unique aspects about one's action are in themselves nonintelligible and make no difference whatsoever to the morality of what one does.

Hence, Thomas is confusing the specificity of moral acts with the uniqueness of physical particulars. Although one's dog Fido has individual traits which no branch of science ever studies, one's morally significant act of mistreating one's dog Fido on a particular day due to particular irritations has no morally relevant features which will not be considered by a complete Christian ethics. For one's morally significant act will include only what one deliberately chooses to do and permit--that is, what one understands about what one is doing--and one's practical understanding is determined through and through by moral principles.

M. Does probabilism apply against received Catholic moral teaching?

According to classical moral theology, a truly doubtful law does not bind. Therefore, when there is a true conflict in the moral guidance one receives and when this conflict is such as to put one's obligation in doubt, one is permitted to form one's conscience according to the norm which makes the obligation doubtful, even if the support for this norm is not as cogent as the support for the obligation itself.[112] In the situation of radical theological dissent, many theologians and others have urged that the dissenting opinions create a genuine probability against the received teaching, and that therefore the faithful are free to set aside the Church's teaching and to act according to the dissenting opinions. There are several things to be said about this view.

First, it ignores the difference between the teaching authority of the Church and the value of theological reflection upon the Church's teaching. In classical moral theology, probabilism never was invoked in favor of theological opinions against the Church's teaching, but only in favor of one theological opinion against another (or others) in areas left indeterminate by the teaching of the Church. The outlook was legalistic, and the magisterium was thought of as a supreme court; theologians were only lower courts.

Second, when we set aside this legalistic outlook, as we should, the Church's moral teaching is sacred and certain, as Vatican II teaches, and it must be followed, as I explained in chapter fourteen, sections E and O, and chapter fifteen, sections J-N. The authority of the Church's teaching ultimately rests on divine revelation and faith, and the magisterium's duty to articulate and defend this teaching rests on divine commission. The authority of theologians rests on three things: their use of the Church's teaching as the presupposition of their thought, their authorization by the magisterium to share in its work, and their scholarly accuracy in presenting what the Church teaches and cogency in arguing from this teaching. When theologians dissent from the Church's teaching without a solid foundation for dissent in a superior theological source, they undermine their own authority, and they provide no reason for any Catholic to take seriously anything they say.

It is for this reason that I have said that no one ever should believe any theologian, including me. One ought to believe the divine truth which the Church as a whole hands on, unfolds, and defends. If what theologians say makes sense, one can understand it for oneself in the light of one's own faith in the Church's teaching and one need not accept it on the authority--which in itself is merely a human and scholarly authority--of the theologian. If one cannot grasp for oneself in the light of one's own faith what a theologian says, one does better to consider it irrelevant to one's faith and Christian life.

Third, even if probabilism were relevant to theological dissent, it would not justify anyone in following dissenting opinions against the Church's received moral teaching. For probabilism only authorizes one to follow an opinion which is truly probable--that is, one which has some really plausible grounds. As I have been explaining through most of this chapter, dissenting theological opinions lack such grounds.

Considered coolly and critically, the dissenting opinions all depend upon some form of consequentialism, and consequentialism in any form is rationally indefensible. As I showed in section C, above, Richard McCormick, who has done more than anyone else to try to articulate and defend a form of consequentialism (that of proportionate reason), has to admit that there are serious and unresolved problems in the use of expressions such as "lesser evil" and "proportionate reason." And although he has demanded that the magisterium supply adequate rational arguments for the moral norms it has received and continues to hand on, he himself admits that spontaneous and instinctive moral judgments, not discursive arguments, are the really determinative principle of his own moral thought.

Beyond these considerations, I think that the problem of resolving one's uncertain conscience takes on a different character when one begins to think about moral life outside a legalistic framework. Any humanly good person wishes to live in the truth and to act toward fulfillment; any serious Christian wishes to cling to God and to cooperate in the redemptive work of the Lord Jesus by making his or her life a revealing sign which the Church's teaching will explain. When one begins from this perspective, the question to ask whenever one's conscience is unsettled is which normative judgment is more likely to be true. This judgment alone is the one to accept in practice.

In saying this, I am not advocating a stricter alternative to probabilism. Sometimes the normative judgment which is most likely true is in favor of stringent duty, but at other times it is in favor of liberty to ignore what still could be a duty. A good person's moral judgment concerning which normative judgment is more likely true will be formed by an honest appraisal of all the available sources of moral knowledge and advice; a sincere Christian's moral judgment will conform to the teaching of the Church whenever there is a clear teaching, even if one is not sure it is proposed infallibly.[113]

Only by seeking always to follow the judgment most likely true can one consistently contribute by one's moral acts to one's own growth as a humanly fulfilled moral agent (whose self-identity is shaped by moral truth) and also contribute to the realization of human goods in others as well as in oneself. Furthermore, only when all members of the Church consistently form their consciences by her sacred and certain teaching--a teaching which remains morally certain despite all dissent even when it is not infallibly proposed--does the witness of communal Christian life substantiate the Gospel the Church preaches and make it an effective and revealing communication of God's truth and love.

Often today one hears the argument that in our pluralistic age, absolute unity in Christian moral teaching no longer is appropriate. The "official teaching" ought to be regarded as one option, it is argued, and dissenting theological opinions as another legitimate option. Just as the law of the state allows people liberty to engage in sexual activities of their choice, provided only that they are among consenting adults and are done in private, and just as the state approves and facilitates abortion and remarriage after divorce, so (it is suggested) should the Church.

This argument neglects to notice that while every community can be pluralistic about whatever is not vital to its concerns, no community is pluralistic about what touches its essential purposes. Thus no state ever tolerates pluralistic approaches to the payment of taxes or to the assassination of public officials. The Church is pluralistic in many ways: It welcomes people who are Jews and Gentiles, people of all races, ages, levels of intelligence and culture, people male and female, and so forth. And none of these distinctions blocks one from enjoying full membership in the Church.

However, like any society, the Church has an identity which excludes certain forms of pluralism. The whole of chapters thirteen through fifteen is my attempt to show that Catholic faith--which centrally constitutes the Church's identity--excludes the pluralism which would be admitted if radical theological dissent were accepted as a legitimate alternative to received Catholic moral teaching.

I also think one must question whether those who call for pluralism really want what they are asking for. Is everyone in the Church to be allowed the same sort of liberty? If so, then not only opinions acceptable in secular humanist academic circles but also opinions such circles would scorn the Church for tolerating must be accepted as views compatible with Christian life. In other words, William F. Buckley's nineteenth-century liberalism and the reactionary social attitudes of many lower-middle-class Catholics also will be part of the pluralistic spectrum.

Amid such a spectrum of opinion and babel of conflicting voices, where would the world hear the voice of Jesus? Where could anyone find a living witness of His love? Perhaps in the lives of saintly individuals. Certainly not in such a church--I do not write "Church," for it no longer would be the Church.

#### 40 N. Did the statements of bishops after *Humanae Vitae* support dissent?

As a matter of psychological and social fact, there can be no doubt that some of the statements of conferences of bishops after *Humanae Vitae* had the effect of powerfully supporting radical theological dissent. But the question I am concerned with here is not one of psychology and sociology. The question rather is a theological one: What did the bishops say, what did they mean, and what implications do their statements have for the questions being treated in this chapter?

There were very many statements issued by individual bishops, particularly immediately after the publication of *Humanae Vitae*. I know of no collection of this vast body of material. However, reports at the time in *L'Osservatore Romano* and in various news services indicated that almost all of these statements affirmed and many of them defended the teaching reaffirmed by the encyclical. Only a handful of these statements of individual Catholic bishops contained negative reactions, and even fewer went so far as to contradict what *Humanae Vitae* reaffirmed.[114] Statements also were issued by or on behalf of various national hierarchies, and these statements have been collected.[115]

If one reviews the collective episcopal statements, it becomes clear that most of this body of teaching is consonant with *Humanae Vitae*. However, each of the documents has a unique character; all were composed as thoughtful responses both to the encyclical and to the pastoral problems raised by its reaffirmation of the received teaching.[116]

It is a mistake to speak of these episcopal statements as if they contributed a chorus of episcopal dissent to the dissent of some theologians, who criticized the encyclical and rejected its reaffirmation of the received teaching on contraception. None of the episcopal statements denied the competence of the magisterium to propose specific moral norms, norms in themselves obligatory, on the morality of contraception. Moreover, none of the episcopal statements explicitly rejects the norms restated in *Humanae Vitae*. [117]

The agreement between the bishops and Pope Paul was not merely tacit. Many of the hierarchies strongly and clearly affirm the competence of the magisterium to propose norms and explicitly support the norms proposed in the encyclical. Almost all the rest make statements which--assuming as one should that they are to be read in a straightforward sense--at least imply the competence of the magisterium and imply that the bishops themselves agree with the received teaching. Thus Austin Flannery, O.P., observes:

Two important points need to be emphasized about the divergences between the bishops' statements. The first is that no hierarchy fails to accept the encyclical. All of them accept it and all of them commend it to their people's acceptance. The second is that such divergences as there are, exist within the broader context of wholehearted acceptance of the main thrust of the encyclical's teaching on marriage. [118]

This observation seems to me correct. At the same time, I must also agree with Flannery that certain of the collective statements qualify the teaching in such a manner as implicitly to contradict it. [119]

These qualifications appear in the attempts of certain hierarchies to mitigate pastorally the impact of the reaffirmation of the traditional teaching. Most of the collective statements do this in ways which neither contradict *Humanae Vitae* nor distort common Catholic moral teaching upon the obligation of individuals to follow even an erroneous

conscience and upon the possibility that subjective factors can and often do mitigate culpability for acts which are objectively grave. But a few of the statements try to go further, and if they do not implicitly deny that contraception always is grave matter, they must be taken to imply the truly strange notion that what is objectively gravely evil might nevertheless be correctly judged to be permissible or even obligatory.

If there had always been teachings by Catholic bishops along these lines, the universality required for evidence of the infallible exercise of the ordinary magisterium would never have been manifest. However, the implicit contradiction in 1968 by some bishops of a teaching already infallibly proposed through many centuries takes nothing away from the objective certitude of this teaching.

Moreover, just to the extent that some--and by far the minority--of the episcopal statements must be read as implying a view on the objective immorality of contraception different from the teaching reaffirmed in Humanae Vitae, to the same extent these statements disagree with one another as well as with the majority of the episcopal statements which do not raise any problems. The statements which are not fully consonant with Humanae Vitae and with the majority of the episcopal statements harmoniously responding to it also conflict with each other and cancel each other out.

Some of the episcopal statements, while by no means stating or even implying that the bishops who joined in them dissented from the teaching of Humanae Vitae, discuss the possibility and the limits of licit dissent from authoritative teachings of the magisterium. In several cases such statements proceed directly from the nondefinitive character of Humanae Vitae to the possibility of dissent. No hierarchy raises the question whether the received Catholic teaching has been proposed infallibly by the ordinary magisterium, and so no hierarchy takes a position on this question. Hence, although what some of the hierarchies say about dissent seems to assume that the received teaching is not itself infallible, I see no warrant for supposing that bishops meant to take a position on this question to which they simply did not address themselves.

What should one make of the discussions of dissent in some of these episcopal statements? There are two possibilities. In some cases the discussion seems to be intended to point out that even if--an assumption but not a concession--the received teaching is only an authoritative, noninfallible one, still there are limits of dissent which must not be violated. In other cases hierarchies which argued directly from the nondefinitive character of Humanae Vitae to the legitimacy of dissent obviously overlooked the possibility that the teaching is infallible even if the encyclical is not *ex cathedra*. In overlooking this possibility, these bishops shared in an erroneous assumption which prevailed at the time.

Probably the most important statement by a national hierarchy concerning dissent was one published not after Humanae Vitae but before it, by the bishops of West Germany in 1967.[120] By mid-1968 it had been widely disseminated; without a doubt, it influenced virtually everything said in the episcopal statements after Humanae Vitae. The German statement points out that teachings can be proposed infallibly by the ordinary magisterium, and that if they are, then there is no room for dissent. But it goes on to discuss "the possibility or the fact of error in nondefined [italics mine] statements of doctrine on the part of the Church." Here a vital distinction is fudged.

The German bishops proceed to explain why it is necessary to teach and preach in ways not always infallible; in such cases, they say, the faithful are very much in the position of one who must follow a fallible professional judgment--for example, that of a statesman or a physician--because it is the best judgment one can obtain. (This point is sound as far as it goes, but the German bishops fail to clarify the relationship between teachings proposed noninfallibly and divine faith; they also confuse matters by their analogy between the magisterium and other responsible leaders of professional persons.)

The German bishops next exclude the preaching and teaching of dissenting opinions, but acknowledge the possibility that an individual with adequate theological knowledge could reach a dissenting view "in his private theory and practice." (This admission need not go beyond the dissent I admitted in chapter fifteen, section N. The difficulty, however, is that the German bishops do not make clear that in the moral field, at least, only a superior theological source could justify dissent.) The German bishops proceed to warn against subjectivism and rationalization, and they well defend the authenticity of a person who submits his or her conscience with all docility to the Church's teaching.

In sum, what the German bishops say is not false, but it is incomplete and somewhat confusing. It easily led other bishops to talk about dissent in their statements after Humanae Vitae in ways which were not false, but were irrelevant if the received moral teaching is infallibly proposed, as I maintain, and were inadequate and confusing even if the received teaching is not infallibly proposed. It is worth noting that on the account of teaching not proposed infallibly which I provided in chapter fifteen, section L, one should not be surprised to find defects in the magisterium's teaching when the bishops found it necessary to say some new (and so noninfallible) things about teachings which are not infallibly proposed.

What was said in the various statements of the episcopal conferences about conscience similarly was both correct and, in many cases, seriously misleading. The point can be seen by the following general observation, which applies as well in any pastoral situation.

Normally, one only talks about conscience when one is thinking about one's past action or someone else's action. In forming one's conscience here and now, one pays attention to what the truth of the matter is, not to conscience. It follows that when someone seeks pastoral guidance, he or she wants to know what the Church believes is the right thing to do. Talk about conscience at this point is irrelevant. If one responds by saying that a person who follows a sincere conscience is morally blameless, this remark can be misleading. It is true, but the truth about conscience is not what is being asked for. The question is: What should I think I may do? The question is not: If I do what I think I should do but happen to be mistaken, then how do I stand?

When an advisor in a pastoral situation talks about conscience and about the moral norms proposed by the Church at the same time, the talk about conscience is likely to be



mistaken for talk about one's substantive moral responsibilities. The teaching on conscience does not form conscience; it merely says the vacuous truth that if one blamelessly thinks doing x is right, then one who chooses to do x is blameless. But this empty talk is likely to be taken as significant and to be misinterpreted to mean: If you think that doing x is morally unobjectionable, and if you are blameless in having come to think so, then I, as your pastor, assure you that you may do x blamelessly. In other words, if you think it is right, then it is right for you. Thus, inappropriate and irrelevant talk about conscience is likely to be understood by the faithful who need formation of conscience as an endorsement of subjectivism. As I explained in chapter fourteen, sections F and L, subjectivism is completely alien to a Christian conception of moral principles.

0. The statement of the bishops of the United States

15 Having considered in general the episcopal statements issued after Humanae Vitae, I now turn to the American statement: Human Life in Our Day, issued November 15, 1968. Before doing so, it is worth noticing that to the extent that anything in this statement goes beyond the common teaching of the universal magisterium, it could be changed by any individual bishop. Priests and the faithful are responsible to the teaching of Christ  
20 as it is currently articulated by their own bishop; a collective pastoral does not supercede the authority of individual bishops, nor does it, any more than the personal elements in their own day-to-day teaching, bind them for the future. Hence, if any priest is unsure about anything which is not settled by the common teaching of the Church or the current teaching of the pope, he should ask his own bishop about the matter. If a  
25 further authoritative judgment needs to be made, no one else can make it. (Of course, the bishop himself will seek whatever advice he needs, choose his own advisors, and make his judgment by deciding what advice seems to conform to the mind of Christ.)

In Human Life in Our Day the bishops first summarized common teaching on conscience and stressed the duty to follow the Church's teaching, but also implied--in a quotation  
30 from Newman--that under some condition one might be obliged to follow conscience "against the voice of the Pope." [121] The pastoral next states that Humanae Vitae "does not undertake to judge the consciences of individuals but to set forth the authentic teaching of the Church which Catholics believe interprets the divine law to which conscience should be conformed." The pastoral then quotes from Vatican II (cf. GS 50), and adds  
35 that one should not suppose that the objective demands of morality are incompatible with subjective fulfillment. [122]

The pastoral next states: "Married couples faced with conflicting duties are often caught in agonizing crises of conscience. For example at times it often proves difficult to harmonize the sexual expression of conjugal love with respect for the lifegiving  
40 power of sexual union and the demands of responsible parenthood." The American bishops then make their own the advice given in Humanae Vitae, 25, that people keep trying to fulfill God's law and make full use of the sacraments--both the Eucharist and, when necessary, Penance. The pastoral then adds: "We feel bound to remind Catholic married couples, when they are subjected to the pressures which prompt the Holy Father's concern,  
45 that however circumstances may reduce moral guilt, no one following the teaching of the Church can deny the objective evil of artificial contraception itself. With pastoral solicitude we urge those who have resorted to artificial contraception never to lose heart but to continue to take full advantage of the strength which comes from the Sacrament of Penance and the grace, healing, and peace in the Eucharist." [123]

50 It seems to me that a fair reading of this treatment as a whole suggests neither that the bishops of the United States make concessions to the statement about conscience issued by Charles Curran and his associates nor that they admit any serious confusion between the norm proposed and the formal requirements of upright conscience--namely, that one be in good faith. Also, the American stress is on the distance between an accepted  
55 moral norm, before which one admits oneself guilty, and the subjective conditions which mitigate this guilt, sometimes even to the vanishing point. For this very reason, the use of the sacrament of Penance is stressed; this sacrament would be irrelevant not only if contraception were morally acceptable but also if conscience provided an escape from its unacceptability.

60 I have not quoted in full the teaching on conscience of Human Life in Our Day because, like several other national hierarchies which made statements under considerable pressure in 1968, the bishops of the United States have published a more recent statement which provides a more adequate, brief summary of common Catholic teaching on conscience and many other general and particular questions in Christian morality: To Live  
65 in Christ Jesus: A Pastoral Reflection on the Moral Life (November 11, 1976). Any seminarian or priest not already familiar with this letter ought to become so, for it was drafted with great care after wide consultation, and it accurately presents common Catholic teaching in a contemporary form and format.

70 The 1968 pastoral, after dealing with conscience, went on to explain the negative reactions to the encyclical and quoted Lumen Gentium, 25, on the requirement of religious assent, even when the pope is not speaking ex cathedra. The American bishops next deal with "Norms of Licit Theological Dissent." [124] This treatment implies that there could be licit dissent from Humanae Vitae, which suggests that the doctrine contained in it has not been proposed infallibly. However, the bishops never considered whether the received teaching has been proposed infallibly, and so they hardly settled the question.  
75 At the time, the common assumption was the mistaken one that since the encyclical was not an ex cathedra statement, it did not contain infallible teaching. The bishops perhaps shared the common assumption; perhaps they meant only to assert that in any case the limits of dissent are narrow indeed, and that the dissent then being carried on was  
80 excessive.

The norms proposed by the American bishops are specifically directed to theologians. The norms also explicitly assume that one is dealing with teaching noninfallibly proposed. When a scholar's work leads to dissent, the norms come into play: "They require of him careful respect for the consciences of those who lack his special competence and

opportunity for judicious investigation." The dissent also must be communicated with care to maintain respect for the magisterium.

The pastoral points out: "When there is question of theological dissent from non-infallible doctrine, we must recall that there is always a presumption in favor of the magisterium." Such doctrine carries with it "moral certitude, especially when it is addressed to the universal Church, without ambiguity, in response to urgent questions bound up with faith and crucial to morals." The reasons for dissent must be serious and well founded. Given such reasons, a scholar need not relinquish his opinion. Nevertheless, "Even responsible dissent does not excuse one from faithful presentation of the authentic doctrine of the Church when one is performing a pastoral ministry in Her name." [125]

What the bishops of the United States said about dissent conformed to the teaching of the theological manuals on the subject, except that the legitimacy of public statements is conceded, and this form of dissent (as distinct from interior nonassent) was not conceded by the manualists. I do not see any essential reason why publicity of dissent, if it is licit to begin with, necessarily should be excluded. However, I think that the bishops ought to have considered the question whether the received moral teaching is proposed infallibly by the ordinary magisterium. Moreover, even if the judgment on this question were negative, they also ought to have considered the question whether dissent from moral teaching can be licit when it is not grounded upon a superior theological source.

The bishops of the United States do expressly teach, at another point in Human Life in Our Day, that "contraception always involves a direct positive action against the possibility of life." They explain what is wrong with such action: "There are certain values which may not oblige us always to act on their behalf, but we are prohibited from ever acting directly against them by positive acts. Truth is such a value; life is surely another." [126] This statement is important, because it excludes a consequentialist account of contraception, which would allow one to act directly against the possibility of life when this seemed the lesser evil (by some weighing of incommensurable goods and bads).

Richard A. McCormick, S.J., expressed criticism for the pastoral, since (among other points) he thought that in making this point "the pastoral adopted the philosophical argument associated with the work of one individual (G. Grisez). This analysis had been weighed carefully in the theological community and was not beyond legitimate criticism." [127] I admit that the language used by the bishops is very like language I used in arguing that contraception is wrong. However, they did not adopt my argument. In the context, they do not make the point that contraception is anti-life and then draw the conclusion that contraception is wrong. Rather, proceeding magisterially, the bishops first assert the teaching of the Church to be true, and then they use a particular philosophical idea to explain it. Not only theologians but also bishops are entitled to offer reasons--even bad ones--for what they believe.

#### P. When is radical dissent not dissent?

Up to this point, I have been dealing with radically dissenting theologians, who were clearly saying that some of their positions on moral issues are inconsistent with the Church's moral teaching. However, in 1978 Richard A. McCormick, S.J., took a new tack. He began claiming that he and other theologians are not touching the substance of received Catholic moral teaching but are only altering its inherently alterable formulation.

McCormick begins by pointing out that there seems to be a "conceptual and destructive impasse" which tends to put theologians and bishops against one another. Is there no solution? There is another way of looking at matters. "It views the hierarchical magisterium as the precious vehicle of our shared experience and knowledge." But the magisterium is only pastoral in character, for it makes prudential judgments when more basic principles must be brought to bear in changing times; the magisterium is philosophical-theological in character, for it uses a thought-system and language which are culture-conditioned and imperfect; the magisterium must address believers of various cultures and value perspectives.

Together these three considerations mean that there is a difference between the substance of a teaching and its formulation. This was explicitly acknowledged by John XXIII and Gaudium et spes. If there is a distinction between the substance and the formulation, there is also an extremely close, indeed inseparable connection. They are related as body and soul. The connection is so intimate that it is difficult to know just what the substance is amid variation of formulation.

McCormick takes premarital intercourse as an example. Various things have been said about it, among others: "(1) It is morally wrong, scil., there is always something missing. Hence it should be avoided." McCormick says this is the substantial teaching to which the Church is committed. The rest of the things that have been said are philosophical-theological and subject to change. They include: "(2) It is intrinsically evil," and "(5) There is a presumption of serious guilt in each act." McCormick proceeds to draw three conclusions. First, the substance cannot be identified with the formulation, and the magisterium must participate in a teaching-learning process to arrive at suitable formulations. Second, "it is not a stunning theological putdown or an insuperably serious objection against an attempted formulation" to point out that it is incompatible with a recent statement of the Holy See dealing specifically and authoritatively with the matter. Third, the pope and bishops "should not formulate their teaching against a broad or even very significant theological consensus; for such a consensus indicates at least that the problem has not matured sufficiently to allow an authoritative formulation." [128]

The first point to note about this argument is that in 1969 McCormick reported the first distinction he makes--that between the doctrinal and the pastoral--as a proposal of Phillippe Delhaye, who suggested that Humanae Vitae was not teaching that contraception

is wrong, but only giving pastoral guidance. McCormick's remark was that if so, practically all the bishops and theologians of the world misunderstood Humanae Vitae. Less than a decade later, however, McCormick suggests that all the teaching of the magisterium can be taken as he has rightly noted Humanae Vitae cannot be taken.[129]

5 Second, the idea that the magisterium itself is philosophical-theological in character goes back to a paper by Archbishop Robert Coffy of Albi (speaking as a theologian, not as a bishop), which McCormick reported in 1977. According to Coffy: "Every understanding of the faith necessarily implies a theology. There are no sharp lines of demarcation between the faith and the theological understanding of the faith." According to  
10 McCormick's summary, Coffy went on to reject a conception of revelation which allows "it to be encapsulated in objective formulated truths." It follows that the magisterium cannot "distinguish clearly between the true and the false." Truth is historical, and magisterial formulations are not beyond discussion. Therefore, theologians and magisterium must serve the word of God together. The magisterium would do well to make fewer  
15 interventions and to allow a long-enduring maturing process for many questions.[130]

Coffy's argument depends upon equivocation between various meanings of "theology," which I distinguished in chapter two, section A. Coffy seems to assume a modernist conception of faith, which I discussed in chapter two, section I. His assertion that truth is historical and his denial that the magisterium can distinguish between the true and  
20 the false are very like the position of Hans Küng, which I criticized in chapter fifteen, section C.

Moreover, if McCormick is reporting Coffy accurately (and I do not doubt his reporting), Coffy is denying the definitive teaching of Vatican I concerning the object of  
25 faith; I discussed this teaching in chapter thirteen, section D. If Coffy were right, faith would be some sort of mysterious, aconceptual, and nonecclesial relationship to God. Catholic, Christian faith simply is not like that; it is our familiar, conceptual and creedal, ecclesial and liturgical and moral relationship to the Father, through our Lord Jesus, in His Holy Spirit.

McCormick's third premise--that the magisterium has to talk to all sorts of people  
30 and to people with different value systems--certainly is correct. But all that this shows is that the same truth of faith must be articulated in different languages and developed to meet new problems. It by no means shows that the Church must accept the diversity of cultures and their value systems and bless all of it, good and bad alike, by calling it "diverse formulations of the same substance." When in Corinth, Paul did not say  
35 that the mind of Christ is to do as the Corinthians were accustomed to doing. Paul was quite able to use the language of Greek philosophy, but he used it to proclaim the foolishness of the cross of our Lord Jesus.

The passage I quote from McCormick, in which he claims that John XXIII and Vatican  
40 II accept the substance-formulation distinction as McCormick is articulating it contains the distortion discussed in chapter two, section J. When John and the Council say that "the deposit or the truths of faith, contained in our sacred teaching, are one thing, while the mode in which they are enunciated, keeping the same meaning and the same judgment, is another," they assume that one can find the truths of faith in very definite  
45 formulations--for example, in the teaching of the Council of Trent, in Scripture, and so forth. The phrase "the same meaning and the same judgment" ("eodem sensu eademque sententia") makes this point absolutely clear, for it is taken from Vatican I's definitive teaching on Catholic faith (cf. DS 3020/1800; 3043/1818). Vatican I quotes the phrase from St. Vincent of Lerins who (in the fifth century) used it to express the continuity which must be maintained as Catholic teaching develops (cf. FEF 2174).

When McCormick says that substance and formulation are related as body and soul,  
50 he defeats the objective of his own argument, for if the two are so close, then one cannot change the formulation without changing the substance. (His original objective was to show that the substance of the Church's teaching is not being touched by theologians like himself.) It is worth noticing that if one separates one's body from one's soul,  
55 the result is death. However, McCormick is trying to make the substance inaccessible--that is, to exclude having it "encapsulated in objective formulated truths." For this reason, he compares it to the soul.

McCormick's attempt to exemplify the substance-formulation distinction with fornication suggests that he wants the substance of moral teaching to amount to nothing more  
60 than what is common both to received Catholic teaching and to the opinion of theologians who dissent from it. It is odd that from assertions about premarital sex he lists as having been made at one time or another, he omits one made by the Council of Trent when it teaches that the grace of justification is lost by anyone who commits mortal sin:  
65 "This assertion defends the teaching of divine law that excludes from the kingdom of God not only those without faith, but also those with faith who are fornicators, adulterers, effeminate, sodomites. . ." (DS 1544/808). In any case, McCormick provides us with no reason why we ought to accept the proposition he selects as the substantial teaching on fornication, when the others I quote from those he states are equally well grounded in Scripture and tradition.

70 Finally, I do not see that the "conclusion" McCormick draws about the relationship between the magisterium and the dissenting theologians follow from what he has said about the substance-formulation distinction. His first "conclusion," for instance, stresses the difference between substance and formulation, while the part of his argument I quote stressed their very close relationship on the analogy body and soul. Similarly, his  
75 second and third "conclusions" only follow if the magisterium does not have the duty to determine what formulation of the Church's faith is adequate to it. But the magisterium always has claimed precisely this duty, and a corresponding right to reject theological formulations as inadequate to the faith we have received and must hand on intact to our children.[131]

80 Q. Genuine development of doctrine

The Catholic Church maintains, as Vatican II teaches, "that beneath all changes there are many realities which do not change and which have their ultimate foundation in

Christ, who is the same yesterday and today, yes and forever" (GS 10). The Christian dispensation is the final covenant "and we now await no further new public revelation" (DV 4). The same sacred teaching, keeping the same meaning and the same judgment, received from our fathers in faith must be passed on to our children. This deposit includes every proposition which ever has been "proposed by the Church as a divinely revealed object of belief in a solemn decree or in her ordinary, universal teaching" (DS 3011/1792).

The unity or sameness is not the static self-identity of an object such as a mountain. It is the self-identity of Christ and of the community of human persons with Him and in Him. The unalterability of the truths of faith once articulated and proposed is an aspect of the real permanence of this Person and community, for these truths are not impersonal, but are an important aspect of the personal and the human reality of fulfillment in Christ which invisibly grows toward perfection.

As I explained in chapter thirteen, section D, personal faith requires propositional truths; personal faith which lasts unto eternal life requires propositional truths which remain until vision replaces faith with knowledge. Through her whole history, the Church always remains contemporary with our Lord Jesus; His priestly sacrifice and resurrection, His sending of the Spirit and coming in the Eucharist are present for men and women of all times and places (cf. LG 9). Similarly, His word, which does not pass away, is the same and always present in the Church.

The Church does not ignore or deny the variability of the human condition. Sin and redemption totally transform human nature, and salvation itself is a historical process. Past doctrinal expressions must be understood properly, taking into account the limits of language available at the time, the possibility that the truth was articulated only partially, and the narrow focus of attention sometimes involved in answering particular questions or refuting particular errors. Moreover, the changeable thoughts of each time and place sometimes are used by the magisterium in teaching the truths of faith, and the Church is not committed to such changeable thoughts as she is to dogmatic formulas which belong to her constant and universal teaching.[132]

In chapter one, section J, I discussed the interpretation of doctrinal statements of the Church. If all of the Church's infallibly proposed doctrines remain permanently true (provided that the formulae are understood just as they were proposed), how can doctrine develop? Perhaps the best way to throw light on this question is to consider how the Church could decide that a proposed articulation of faith is a genuine development. Without begging questions in favor of my own proposals, I take as an example my suggestion in chapter six, section I, that the love of God poured forth in our hearts neither is a divine Person nor a created quality, but rather is our own share in the uncreated divine nature. How could the Church accept (or, if it is heretical, reject) this proposal?

The first question would be: Is there any already accepted truth of faith with which this proposal is incompatible? If there is, it clearly is false. The second question is: Does the proposed development leave unaltered the very conditions of the possibility of Catholic faith? In other words, does it leave unaltered the Catholic conceptions of divine revelation, of faith received by hearing, of faith accepted within the Church and from the Church, of faith safeguarded by a living magisterium divinely appointed to its task? If it does not, the proposal clearly cannot be accepted by the Catholic Church without self-destruction.

A third question is: Does the new proposal have the power to gather up into a tighter unity already articulated truths of faith on which it touches? An aspect of this question is the consideration of the difficulties or objections the proposal would enable the Church to dispose of; a proposal which enables the Church to respond effectively to difficulties it confronts deserves respect if it has met the previous tests.

A fourth question is: Does the proposal use concepts and language already employed by the Church in doctrines to which the new proposal is closely related? (A proposition on the constitution of the Christian which employs the same ideas of "nature" and "person," "creator" and "creature," as the closely related doctrine on the constitution of Jesus Christ is preferable to one which introduces other concepts and language, provided it meets the previous tests as well or better.)

Last, but by no means least: If one considers both the proposal and its contradictory, and compares both of them with all of the witnesses of faith, beginning with Scripture and including the liturgy, which of the two propositions comports better with these witnesses? (For example, does the proposal I make or the proposition that this proposal is false better fit John's Gospel, the meaningfulness of the baptismal rites, and so forth?)

As I pointed out in chapter one, section F, and chapter thirteen, section B, revelation is far more than a set of propositional truths. As Vatican II teaches, the Church hands on not only all that she believes, but also all that she is (DV 8). Part of what the Church is remains unarticulated. This unarticulated part of revelation permits the Church as a whole to determine "fit." Thus doctrine really can develop. The Church is not limited to repeating established formulations of faith and drawing out their logically necessary consequences. As in defining the dogma of the Assumption, the Church can infallibly accept and teach truths which perhaps were not articulated in apostolic times and which cannot be logically deduced from Scripture and previously defined truths of faith.

If this account of development of doctrine is correct, one can see at once that the proposals of radically dissenting theologians with respect to the Church's common moral teaching hardly can be accepted as if they were legitimate developments of this received teaching. In substance, they seem incompatible with accepted truths of faith--for example, the proposal that extramarital sexual intercourse sometimes is acceptable seems incompatible with the teaching of Trent which I cited in section P, above. Moreover, these proposals have led their proponents to call for new ecclesologies which would alter the conditions of the very possibility of Catholic faith.

The proposals for a new morality do not more tightly unify the moral teaching of the Church, and they answer objections to this teaching only by making concessions to

positions originated by secular humanists as an alternative to Christian morality. The proposed new morality introduces new concepts and language or uses existing language with altogether new meanings. For example, "natural law" takes on a new meaning among consequentialists; "creative growth toward integration" involves notions and language with no previous role in Christian thought. Finally, the proposals for a new morality do not comport well with the witnesses of faith. For example, as I pointed out in chapter thirteen, section L, consequentialism does not fit the prophetic character of Christian life; it detracts from the honor we pay to the martyrs.

10 R. Why some wish to change doctrine, not only develop it

Avery Dulles, S.J., understands in a general fashion the conception of the development of doctrine I have outlined. But he does not think such development adequate. He wishes also to admit revision of received teaching incompatible with the principle of continuous and cumulative growth I have explained and defended.[133] How does he want to change Catholic doctrine? And why does he want to change it?

Dulles does not provide a very precise answer to the question how he wants to change received doctrine. He holds that God's saving work in Jesus Christ is the central mystery and that the primary or central truths of faith are those which express this mystery. With respect to other doctrines, he proposes a program of simplification, intensification, and concentration. The outcome of this process would be that not every Catholic would be expected to affirm personally every proposition ever proposed definitively as a truth of faith. Only a minimum to avoid "harmful deviations from the gospel" would be imposed on all. For the rest, everyone would be at liberty to reject the Church's teaching and certainly would not be expected to assent to anything in which he or she could "as yet find no meaning, relevance, or credibility." [134]

Dulles gives many arguments for accepting this program of change. Most of them start from true propositions--precisely the propositions which point to the need and possibility of genuine development. However, none of these considerations by themselves lend any support to his radical proposal. For instance, when Dulles points to the need to find better and more relevant ways of expressing Christian faith, he can cite John XXIII in support of the premise, but the premise by no means shows that the Church needs to consider any of its defined doctrine (always assuming it is rightly understood) to be dispensable for those who do not agree with it. (It is important to keep in mind that no one ever has said that every Catholic must be aware of and has to assent to every truth of faith; most people never hear of some defined truths. The Church has only required that one not reject truths of faith and that one affirm those truths in which one happens to be instructed.)

The main reason Dulles has for his program of change is simple: "to lighten the burden of assenting to doctrines handed down from the past." [135] In particular, Dulles invokes his general theory of change in support of his proposal for a new ecclesiology which will admit dissent otherwise inadmissible. [136] The essential position which Dulles thinks allows change of the sort he advocates is his claim that revelation itself is not a matter of propositions, that the content of faith remains transcendent (which seems to mean divine), and that the categories used in definitions are human. [137]

Thus Dulles clearly embraces the conception of revelation and faith which I criticized in chapter two, section I, and chapter thirteen, sections A-D. He never considers, much less attempts to answer, the kind of questions I pose in the former place. His account simply ignores the complex reality of human faith which I explained in the latter place. I think it is clear that Dulles holds a position solemnly condemned by Vatican I. [138]

The relevance of the proposal of Dulles to the argument I have been unfolding in the present chapter is twofold. First, one here sees clearly precisely what is at stake in radical theological dissent on moral issues. It is the ecclesiology of Dulles, or something very like it, which Curran, McCormick, and others require to justify their activities and positions. And the ecclesiology of Dulles is tied to an untenable theory of revelation and faith. Second, one also sees in the proposal of Dulles a precise counterpart to radical theological dissent in the moral field. In both cases, the idea is to lighten the burden of faith, by allowing believers to say yes and no simultaneously to its theoretical and practical demands.

The desire to have things both ways is an eminently natural one for sinful human-kind. It also happens to be clearly rejected by Jesus, who demands the total commitment of our total person to His whole Person including His Body, the Church.

The kind of change Dulles wishes to admit in Catholic teaching has been advocated by some Protestant theologians for more than a century. With the development of renaissance humanism into modern secular humanism in the eighteenth century, the darkness of unbelief began to dominate the intellectual culture of the West. With diabolical perversity, this movement was called the "Enlightenment." By 1800, the Enlightenment, which had begun with the work of brilliant amateurs, became dominant in the universities of certain nations, especially Germany. Protestant theologians belonged to the academic world, and they found themselves in a difficult situation.

Modern scientific and historical studies had raised fresh questions for Christian faith, and theologians had to try to find answers to these questions. Rationalism had become dominant in theology, with damage to Catholic theology I described in chapter three, sections A and B. The effect on Protestant theology was even worse, since the reformation had rejected the Catholic middle ages, and thus left Protestant theologians with an even poorer store of philosophical resources. Protestant theologians also were burdened with the difficulties inherent in the opinions of the Reformers to the extent that these opinions fell short of the fullness of Catholic truth.

For example, the development of historical and literary studies caused special difficulty for those committed to sacred Scripture alone as the norm of faith, and the theory of private interpretation made it difficult for an individual theologian to take advantage of the difference between his or her own faith and the faith of the Church universal. (This difference allows a Catholic in difficulties to suppose that while the Church's faith is true, it is not easy to know what it is.)



Moreover, having rejected religious life, Protestant theologians lacked the support which their religious confreres often gave to Catholic theologians. It is a truth of social psychology that an individual under pressure from one community important to his or her identity hardly can resist the pressure and continue to function in the community without great moral support from another community of similar or greater importance for his or her identity.

Under these conditions, it is not surprising that many Protestant theologians in the nineteenth century developed positions which they intended to protect Christian faith but which in fact compromise it. Nor is it improbable that some such theologians, lacking the guidance of the Catholic magisterium, substituted another fundamental commitment--to the assumptions of the Enlightenment--for Christian faith, and changed theology into a philosophy, perhaps even without realizing that they were doing so. Their dialectic changed from one in which the truths of Christian faith could not be contradicted to one in which the prejudices of the Enlightenment could not be contradicted, but otherwise things could seem to remain much as they had been.

The sacred Scriptures still could be treated with reverence, very much as philosophers treat the works of Plato with reverence. Their courses still were called "theology"; they still published books on theological topics; they still trained young men for the ministry; and they still took for granted much of what Christians believe--as much of it as they felt from time to time to remain unproblematic.

In this situation, many Protestant theologians undertook a process which often is called "reinterpretation." Much or all of the factual content of faith is denied; the residue is defended and explained much as any philosopher would defend his or her philosophy, but with the difference that this philosophy is claimed to be the "core" of the tradition: what Christian faith really means. Hegel provided the greatest example of this strategy, and he carried out his project so ingeniously that many philosophers since his time have been convinced that Hegel's philosophy contains, not the truth, but all the claim to truth, in Christianity that one need consider.

These remarks are intended neither as a polemic against Protestants nor as a personal condemnation of anyone. Many Protestants resisted the trend I am describing, and one hopes that those who did not acted in accord with their sincere consciences. Moreover, even works which contain errors can be very helpful, for they generally also contain much truth; well developed mistakes are instructive. Catholics also must admit that they did little to help their brethren face the challenge of the Enlightenment; indeed, Catholic theology only now is facing this challenge, with results thus far quite mixed.

Until after World War II, the Catholic theological community was largely separated from the Protestant theological community and from the secular academic world in general. But a gradually growing movement toward academic professionalism, which had begun in Catholic theology much earlier, suddenly began to crystalize after World War II. This process became complete in the 1960s. Most Catholic theologians who wish to engage in scholarly research and writing want to be respected members of the academic profession; in theology such respectability demands status in the single theological community recognized as legitimate by the secular academic world.

Catholic theologians did not hurry to sell their souls for academic respectability. The process is subtler than any such over-the-counter transaction. One becomes a member of a group, identifies with it, accepts its ideals and methods. One then quite sincerely takes a new look at the Church's received doctrine and morals, finds it a burden not simply to oneself but to many other contemporary men and women who also more or less fully identify with secular humanistic values, and zealously undertakes to renew and reform the Church to bring it into the twentieth century--if possible before the century ends.

At the same time, the secularized theologian continues to have a loyalty to his or her Church. Many aspects of its faith and life--at least many aspects of its communal reality--remain important. These are defended by respectable theologians with considerable ingenuity and effort against secular humanism, which would totally destroy Christianity. Because of this sincere and often dedicated work in defense of the faith, theologians who go as far as Dulles nevertheless quite sincerely believe themselves to be true moderates. They are fighting a hard fight on two fronts: against the obscurantism (as they see it) of the magisterium on the one hand and, on the other, against the irreligion of those who reject the precious "core" of Christianity.

Protestants can proceed in this fashion without destroying their personal faith and their ecclesial communities, because Protestants consider faith essentially an individual experience. The only objective norm of faith which is accepted by orthodox Protestants is the Bible, and the Bible always can be interpreted to mean what it must and not to mean what it must not. By itself, the Bible is just a book; it cannot fight back to defend itself.

A Catholic cannot proceed as our secularized theologians are proceeding without immediately getting into deep trouble and creating schism in the Church. For a Catholic, the Church's faith is prior to each individual member's faith, and the Church's faith is articulated and defended by the living magisterium. Hence, Catholics such as Dulles--and the radically dissenting theologians in general--have set themselves in contradiction to the norm of their faith which, all the same, they nevertheless wish to acknowledge, since otherwise they would have to admit to themselves and to the Church at large that they are no longer Catholics. The Church as a whole is splitting in two, according to whether each Catholic, when conflict arises, clings to the magisterium or seeks the shelter of the opinions of the secularized theologians who oppose it.[139]

#### S. Legitimate development in the moral domain

After he published a major work on contraception, John T. Noonan, Jr., went on to publish articles arguing: The Church once condemned the taking of interest (usury) just as severely as it condemned contraception; but the Church now approves the taking of interest; therefore, the Church also can approve contraception. The question is: Did the condemnation of the taking of interest ever meet the conditions I articulated in chapter

fifteen, section I, for the infallible exercise of the ordinary magisterium? The answer is negative, for the following reasons.

As has often been argued by Catholic scholars, the teaching of Scripture and of the Fathers forbids charging interest on loans to the poor and condemns the greed of usurers, but this teaching does not condemn the taking of interest as such, and does not envisage a situation in which moderate rates of interest are established by money markets. The decrees of the councils and popes up to 1450 are aimed at the same evils attacked in Scripture and by the Fathers.[140]

In his study of scholastic theories of usury, published prior to the beginning of the debate among Catholics on contraception, Noonan himself rejected the view that the central Catholic teaching on the morality of taking interest had changed:

Moreover, as far as dogma in the technical Catholic sense is concerned, there is only one dogma at stake. Dogma is not to be loosely used as synonymous with every papal rule or theological verdict. Dogma is a defined, revealed doctrine taught by the Church at all times and places. Nothing here meets the test of dogma except this assertion, that usury, the act of taking profit on a loan without a just title, is sinful. Even this dogma is not specifically, formally defined by any pope or council. It is, however, taught by the tradition of the Church, as witnessed by papal bulls and briefs, conciliar acts, and theological opinion. This dogmatic teaching remains unchanged. What is a just title, what is technically to be treated as a loan, are matters of debate, positive law, and changing evaluation. The development on these points is great. But the pure and narrow dogma is the same today as in 1200.[141]

Although Noonan's formulation of his point here is neither completely satisfactory nor precise, his idea is clear: the moral teaching on the taking of interest, proposed infallibly by the ordinary magisterium, has not changed at all.

The key to clarity in this matter is precision with respect to the concept of that usury which the Church condemns. The sin of usury is not simply the charging of interest on a loan, but the charging of interest on a loan in virtue of the loan itself, rather than in virtue of some factor related to the loan which provides a basis for a fair demand for compensation. Thus the Fifth Lateran Council (1515) explains what is excluded: "For this is the proper interpretation of usury: when one seeks to acquire gain from the use of a thing which is not fruitful, with no labor, no expense, and no risk on the part of the lender" (DS 1442/738).

Undoubtedly, there were many erroneous teachings about usury which never met the conditions necessary for an infallible exercise of the ordinary magisterium. But the greatest reason why the Church does not teach today on usury as she did in the middle ages is not that she has corrected such errors--much less changed her doctrine. The real difference is that the economic subject matter has changed; money and interest simply are not now what they were then.

As I explained in chapter nine, human acts are what one thinks one is doing. It also must be noticed that many humanly interesting realities are themselves constituted by human acts. Money and interest on loans are among these realities. As the understandings and intentions which determine economic activities change, the very meaning of "money" also changes. When this happens, unchanging moral principles seem to lead to moral judgments incompatible with the ones previously accepted. But the incompatibility is not real, since one is not considering the same act when one considers charging interest now and in 1200.

Not only does legitimate development in the moral domain lead to apparent reversals in this way, it also leads to a deepening of previous norms. People in diverse cultures who might seem outwardly to be doing the very same thing often are in reality doing very different things. Marital intercourse for Christians, for example, pertains to a sacrament, and so it has a far greater and richer significance than does an apparently similar act done by a pre-Christian or post-Christian pagan. Even within the Christian context, such an act can unfold new dimensions of meaning.

People who come to moral theology with a legalistic outlook tend to identify the human act with the outward behavior. If one does this, then the changes in moral judgment due to the change or unfolding of the meaning of an act seem to suggest that the same act now has a different moral value. If one who reaches this conclusion holds the kind of natural-law theory I criticized in chapter fourteen, section I, he or she will assume that if the same act has a different moral value, the other term of the relationship which determines morality, namely, human nature itself, has changed. Thus the historicity of action together with a misunderstanding of what constitutes a human act and a poor moral theory lead to the conclusion that human nature changes.

If one also assumes some form of consequentialism, then one will suppose that moral norms are merely rules devised to protect and promote human goods in a particular historical context, and that these norms can change when necessary better to promote the good or to bring about less evil. It is easy at this point to suppose one can use as one's standard the relative importance given to the basic goods in the lifestyle of a given society.[142] The conclusion will be drawn that changing human nature demands a consequentialist transformation of all moral norms, including those which are not derivative.

The difficulty with this position is that although even basic human goods unfold new dimensions of meaning, as I explained in chapter five, section K, each good has some definite meaning which is invariant. Thus, acts which include a proposal to destroy or damage or impede some basic human good--for example, the beginning and development of the life of a child--can be precisely the same in kind insofar as they are opposed to the invariant aspect of the good of life, although they differ in kind insofar as they are done by people in different cultures and situations, who understand more or less fully the great good of human life.

The fundamental requirements of Christian moral life which demand reverence for the basic human goods are not merely concerned with something instrumental. While these requirements gain new and deeper meaning as our understanding of the goods grows, they cannot be contradicted, because they express in a direct way the minimal demands of love in respect to these goods. Because they are truths, not mere derivative rules, these

norms cannot change.

The Christian norm forbidding adultery, for example, has a depth absent from the Old Testament norm, which was not understood to be protecting so great a good as the sacrament of marriage we know. The exclusion of adultery in itself, moreover, hardly begins to suggest what marital love means. Nevertheless, the absolute prohibition of adultery is always valid and it is extremely important. For this exclusion defines the marital relationship without limiting its power to develop new meaning. If one attempts to define marriage without excluding adultery one will have to invoke some specific, positive form of love. In doing so, one will limit what marriage can be. Such limitation will foreclose the human possibility of marriage before exploring what is foreclosed; it also will prevent marriage from serving as a sacrament of the marriage of God to His People.

Just as true negative propositions do not define God but preserve the silence in which He reveals Himself, just as definitive condemnations of heresies do not limit our relationship with God but preserve the interpersonal space in which the relationship unfolds, so absolute moral prohibitions do not limit human freedom to pursue the good but preserve intact our understanding and love of the basic human goods which are the necessary conditions for the very possibility of human free choices.

To assume that one can criticize and perhaps revise such moral norms by taking as a standard the relative importance which is given the basic human goods in the lifestyle of a given society--for example, that of the contemporary nations of the West--is to lose one's historical consciousness. Historicity demands rather than excludes insight into the unity of the basic goods of human persons, a real unity over time and place which cannot be limited without arbitrariness to the contingent conditions of the here-and-now which happen to delimit one's present point of view. Only with insight into the unity of the human goods can the various ages and conditions of humankind be understood as a history--as the one universal history of salvation, to which our Lord Jesus is always and everywhere present--rather than as a disjointed succession of arbitrarily delimited sociocultural points of view.

An understanding of the way in which negative norms protect human goods and so permit them to be creatively unfolded helps one understand another important aspect of legitimate development in Christian moral thought. Today everyone realizes that the enslaving of anyone--and the buying and selling of people in general--are great crimes; the Church condemns these and many other acts against the person (cf. GS 27). Surely, one thinks, slavery always was wrong. Yet the Church did not always condemn it, and many teachers in the Church at times defended it as licit. How could Christian morality be so inadequate?

The answer is that although the liberty which is violated by slavery does pertain to justice, and so is a good which always deserved reverence, the aspects of justice which involve liberty were much less well understood in times past than they have come to be in recent centuries. There are many reasons for this unfolding of understanding; it has been powerfully advanced by secular humanists. Secular humanism, one must remember, is a Christian heresy; the principles of the human individual liberty it promotes are in the Christian conceptions of redemption and deification (cf. Phlm 16; Jas 2.1-13). However, Christians did not draw at once all the conclusions from their principles. (Secular humanists, of course, draw some false conclusions from them.)

The development of moral doctrine with respect to slavery was from condoning it to forbidding it. The change concerning slavery can be seen as possible because of the unfolding understanding of the human good; now that the development has occurred, we find it hard to see why it did not occur much sooner. It is always easier to see something once it has become clear.

The supposed development which radically dissenting theologians propose would be from forbidding kinds of acts to permitting them--indeed, in cases in which they were considered the "lesser evil," enjoining them. Such a change cannot occur because the received prohibitions are based on the human goods in aspects which are already and always will be understood. One can no more learn something new which would lead one to find adultery good than one can learn something new which would lead one to find slavery good.

#### T. How can one explain the present situation?

Radical theological dissenters think that their views are the wave of the future. I have been arguing throughout this chapter that they are mistaken. If one agrees that they are in error, one still wonders: What does such serious and widespread dissent mean? How can so many intelligent people--most of whom enjoyed formation in Christian faith and spiritual life--be so far wrong? This question is a deep one; I can only suggest a brief answer.

First, the culture in which we live is a factor. Secular humanism is dominant and attractive in many ways. In some respects, it develops aspects of Christian truth and goodness as yet only partly appreciated in the Church. It also has the attraction of denying evil, thus to rid one of guilt without repentance and amendment. The humanist atmosphere has made Catholics forgetful of heaven, reluctant to take up the cross, neglectful of the duty to live redemptively, and resentful of authority.

Second, the Church and Christian life are not all they might be. In the doctrinal domain, important theological mistakes I discussed in part two blocked full appreciation of human goods and a proper commitment to the building up of the human. Pervasive legalism blocked understanding and adequate response to the great truths I tried to articulate in part three. In the context of legalism, many very poor arguments were stated in defense of received teaching and many questionable motives urged for obeying it. When the defects of such arguments and motives became apparent, the teachings themselves seemed to be called into question, although logically the truth of a conclusion is untouched by the weakness of arguments offered for it and historically the style of life proposed by Christian morality originated prior to the legalist emphasis upon sanctions as a motive for living it.

In many respects, members of the Church have failed to bear one another's burdens.

Unless the Church's communal life is better developed, the moral requirements of Christian life hardly can be fulfilled; if it is impossible to fulfill them, then there is a strong temptation to give them the status of mere ideals, to which exceptions are permissible in difficult cases.

5 Some dedicated persons and groups in the Church have been too crafty, too concerned with good consequences. Such a concern leads to a temptation to compromise the Gospel and the rigorous demands of Christian life when this seems necessary to obtain or to hold the commitment to the Church of those who are most active, articulate, and influential in the world. If some of the Church's societies of religious in the past catered  
10 for the needs of the nobility and rising merchant classes, today they strive to serve the leadership which emerges in modern mass society. Who is working to help bear the burdens of simpler believers who faithfully struggle to live according to God's law?

The diocesan clergy does this to some extent. But the effectiveness of secular  
15 priests has been limited by more or less widespread laziness among them and by their personal adoption of contemporary expectations and values. Every confessor should help his penitents to bear the burden of confronting sin; a lazy priest spoiled by his own comfortable life is tempted to shrug off this burden. Celibacy should free priests for  
20 communion with the whole body of the faithful; too often it is abused by being taken as an opportunity to enjoy the satisfactions of clerical fraternity--a fraternity which is good in itself, but which too often becomes a closed club which obstructs rather than facilitates the communion of the Church as a whole.

Separated in spirit from their penitents, confessors in the past often were harsh  
25 with them. Today this same separation leads too many priests to accept misformed and troubled consciences as adequate Christian consciences, although these consciences are ones no father who is holy would find acceptable in children he truly loved. More genuinely fatherly priests would be more like St. Paul and would want to say and be able to say with Paul: "Imitate me as I imitate Christ"(1 Cor 11.1).

In many ways, then, members of the Church are not bearing one another's burdens.  
30 The social dimension of living the Christian life has been emphasized insufficiently. Christian life must be possible. If individuals left to struggle alone seem to make little progress, the temptation is very strong to suspect that the burdens are too great. Theologians are committed to the service of the Church as a whole and to the service of  
35 the faithful as individuals. The moralist does not want to make anything more difficult than it must be. Any possible way of lightening the burden of Christian life begins to seem attractive. For this reason, theologians were drawn into dissent, first on contra-  
ception and then on other matters. They are trying to lessen the burden of faith.

The theologians who are now in radical dissent also have been influenced by their  
40 identification with the secular academic world, as I explained in section R. Unfortunately, Catholic moralists were trained in a legalism and in a poor version of natural-law theory; few of them had sufficient philosophical education to do pure philosophical work. Yet as they have put aside the authority of the Church's teaching, they more and more  
have undertaken properly philosophical tasks.

One must admit that the attitudes of the theological community toward the magisterium  
45 are partly the fault of the magisterium. Unfair and harsh treatment by the magisterium of many theologians between 1945 and 1963 led to solidarity among Catholic theologians in a bond of common resentment. The magisterium in recent years seems to have moved too far in the other direction. For example, many bishops who absolutely reject radically  
dissenting theological opinions nevertheless find it impossible to bring themselves to oppose the dissenting theologians in any effective way.

50 All of these factors make their contribution to the present situation. I stated my reading of the wider historical context of the present situation in chapter three, sections A-E. Theological dissent seems to me primarily a misguided attempt to carry  
through the renewal called for and planned by Vatican II.

The problems which must be resolved if the program of Vatican II is to be carried  
55 out are greater than anyone realized. Under existing conditions, the situation of the Church in the world seems hopeless. For this very reason, one can share the confidence of John Paul II. Things always are blackest for the Church just when the dawn from on high is about to break upon us once more.

In addition to all of the other factors which help to explain why so many have  
60 joined the radically dissenting theologians and been led astray by them, there is one other factor which ought not to be ignored, although it hardly can be discussed without giving offense. This factor is that once one adopts consequentialism, one no longer regards willful deception of others as intrinsically evil. Deception becomes lying only  
65 in the absence of a proportionate reason to justify it.[143] It follows that when theologians adopt consequentialism, they can begin to feel justified in deceiving others when this seems to them necessary to promote the greater good--for example, to bring  
about changes they consider appropriate in the Church's teaching.

When people begin to feel justified in deceiving others, they cease to be careful  
70 about matters of fact. Thus one finds in the literature a growing body of myth about such matters as the history of the teaching authority of bishops and the statement of John XXIII about the distinction between the substance and the formulation of the Church's teaching. (Of course, those who retail such myth might themselves be misled by fellow  
scholars whose work they trust too uncritically.) When people begin to feel justified in deceiving others, they also cease to be careful about matters such as consistency.  
75 Thus it is no surprise if a radically dissenting theologian gives a half-dozen different and inconsistent defenses of some inherently indefensible position, which he clings to dogmatically as if it were a saving truth.

Some years ago I published a book on abortion with the subtitle: "The Myths, the  
80 Realities, and the Arguments." The present chapter, on the positions and arguments of the radically dissenting theologians, could carry a similar subtitle, for this literature is becoming more and more similar in its intellectual quality to the literature of the antilife movement. This is a fact, not abuse. I reiterate: I judge no one. People who are dedicated to a cause and who do not think that deception always is lying can be acting  
virtuously when they knowingly misrepresent facts and argue sophistically.

One sign of the acceptance as legitimate of willful deception by dissenting theologians is the suggestion sometimes made by them that many of the bishops do not really believe the moral teachings they continue to reaffirm. For example, in making the sound point that the bishops are not wholly consistent in tolerating dissent, Charles Curran sees the "refusal" of the bishops to change the teaching on contraception as a contribution to a dishonest situation. He demands: "On the question of artificial contraception, the pope and bishops must be willing to publicly admit. . ." that the previous teaching was wrong, or, at least, that dissent is legitimate.[144] "To publicly admit" implies willful deception--something I find incredible in bishops teaching in the name of Christ. Another scholar has gone so far as to suggest that Paul VI himself did not personally believe precisely what he said in *Humanae Vitae*. [145] Assertions of this sort tell more about those who make them than about those concerning whom they are made.

Scholars who are not consequentialists and who have not yet committed themselves to dissenting opinions trust factual statements of their colleagues and even assume, when there is too little time for critical reflection, that the arguments of colleagues are valid. For this reason, such scholars are greatly impressed by the myths and sophistries of their dissenting colleagues. Such an impression is hard to resist, because it is part of the commitment of a scholar to yield to the force of the scholarly work of others. It follows that the work of dissenters has a disproportionate force upon nondissenting theologians, especially those not immediately concerned with the moral field. In this way many basically sound theologians in other areas, such as Scripture and canon law, have been persuaded to follow along with dissenting colleagues.

Of course, once someone enters into the community of dissent, he or she tends to adopt consequentialism, to make use of it in rationalization, and to expand the initial dissent. Thus dissent spreads like a communicable cancer throughout the theological community and throughout the thinking of each person who contracts the disease. The wonder is that not everyone is misled by dissenting opinion. If many resist, their resistance is not a result of their merit, but rather an immunity given them by God's mercy for the good of the Church.

#### U. One last thought for the seminarian

In section K, above, I explained how moral norms are integral to the life of a community and why, on this basis, the radically dissenting theologians have undertaken a far more difficult task than they realize. To succeed in establishing dissenting opinion within the Catholic Church as the norm of her common life, the dissenters must either convince or dethrone the recognized leaders of the Church. For this reason, John Paul II is a rock in the way of the dissenters, since it is hardly likely that they can change his well-informed and clear-headed Polish mind or take from him his comfortably worn papal hat and firmly held papal staff.

With things in this state, what effect can continuing dissent have? Only one: It will keep up the dissonance in the minds and hearts of many of the faithful, and so continue to trouble them and to cause the decline of the Church about which Andrew Greeley is concerned.

If I am right, it makes no sense at all for any new priest to follow the dissenting opinions. If he does, he is contributing to the decline of the Church to which he dedicates his life. He is acting like a junior member of the management of General Motors who tells his friends and relatives to buy a Chrysler. If such a person is sincere, he ought to be working for Chrysler. And if he is correct, then General Motors not Chrysler, is going bankrupt.

By contrast, bishops who stand firm with John Paul II and priests who stand firm with him and their own bishops will contribute to the true renewal of the Church according to the plan of Vatican II. Renewed according to this great vision, the Church, our Mother and our Teacher--She, the lovely, holy, and spotless Bride of our Lord Jesus--will more effectively carry on her mission: To teach the Gospel by the proclaimed word and by prophetic deeds, to reveal redemption in the world of today so that those who do not flee the light of Christ will receive life in His name, and to creatively unfold and hand on intact the precious faith of our fathers to our children.

. . .

This part is being completed on the feast of St. Clement I, a pope and martyr of the first century. In his only extant writing, an epistle, Clement recounts that the apostles received the Gospel from Christ, who was sent by God. Filled with confidence because of the Lord's resurrection and the gift of the Spirit, the apostles preached the Gospel and "appointed their earliest converts, testing them by the spirit, to be the bishops and deacons of future believers" (FEF 20). Clement confidently demands assent to his own teaching as to that of our Lord Jesus: "If anyone disobey the things which have been said by Him through us, let them know that they will involve themselves in transgression and in no small danger" (FEF 28a).

Clement exhorts his readers to follow the example of the perseverance of Peter and Paul. Writing to the Christians of Corinth, Clement stresses Paul's example: Through jealousy and strife Paul showed the way to the prize for endurance. Seven times he was in chains, he was exiled, he was stoned; he became a herald in the East and in the West, and he won splendid renown through his faith. He taught righteousness to all the world, and after reaching the boundaries of the West and giving his testimony before the rulers he passed from the world and was taken up to the holy place. Thus he became our greatest example of perseverance (FEF 11). Even today, St. Paul remains our greatest example of perseverance. And for the Catholic seminarian of today, he is the clearest and best example of the kind of priest Christ wants, the Church needs, the faithful long for, and I am working to help today's seminarians to become.



## Notes to chapter sixteen

1. John XXIII, Mater et Magistra, #229 and #234 (AAS, 53 [1961], 401-464).
2. Ibid., #239.
- 5 3. Ibid., #241.
4. Charles E. Curran et al., Dissent In and For the Church: Theologians and Humanae Vitae, (New York: Sheed & Ward, 1969), p. 117; see also p. 119.
5. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology 1977: The Church in Dispute," Theological Studies, 39 (1978), p. 137.
- 10 6. Charles E. Curran, "Ten Years Later," Commonweal, 105 (July 7, 1978), p. 430.
7. McCormick, op. cit., p. 103, has begun to take this view. He fails to provide any criterion whatsoever by which one can be absolutely certain that in some case there would not be a "proportionate reason" (assuming this expression makes sense, which it does not) for saving that amount of money. What if the person saving the money were a very poor widow living in the slum of the capital of a backward nation, who faced these alternatives: 1) Accept a free abortion from U.S. AID; 2) carry the baby to term and die for lack of medical care (if, for instance, she were unable to deliver without surgery); or 3) spend all her savings, which she needs for her children's very survival, on medical care? If McCormick would not approve abortion in such a case, I suspect many of his radically dissenting, consequentialist colleagues would. Of course, none of them could show that there is a "proportionate reason," because the values and disvalues in these nasty alternatives simply are incommensurable. I would say it would be wrong for the woman to get an abortion and that if she gets it, much of the blame will be on AID and on us for allowing its effort to eliminate people's problems by eliminating people.
- 15 8. Ibid., p. 103.
9. See Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: 1978," Theological Studies, 40 (1979), pp. 96-97.
10. Curran et al., op. cit., pp. 24-26.
11. See John C. Ford, S.J., and Germain Grisez, "Contraception and the Infallibility of the Ordinary Magisterium," Theological Studies, 39 (1978), pp. 258-312.
- 30 12. See Robert G. Hoyt, ed., The Birth Control Debate (Kansas City, Missouri: National Catholic Reporter, 1968), pp. 55-59. The leaked documents are not exactly what they are purported to be. Moreover, the very expressions "majority" and "minority" convey a conception of the work of the Commission very different from that of Paul VI, who made clear in various conversations that he desired a thorough study from the Commission. It seems he wanted to find out if anyone could make a case that the received teaching is false and so not binding upon the Church. The numbers of those who in 1966 agreed upon a common case did not strengthen that case, and failed to provide Paul VI with information he desired; he then had to seek it in other ways until he reached a final judgment that nothing he was able to find put the received teaching in any doubt whatsoever.
- 35 13. Ibid., pp. 75-77. Unpublished documentation established the extent to which even the then-current theological literature signaled the beginning of a shift in the whole area of sexual morality.
- 40 14. Curran, "Ten Years Later," p. 429.
- 15 15. See Charles E. Curran, New Perspectives in Moral Theology (Notre Dame, Indiana: Fides Publishers, 1974), pp. 41-42, 192-193, 211, 271-276.
16. Ibid., pp. 19-22.
17. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: 1976," Theological Studies, 38 (1977), pp. 100-114.
- 50 18. McCormick, "Notes . . . 1977," p. 103; see pp. 86-90 for a very sympathetic summary of a synthesis by Louis Janssens of the developing consensus on consequentialism.
19. McCormick, "Notes . . . 1978," pp. 96-97. See also Curran, New Perspectives, p. 19, for a clear statement: "The newer approaches call for a weighing and comparison of all the values involved so that I perform the action which brings about the greatest possible good."
- 55 20. McCormick, "Notes . . . 1977," p. 132. The book under discussion is: Anthony Kosnik et al., Human Sexuality: New Directions in American Catholic Thought (New York: Paulist Press, 1977); see, especially, pp. 92 ff.
21. McCormick, "Notes . . . 1977," p. 136.
- 60 22. See Richard A. McCormick, S.J., "A Commentary on the Commentaries," in Richard A. McCormick, S.J., and Paul Ramsey, eds., Doing Evil to Achieve Good (Chicago, Illinois: Loyola University Press, 1978), pp. 233-235. McCormick here says that his approach does not involve considering all the relevant values and comparing them quantitatively. My point is that as long as he talks of "overriding" and "lesser evil" he is talking quantitatively. Moreover, once one allows the evil inherent in an act to be overridden by some other relevant good, one seems to stop reflection arbitrarily if one does not require the carrying out of similar comparisons with other relevant goods.
- 65 23. Ibid., pp. 251-253.
24. McCormick, "Notes . . . 1977," pp. 85-86.
- 70 25. McCormick, "Notes . . . 1976," pp. 69-70.
26. McCormick, "Notes . . . 1977," pp. 112-113; see also, "A Commentary on the Commentaries," p. 233. In the latter place, McCormick scores points against Paul Ramsey, who is himself confused and forced into making inadmissible concessions in order to defend contraception.
- 75 27. McCormick, "A Commentary on the Commentaries," p. 253.
28. Ibid., pp. 236-237.
29. Ibid., pp. 238-239, includes a treatment of the famous case of Mrs. Bergmeier, in which McCormick rejects her act as adultery. Here McCormick appeals to the value of marital fidelity, as if it always were at stake in extramarital sex, but elsewhere--"Current Theology: Notes on Moral Theology: April-September 1975," Theological Studies, 37 (1976), p. 74--he treats "adultery" as a formal expression, that is, as a word whose meaning builds in the concept of immorality. (This view is not sustained by ordinary language, but that is beside the point.)
- 80 30. McCormick, "Notes . . . 1977," p. 94.

31. Richard A. McCormick, S.J., "Moral Theology Since Vatican II: Clarity or Chaos," Cross Currents (Spring 1979), p. 21.
32. See Germain G. Grisez, "Toward a Consistent Natural-Law Ethics of Killing," American Journal of Jurisprudence, 15 (1970), pp. 66-73.
- 5 33. St. Thomas Aquinas, Quaestiones Quodlibetales, 9, 7, 2 (15). On a consequentialist account, the nonmoral evil remains but is overridden or outweighed.
34. St. Thomas Aquinas, Summa theologiae, 1-2, qu. 100, art. 8. I think it is clear that there is some confusion in St. Thomas' ethical theory in respect to the question. If so, this fact should be no surprise, since Thomas does pioneering work in this area and he lacks the notion of modes of responsibility (and Christian response) which I will articulate in part five. The matters about which Thomas is confused do not touch on Catholic moral teaching itself, but only on a theological account of it. Here, as Thomas himself says, authority is no argument. Hence, the selective use of Thomas by McCormick and others has at most a rhetorical value.
- 10 35. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: April-September, 1971," Theological Studies, 33 (1972), pp. 88-89.
36. McCormick, "Notes . . . 1976," pp. 77-79.
37. See Grisez, op. cit., pp. 64-96; Germain Grisez, Abortion: The Myths, the Realities, and the Arguments (New York and Cleveland: Corpus Books, 1970), pp. 304-336.
- 20 McCormick can point out that he finds other difficulties in my account, but he finds the difficulty of commensurating the incommensurable only by putting it into my text. See his "Ambiguity in Moral Choice," in McCormick and Ramsey, eds., op. cit., pp. 23-29.
38. McCormick, "Notes . . . 1976," p. 79.
39. McCormick, "A Commentary on the Commentaries," p. 39.
- 25 40. Karl Rahner, Nature and Grace: Dilemmas in the Modern Church (London: Sheed and Ward, 1963), pp. 49-59.
41. Ibid., p. 50.
42. Ibid., pp. 51-53.
43. Ibid., pp. 55-56.
- 30 44. Ibid., pp. 56-59.
45. See Karl Rahner, Theological Investigations, vol. 11, Confrontations I (New York and London: Seabury Press and Darton, Longman & Todd, 1974), pp. 263-287. One finds it hard to understand how Rahner could have forgotten the category of teachings infallibly proposed by the ordinary magisterium, as he does in this article. Indeed, in quoting from the German bishops' letter of 1967 (pp. 267-270), he omits from their remarks about dissent only the opening section in which they acknowledge this category; thus Rahner is free to proceed (p. 270) from the observation that Humanae Vitae contains no ex cathedra definition to the conclusion that its teaching is in principle open to revision.
- 35 46. See Stillman Drake, Galileo at Work: his Scientific Biography (Chicago and London: University of Chicago Press, 1978), pp. 252-256.
47. Ibid., pp. 330-357.
48. See John C. Ford, S.J., and Gerald Kelly, S.J., Contemporary Moral Theology, vol. 2, Marriage Questions (Westminster, Maryland: Newman Press, 1964), pp. 245-248, and works cited by them.
- 45 49. See Enchiridion Biblicum: Documenta Ecclesiastica Sacram Scripturam Spectantia, ed. 3 (Romae, Napoli: Ed. Comm. A. Arnodo et M. D'Auria, 1956), nn. 283-288.
50. See John Courtney Murray, S.J., "The Problem of Religious Freedom," Theological Studies, 25 (1964), pp. 503-575.
51. Hoyt, ed., op. cit., pp. 65-67, 89-91, and 108-109.
52. Ibid., pp. 25-43.
53. See Michael Dummett, "The Documents of the Papal Commission on Birth Control," New Blackfriars, 50 (1969), pp. 241-250; Hans Küng, Infallible? An Inquiry (Garden City, New York: Doubleday & Co., Inc., 1971), pp. 52 ff.
54. Curran, "Ten Years Later," p. 426.
- 55 55. Curran et al., op. cit., p. 26.
56. Ibid., p. 14, says that I prepared an English translation of parts of these texts, and adds: "The translations prepared for the Chancellor [Cardinal O'Boyle] were selective, and thus somewhat distorted, and failed to indicate all the points favoring the possibility of dissent." There are two errors here. I did not prepare the English translation; that was done by Rev. Msgr. E. Robert Arthur. Second, the excerpts were never given anyone by me or with my knowledge without the Latin texts of the whole sections from which they were excerpted. If this procedure is selective and distorting, I wish the dissenting theologians would use this method of being selective and distorting.
- 60 57. Ibid., pp. 47-50. I am inclined to think that when Curran and his colleagues gave Cardinal O'Boyle a list of names of approved authors and claimed them to provide support for their dissent, they did not expect the Cardinal to look at the works cited. However, he was very interested to know whether there might not be some firm ground in traditional theology for the dissenting position; he was anxious not to violate anyone's genuine rights.
- 70 58. Richard A. McCormick, S.J., "The Teaching Role of the Magisterium and of Theologians," Proceedings of the Catholic Theological Society of America, 24 (1969), pp. 244-245.
59. Ibid., p. 245.
60. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: January-June, 1969," Theological Studies, 30 (1969), p. 651.
- 75 61. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: January-June, 1968," Theological Studies, 29 (1968), p. 731.
62. McCormick, "Notes . . . 1969," p. 666.
63. Ibid., p. 652.
- 80 64. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology," Theological Studies, 26 (1965), p. 613.
65. Curran et al., op. cit., p. 115.
66. Ibid., p. 119.
67. Ibid., p. 124.

68. See Francisco A. Sullivan, S.J., De Ecclesia, vol. 1, Quaestiones Theologiae Fundamentalis (Romae: Apud Aedes Universitatis Gregorianae, 1963), p. 354; I. Salaverri, S.J., De Ecclesia Christi, in Sacrae Theologiae Summa, vol. 1, Theologia Fundamentalis, ed. 5 (Matriti: B.A.C., 1952), p. 708 (# 669). The dissenting theologians point out very often that this passage from Pius XII had been in the first draft of Vatican II's document on the Church, but was removed after that draft was roundly criticized. I have looked at the documents and been unable to find any criticism of this passage (which does not mean there might not be some which I missed). It is important to realize that there was much more on the magisterium in the first draft, including a treatment of ways in which members of the Church who are not bishops share in it. Dissenting theologians now insist upon their share in the magisterium; however, they should, if they were consistent, take Vatican II's noninclusion of this material in the second draft as an indication that the Council rejected the idea that anyone but the bishops has anything to do with magisterial authority.
69. Avery Dulles, S.J., The Resilient Church: The Necessity and Limits of Adaptation (Garden City, New York: Doubleday & Co., 1977), p. 109.
70. Curran et al., op. cit., pp. 100-101.
71. McCormick, "Notes . . . 1976," p. 99.
72. Ibid.
73. Ibid., p. 96.
74. Dulles, op. cit., 110-111.
75. John Paul II, "Text of the Pope's Remarks to the Bishops Stressing Fidelity to Catholic Doctrine," New York Times, October 6, 1979, p. L 6.
76. John Paul II, "Pope John Paul II Opens College of Cardinals Meeting," Origins, 9 (1979), p. 357.
77. Ibid., p. 358.
78. Joseph A Komonchak, "Humanae Vitae and Its Reception: Ecclesiological Reflection," Theological Studies, 39 (1978), p. 250.
79. McCormick, "Notes . . . 1978," p. 89.
80. McCormick, "Notes . . . 1977," p. 80. "The majority" is a vast oversimplification of what went on in the Commission. For example, Paul VI was very interested in June 1964 to know whether the "pill" was a contraceptive forbidden by the tradition; by 1966 all but one or two of the theologians of the Commission agreed that it was. (I refer here to an unpublished document of the Commission, "Rapport Final," pp. 8 and 18, submitted to His Holiness, Paul VI, by Henri de Riedmatten, O.P., 27 June 1966; I use the page numbers entered in ink at the center of the top edge of each page.) Again, the members of the Commission--that is, the bishops and cardinals who alone constituted the Commission at its final stage--considered a proposal that they recommend to the Pope that he once more consult all the bishops of the world as to their views on the morality of contraception (he had already done this in the spring of 1964). Several of the members, including Cardinal Ottaviani, then President of the Commission, argued strongly for another worldwide consultation, but it was defeated by eleven votes to four (ibid., p. 61). Those who favored contraception did not want Paul VI to consult the bishops about it; most of those who opposed it did. And there is reason to think, although I never saw the document, that the 1964 survey of the world's bishops was not favorable to change: Theologians favoring contraception on the Commission had the survey but would not show it to their opponents, and did not leak it to the press. There also is a possibility that the case of the theologians who opposed contraception was not made available to the cardinals and bishops of the Commission before their one common, decisive, brief four-and-one-half day meeting in June 1966 (see Ford and Grisez, op. cit., p. 307).
81. McCormick, "Notes . . . 1968," p. 733.
82. McCormick, "Notes . . . 1969," p. 645.
83. McCormick, "Notes . . . 1968," p. 731.
84. McCormick, "Notes . . . 1969," p. 666.
85. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: April-September 1975," Theological Studies, 37 (1976), pp. 82-83.
86. McCormick, "Notes . . . 1978," p. 96.
87. Dulles, op. cit., p. 102.
88. Daniel C. Maguire, "Moral Inquiry and Religious Assent," in Charles E. Curran, ed., Contraception: Authority and Dissent (New York: Herder and Herder, 1969), p. 136.
89. Hans von Campenhausen, Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries (Stanford, California: Stanford University Press, 1969), p. 299; see pp. 192-193 concerning teachers and theologians.
90. Walter J. Burghardt, S.J., "Stone the Theologians! The Role of Theology in Today's Church," Catholic Mind, 75 (September 1977), p. 50.
91. Dulles, op. cit., p. 42.
92. Ibid., p. 99.
93. Ibid., p. 106.
94. Curran, "Ten Years Later," p. 428.
95. Joseph Fuchs, S.J., "The Absoluteness of Moral Terms," in Charles E. Curran and Richard A. McCormick, S.J., eds. Readings in Moral Theology, No. 1, Moral Norms and Catholic Tradition (New York, Ramsey, Toronto: Paulist Press, 1979), p. 102.
96. McCormick, "Notes . . . 1976," pp. 59 and 70.
97. McCormick, "Notes . . . 1977," p. 100.
98. See Hoyt, ed., op. cit., p. 40. With this substantial minority in mind, one should consider the significance of the recommendation in the document (mis-labeled "Final Report") prepared as a Schema of a Document, which undertakes to impose (ibid., p. 81) contraceptive methods of birth control on those for whom other methods are not sufficiently effective (p. 94). I discuss the implications in section K, below.
99. McCormick, "Notes . . . 1969," p. 655.
100. Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology," Theological Studies, 26 (1965), p. 615.
101. Hoyt, ed., op. cit., p. 81.
102. Ibid., p. 84.

103. Ibid., p. 86.
104. Ibid., p. 94.
105. The Commission documents of the "minority" were rhetorically ineffective for the public because they were written not for the public, but for the Pope. The documents of the "majority" were written for the public; many proponents of contraception never put themselves in Paul VI's place to try to help him, but instead tried to manipulate him, at first by sales technique and later by pressure.
106. Curran et al., op. cit., p. 25.
107. Ibid.
108. McCormick, "Notes . . . 1977," pp. 96-97.
109. Hoyt, ed., op. cit., p. 71.
110. See Germain Grisez, "Dualism and the New Morality," Atti del Congresso Internazionale Tommaso d'Aquino nel suo Settimo Centenario, vol. 5, L'Agire Morale (Napoli: Edizioni Dominicane Italiane, 1977), pp. 323-330.
111. St. Thomas Aquinas, Summa theologiae, 1-2, qu. 94, art. 4.
112. Henry Davis, S.J., Moral and Pastoral Theology, vol. 1, Human Acts, Law, Sin, Virtue, 7th ed., rev. (London & New York: Sheed and Ward, 1958), pp. 91-112.
113. Of the various moral systems, what I am saying comes closest to probabiliorism. However, as is clear in Davis (ibid., pp. 82-85), and others who treat the systems, the whole problem as conceived by classic theology is distorted by legalism. Davis, for instance, mixes the question of truth of judgment with rectitude of action (p. 84) and concludes fallaciously that the rule of taking as one's judgment of conscience an opinion which is more likely true would lead to one's always taking the stricter or more demanding alternative. He is mistaken: For example, a person who is quite sure (but not absolutely sure) he or she is not morally required to vote in an election, rightly follows this opinion as the one more likely true, by not voting and instead using the time and energy to do something else which he or she thinks is more likely the appropriate thing to be doing. The point is that the moral alternatives for a Christian are not either to follow a law or to be at liberty, but to pursue this good or that one in a Christlike way.
114. The scantness of negative episcopal reaction can be seen by examining the New York Times, the National Catholic Reporter, and NC News Service from July 29 through August 31, 1968; not more than a half-dozen negative reactions by individual bishops are reported. The media did not give equal attention to bishops who affirmed the teaching as their own and defended it against dissent.
115. For example, by John Horgan, ed., Humanae Vitae and the Bishops: The Encyclical and the Statements of the National Hierarchies (Shannon: Irish University Press, 1972). Even this collection is incomplete; see the list in Martin Brugarola, S.J., "Presentación," in Marcelino Zalba, S.J., Las conferencias episcopales ante la Humanae Vitae (Madrid: Editorial Cio, 1971), pp. 5-7.
116. See E. Hamel, S.J., "Conferentiae episcopales et encyclica 'Humanae vitae,'" in De matrimonio coniectanea (Roma: Gregorian University Press, 1970), pp. 323-340.
117. Ibid., p. 340.
118. Austin Flannery, O.P., "Commentary or Qualification?" in Horgan, ed., op. cit., p. 355. See also Komonchak, op. cit., p. 249, note 87, for a reference to a work which favors dissent but which nevertheless finds "clear acceptance" in twenty-five documents from eighteen countries, "clear mitigation" in sixteen documents from thirteen countries, and an "uncertain" position taken in eleven documents from ten countries. It also is worth noting that while proponents of contraception have made much use of the statements by the Canadian Bishops in 1968, they do not make use of the "Statement on the Formation of Conscience" published by the Canadian Catholic Conference, December 1, 1973. This statement in fact, but without saying so, revises the statement of 1968 to bring it into accord with received Catholic teaching on the formation of conscience and the responsibility of Catholics to follow the magisterium.
119. See Flannery, op. cit., p. 366. See also Zalba, op. cit., pp. 182-193. This last work provides a detailed and balanced commentary on the episcopal statements more adequate than what I can provide, but consonant with the position I defend.
120. The text of the relevant segment of the document is in Karl Rahner, Theological Investigations, vol. 14, Ecclesiology, Questions in the Church, The Church in the World (New York: Seabury Press, 1976), pp. 85-88. Here Rahner does not omit the section which he omitted from his article referred to above (note 45).
121. See Human Life in Our Day: A Collective Pastoral Letter of the American Hierarchy (Washington, D.C.: U. S. Catholic Conference, November 15, 1968), pp. 14-15.
122. Ibid., p. 15.
123. Ibid., pp. 15-16.
124. Ibid., pp. 18-19.
125. Ibid.
126. Ibid., p. 12.
127. McCormick, "The Teaching Role of the Magisterium and of the Theologians," p. 250. McCormick refers to Germain G. Grisez, Contraception and the Natural Law (Milwaukee: Bruce Publishing Co., 1964), pp. 60-106. Of course, the book was not beyond criticism, but the bishops perhaps were impressed by one reviewer's evaluation: "It is clear that we have here an unusual book. The ethical theory outlined is presented cogently and clearly and applied with unswerving consistency. Its conclusions are 'traditional' but most certainly its structures are not, if by 'traditional' one suggests conventional textbook formulations" (Richard A. McCormick, S.J., "Special Review: Contraception and the Natural Law," American Ecclesiastical Review, 153 [August 1965], p. 121). McCormick of course goes on to offer some criticisms, but they are mainly concerned with two things: 1) that the book does not treat the whole of sexual morality in a single synthesis, 2) that it departs from conventional textbook conceptions of human action. I do not find these criticisms illegitimate, but neither do I find them so devastating that they provide ground for faulting the bishops for having made theological use of my philosophical explanation of the malice of contraception. There was a variety of other reviews, ranging from savage to enthusiastic.
128. McCormick, "Notes . . . 1977," pp. 137-138.

129. McCormick, "Notes . . . 1969," p. 657.
130. McCormick, "Notes . . . 1976," pp. 89-90.
131. McCormick, "Notes . . . 1978," p. 90, urges the need to "reformulate what is defective" in Humanae Vitae by eliminating from it the position that contraception always is wrong. He offers no indication concerning what he considers to be the substance of the received teaching on contraception, except that "technology can be of great assistance to us but should not be allowed to dominate us."
132. See Sacred Congregation for the Doctrine of the Faith, Declaration in Defense of the Catholic Doctrine of the Church (Mysterium Ecclesiae), AAS, 65 (1973), pp. 396-408; The Pope Speaks, 20 (1973), pp. 145-157 at 151-152.
133. Dulles, op. cit., pp. 51-54.
134. Ibid., pp. 52-57. Dulles does not ask the question: Which deviations from the Gospel are harmless?
135. Ibid., p. 51.
136. Ibid., pp. 110-112.
137. Ibid., p. 52.
138. See DS 3020/1800, 3036/1815, 3043/1818. Vatican II teaches (UR 11) that there is an order or hierarchy of truths of faith, since these truths differ in their relationship to what is fundamental, and the Council urges that this point be borne in mind when Catholics in ecumenical work compare doctrines with non-Catholics. Dulles (ibid., pp. 55-56) makes much of this, as if it allowed one to dispense with some dogmas. But all dogmas, insofar as they are aspects of one and the same personal relationship with God, must be held firmly with the same, single act of faith. The Council gives no reason for supposing otherwise. Rather, its suggestion is intended to guide study: Catholics and other Christians perhaps can find ways of resolving some of the differences on less central questions by developing and perfecting their doctrine on these points on the basis of the fundamental truths which they hold in common. (The strategy only will work if there really are truths of faith held in common, which is not the case when one deals with someone who does not believe in divine revelation, although he or she might honestly claim to be Christian, even Roman Catholic.)
139. That this analysis is correct can be borne out by an attempt to defend Catholic teaching against a dissenting theologian. No matter what witness of faith one summons, it will be dismissed or reinterpreted. For instance, if one argued with Dulles and cited Vatican I, he either would set the Council's definitive teaching aside as outdated and no longer binding or would claim to be preserving its substance with a new formulation. Often when one cites the Church's teaching, such a reference is dismissed impatiently: "So what? Nothing new there!" One is expected to argue like a philosopher, for whom the Church's teaching is no authority. One still can score against a secularized theologian, just as against any nonbeliever, by articulating his or her inconsistencies.
140. See A. Vermeersch, S.J., "Usury," Catholic Encyclopedia, vol. 15 (New York: Appleton, 1912), pp. 235-238, and the works cited by him; Thomas F. Divine, S.J., Interest: An Historical and Analytical Study in Economics and Modern Ethics (Milwaukee: Marquette University Press, 1959), pp. 5-11, 24-35, and 45-64.
141. John T. Noonan, Jr., The Scholastic Analysis of Usury (Cambridge, Mass.: Harvard University Press, 1957), pp. 399-400.
142. See Fuchs, op. cit., especially pp. 112-116.
143. See Richard A. McCormick, S.J., "Current Theology: Notes on Moral Theology: April-September, 1970," Theological Studies, 32 (1971), p. 90; "Notes . . . 1977," p. 87. McCormick does not assert these views, but only reports them; however, he does not separate himself from them.
144. Curran, "Ten Years Later," p. 430.
145. This opinion is reported by McCormick, "Notes . . . 1978," p. 88. McCormick does not assert the position but offers no criticism of it.

#### 55 Questions for study and review

1. Current theological dissent is not limited to contraception. To what other points of moral teaching does it extend? Why has dissent tended to generalize?
2. Explain the meaning of "radical dissent" as the expression is used here.
3. What is the problem with which McCormick is having so hard a time? Explain the admissions he makes with respect to "serious and unresolved problems"; also explain what he admits with respect to choosing a hierarchy and grasping moral principles more by spontaneous judgments than by reasoned discourse. Show how these statements nullify any claim McCormick might make to have the sort of good reasons for his own position which he demands from the magisterium of the Church for received Catholic teaching.
4. On what points does Rahner's essay on conscience, written just before Vatican II, agree with the account I have provided of conscience and the authority of the magisterium.
5. Be prepared to explain how various allegedly similar cases do not show that the constant and universally proposed moral teaching of the Church might be open to change. (The examples include Galileo, the decrees of the Biblical Commission, teaching on religious liberty, usury, and slavery.)
6. Show how dissent on moral teaching turned into dissent from Vatican II's teaching concerning the magisterium. Show that the latter is not of recent origin.
7. Answer the objection: "So many theologians could not be wrong."
8. Explain why specific moral norms do fall within the Church's competence.
9. Show how consequentialism is assumed in many objections concerning natural law.
10. Show why probabilism cannot justify following dissenting opinions.
11. Why can't the Church allow dissenting opinions as part of her pluralism?
12. Describe the statements of bishops, especially of the U.S., after Humanae Vitae.
13. Explain the role of the bishop in resolving doubts for his priests.
14. Discuss McCormick's substance-formulation distinction, and why it does not help.
15. Explain the difference between development and revision of doctrine. (Look back to chapter two, questions 8 and 9.) Why do some wish to engage in revision? Why is development of doctrine both possible and necessary?



16. Explain why development of moral teaching is both possible and necessary. Show the importance of certain absolute, negative norms, such as that prohibiting adultery. Explain why a norm like this one cannot be expected to be revised to permit what has been forbidden, but could develop in the direction of greater strictness (as it did in the New Testament).

17. Summarize as well as you can the case for carrying out one's priestly ministry in complete accord with John Paul II and the bishops who stand with him.

18. Why might someone be inclined instead to follow dissenting views? Are there any reasons--as distinct from motives--for doing so?

19. Many people still think of the obligation to follow Catholic moral teaching as if it were a sort of tax one must pay to keep in good standing with the Church --and to get into heaven. I have explained the obligation by three things: the inherent importance of human goods, their intrinsic relationship to our share in divine life, and our responsibility to reveal God's truth and love to others by living communally the teaching we proclaim. Explain how this difference makes a difference in one's grasp upon the significance of theological dissent.

E N D   O F   F I R S T   S E M E S T E R

Heavenly Father, soon we will celebrate once more the festival of the Incarnation of Your Son, whom You sent into the world to be our light. He shines on us who dwell in darkness and the shadow of death; He guides our feet into the way of peace which He Himself is. After He rose to glory, You and He sent Your Holy Spirit, to teach us all things and to give us the power to live with the liberty of Your children. We thank You for these wonderful gifts. Give us, we ask, the grace always to live according to Your will, so that we will make You known to others and come to live forever with You. We ask this through our Lord Jesus, who lives and reigns--Christ the King--with You in the unity of the Spirit, one God, forever. Amen.