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Reminder: Membership dues will be mailed out the first of the year and are based on a calendar (not academic) year.

FROM THE EDITOR'S DESK

Rev. Joseph W. Koterski, S.J.
Fordham University

New Documents from the CDF

Among the most recent publications to appear from the Congregation for the Doctrine of the Faith (CDF) is a short but fascinating history of that institution entitled *To Promote and Safeguard the Faith: From the Holy Office to the Congregation for the Doctrine of the Faith* (Libreria Editrice Vaticana, 2015).

The work begins with an account of the development of the Holy Office as a congregation with universal jurisdiction that emerged out of the Roman Inquisition in the 1540s. It then turns to the Holy Office's reorganization in the early twentieth century and the renaming of this institution in 1965 as the Congregation for the Doctrine of the Faith—a rebranding that the Fathers of the Second Vatican Council saw as crucial for the updating of the Roman curia in light of the greatly altered circumstances of the contemporary world.

The bulk of the work describes the current status of the CDF by a review of the document that governs its current jurisdiction and mandate, the constitution *Pastor Bonus* of 1988. There are interesting sections on its missions of examining the doctrinal orthodoxy of various books and other publications and of judging such cases as claims of apparitions, the admission to the priesthood of men who were previously ministers in non-Catholic denominations, the absolution for certain types of excommunication, doubts concerning the validity of baptism, and certain types of cases concerning the matrimonial bond.

The remainder of the work reports on the relationship of the CDF to such institutions as the Pontifical Biblical Commission (especially on questions about the proper interpretation of scripture), the International Theological Commission (for the study of various doctrinal matters), and the Pontifical Commission *Ecclesia Dei* (for questions about the Extraordinary Form and relations to the Fraternity of St. Peter).

There are also a number of helpful appendices, including a list of the Cardinal Secretaries of the Holy Office (1602–1966) and the Prefects of the CDF (since 1966).

A second recent document of note from the CDF is the letter *Iuvenescit Ecclesia*, published in the

THE PRESIDENT'S LETTER

40th Anniversary Convention in September

Friends—

In this letter, I wish to emphasize one thing: The Fellowship will celebrate its fortieth anniversary this year.

The primary means to do so will be our annual convention, which this year will be held in Arlington, Virginia. All details will soon be available at our web page: www.catholicscholars.org. The convention theme this year is Social Science and Religion.

Our program planning is proceeding apace, but I can tell you now that noted Catholic scholars such as George Weigel, Helen Alvare, and Pat Fagan will be

featured, and our Wright and O'Boyle awards will be presented to Weigel and Alvare.

I urge you to alert old friends who may not have attended for years. I hope as many of us as possible can gather to celebrate forty years of faithful scholarly service to the Church.

This should be fun. Spread the word. And plan to join us. ✕

William Saunders
Americans United for Life

English language as *To the Bishops of the Catholic Church regarding the Relationship between Hierarchical and Charismatic Gifts in the Life and Mission of the Church* (Libreria Editrice Vaticana, 2016). This is a document that discusses the notion of charisms within the Church, not only in regard to traditional ecclesial organizations, institutes of consecrated life, and societies of apostolic life, but also in regard to recent phenomena such as ecclesial movements and new communities that are unified by a shared charism that makes it possible for groups of the faithful to follow Christ and to serve various apostolic purposes of the Church.

Of special interest is a theological account of charisms according to the New Testament, with great attention to the Church's understanding of what it means for there to be a gift of the Holy Spirit given "for the good of all" and the need for the primacy of charity in those charisms that the Church formally recognizes as such.

There are also sections on the recent teachings of the magisterium about the relationship between the hierarchical Church and the variety of charismatic gifts and about the theological foundations for this relationship. The essay reviews the passages from the documents of the Second Vatican Council on this subject as well as documents in the postconciliar period.

Given the vast range of new types of ecclesial associations that have appeared within the Church in recent decades, this essay is a helpful theological reflection

on how to understand the status of these groups and movements in relation to the Church. It not only takes note of the texts of the Code of Canon Law that are relevant to these initiatives but also provides a theological approach to thinking about the action of the Holy Spirit in inspiring ways of life that serve the work of charity in stable and reliable ways.

New Books

As busy as the cardinals of the Church are, we are fortunate to have from them a number of recent books that may be of interest to the members of the Fellowship. We will briefly consider five of them here.

In *A People of Hope* (New York: Image Books, 2012), we have a volume of remarks by Timothy Cardinal Dolan of New York in conversation with John L. Allen, Jr. What is particularly valuable about this book is the information it provides on a wide variety of topics that the average person would simply never learn through today's media. Allen is a highly respected journalist, and Cardinal Dolan is a masterful communicator. On topics that range from cases of abuse and Church authority through prayer and the sacraments, he offers engaging answers to a long series of questions that Allen poses about the challenges facing the Church. The chapter entitled "Affirmative Orthodoxy" is particularly worth

Serving the Divorced and Remarried Well

Thomas J. Nash
Research Associate, Ave Maria Radio

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(The perils of using subjective standards in interpreting disputed sections of *Amoris Laetitia* indicate the pressing need for a new *Vademecum* to help guide confessors.)

Following Pope Francis's release of *Amoris Laetitia* (*AL*), many in the Church expressed serious concerns that the Pope was, in effect, driving a dangerous wedge between Church doctrine and pastoral practice, as if you could uphold the indissolubility of marriage on the one hand, but be more accommodating to divorced and remarried couples¹ on the other, including permitting them to receive the Eucharist even if they didn't live in "complete continence" (that is, refrain from sexual relations). This was constructively criticized as a marked departure of the Church's perennial discipline that Pope John Paul II repeatedly affirmed during his pontificate, with the support of the future Pope Benedict XVI (then Cardinal Joseph Ratzinger, as the head of the Congregation for the Doctrine of the Faith [CDF]).²

Pope Francis, the Church's 1997 *Vademecum*, and Gradualness

Some moral theologians have quietly argued that the Pope's words could be viewed as consistent with St. John Paul II's, in light of a *Vademecum*³ for confessors to aid couples struggling with the Church's teaching on contraception, which was issued by the Pontifical Council for the Family in 1997, that is, during John Paul II's pontificate.

After all, in *AL*, Pope Francis spoke about invincible ignorance or some other reason, for example, being coerced, that could mitigate the subjective culpability of those who engage in objective grave wrongdoing, in this case adultery.⁴ And the 1997 *Vademecum* noted the

same with respect to married couples who contracept.⁵

In addition, Pope Francis mentioned briefly the moral principle of gradualness (*AL* 295), and the *Vademecum* does so in greater detail, noting that it "consists of requiring a *decisive break* with sin together with a *progressive path* towards total union with the will of God and with his loving demands."⁶ Gradualness or gradualism is distinguished from the morally untenable "gradualness of the law," as if there were different degrees or forms of precept in God's law for different individuals and situations.⁷

In summary, as the 1997 *Vademecum* makes clear, gradualness is to help a penitent overcome any invincible ignorance, so he can embrace the Church's teaching fully, with the same moral goal provided for married couples in which one spouse is coercively insisting on contraception. Applied to the case of the divorced and invalidly remarried, that would mean always leading divorced and remarried couples toward living as brother and sister, that is, completely refraining from sexual relations. And also possibly, some would argue, allowing for a spouse or spouses to receive the Eucharist along the way, provided their confessor believed their ignorance or diminished freedom made them subjectively inculpable of grave sin, and therefore eligible to receive benefit from Holy Communion—albeit discreetly to avoid any public scandal.

And when they progress to living as brother and sister, in conformity with *Familiaris Consortio* 84, canonist Edward Peters notes that canon law provides that their reception should remain discreet/private, because the norms of Canon 915 refer to the objective nature of their "manifest grave sin," which remains as a public reality, even though they are living as brother and sister privately, something which can't be determined by a minister of Holy Communion.⁸ In these cases, I would recommend that such couples be pastorally encouraged to come forward during Mass to receive a blessing at Communion time, to affirm them in their decision to live as brother and sister. Other divorced and remarried couples can be encouraged to do the same, in the hope of their fully embracing Church teaching as well.

considering for Dolan's signature style of countering the media's hermeneutics of suspicion by calling attention to what the Church says "yes" to and by crafting readily intelligible ways of explaining why the Church holds the positions she does.

Actual monographs by cardinals are more rare. Raymond Cardinal Burke has penned a wonderful example of this genre in *Divine Love Made Flesh: The Holy Eucharist as the Sacrament of Charity* (San Diego: Catholic Action for Faith and Family, 2012). Written as a kind of commentary on two recent papal documents on the Eucharist—*Ecclesia de Eucharistia* by John Paul II and *Sacramentum Caritatis* by Benedict XVI—this volume explores the way in which a Eucharistic spirituality provides a way for living the Catholic faith in a secular world dominated by a sort of practical atheism. The indifference to religion that is often taken as crucial to preserving a neutral playing field in contemporary culture can all too easily render believers insensitive to the true meaning of events or overly ready to accept a compartmentalized existence in which one's private beliefs and public persona never meet. With a vision worthy of Christopher Dawson's recurrent emphasis on religion as what forms and transforms a culture, Burke's reflections focus on restoring our wonder at the Holy Eucharist as crucial for animating the New Evangelization that our culture needs.

Practice for Heaven: True Stories from a Modern Missionary, edited by Joseph McAleer (Manchester, NH: Sophia Institute Press, 2016), is a selection of the writings of the late Edward Cardinal Egan from his days as the bishop of Bridgeport and then as archbishop of New York. Collected under various thematic headings, the entries invariably feature a story, and often the good humor of the storyteller, even on the gravest sort of topic. Typical of the genre is one called "Losing Our Grip," about an encounter with an angry customer at a bookstore on Manhattan's Upper West Side who pressed into the hands of a clerical customer whom he did not know a volume that deeply upset him: Peter Singer's *Practical Ethics*. The engaging style of treating

the way in which our society is losing its grip on moral sanity is a model for those who need to give homilies to preach without being preachy.

In *A Godly Humanism: Clarifying the Hope that Lies Within* (Washington, DC: The Catholic University of America Press, 2015), the late Francis Cardinal George, O.M.I., writes about the Catholic intellectual tradition. While arguing that Christianity is a way of life and an encounter with a person and not just with an idea, his book also discusses the relation of faith and reason, with special attention to the assumptions about reason that are prevalent in diverse cultures in various time periods. Cardinal George repeatedly takes issue with the widespread conviction in modernity that truth-claims of a religious nature are "inherently dangerous." Of special significance for the members of the Fellowship is chapter 4 ("A Christian Intellectual in a Post-Christian Society"), where Cardinal George distinguishes between (1) the secular context in which Christian intellectuals today need to operate as a situation in which religious convictions have no special privilege, and (2) secularism in the sense of the atheistic position that explicitly excludes even the possibility of God's existence as an impermissible hypothesis in academic conversations.

Among the most significant of the recent publications by cardinals is that by Robert Cardinal Sarah, entitled *God or Nothing: A Conversation on Faith with Nicolas Diat*, translated by Michael J. Miller (San Francisco, CA: Ignatius Press, 2015). This volume offers not only a fascinating autobiographical account of growing up in West Africa and of serving the Church there and in Rome, but also prescient commentary on the challenges the Church faces in the postmodern world. Sarah explains at length his views the liturgy, the dangers of excessive activism, and the ways to cultivate genuine forms of a Catholic intellectual life amid the pressures of Enlightenment rationalism and libertine narcissism. The chapters on evangelization and the missionary character of the Church deserve careful reading, especially in light of Pope Francis's *Evangelii Gaudium*. ✠

Arguing for Something More Expansive

However, as we can see from two recent implementations of *AL* to which Pope Francis has given his approval, he undoubtedly has something more expansive in mind.

In response to charges of heresy by some, Pope Francis will not and cannot change the Church's teaching on the indissolubility of a valid marriage between two Christians. Nor, I would argue, will he attempt to formally amend the Church's canon law prohibiting Holy Communion to those "who obstinately persist in manifest grave sin."⁹ Yet—and despite his good intentions—I charitably submit that the Holy Father is venturing down a rather precarious pastoral path, one that, if continued, threatens to seriously undermine (1) the Church's teaching authority, including his own and that of the Church's marriage tribunal system; (2) the Church's teaching on marriage and family in particular; and (3) marriage and family life within the Church in general.

Bishops from the Argentinian region of Buenos Aires were the first to issue norms on *AL* in September 2016,¹⁰ and Pope Francis affirmed their guidelines resoundingly, saying, "The document is very good and completely explains the meaning of chapter VIII of *Amoris Laetitia*. There are no other interpretations."¹¹

The Argentinian bishops say that, "whenever feasible," couples who cannot separate for serious reasons, for example, to provide for children, should be encouraged to live as brother and sister, with recourse to Sacrament of Reconciliation when they stumble in that endeavor (§5). That is all good.

In "more complex cases" that include mitigated subjective culpability, for example, "especially when a person believes he/she would incur a subsequent fault by harming the children of the new union," the Argentinian bishops add in no. 6 of their guidelines that "*Amoris Laetitia* offers the possibility of having access to the sacraments of Reconciliation and Eucharist (cf. *AL* footnotes 336 and 351)." The Buenos Aires bishops are unhelpfully vague here, but Fr. Raymond De Souza is likely correct in concluding that they are probably referring to relationships in which one person is either not Christian or not practicing the faith, and also threatening serious consequences,¹² for example, leaving a civilly remarried spouse and children if they do not consent to sexual relations.

Regarding these couples' reception of the Eucharist, and aware of concerns of the public scandal of their doing so, the Buenos Aires bishops state that "it may be convenient for an eventual access to sacraments to take place in a discreet manner, especially if troublesome situations can be anticipated."¹³ More than being convenient, it would seem pastorally imperative, again assuming such couples were being led to live as brothers and sisters as the moral principle of gradualness would require, and provided that there were indeed mitigating factors regarding their subjective culpability.

The Perils of the Internal Forum for Determining Marital Validity

More recently, Cardinal Agostino Vallini, the vicar general for the Diocese of Rome, issued guidelines. These guidelines presumably have the approval of Pope Francis, the Bishop of Rome, since Cardinal Vallini publicly proclaimed them and also posted them, without papal correction, on the diocesan website.¹⁴ Veteran Vatican correspondent Sandro Magister reported on Cardinal Vallini's guidelines, with extensive excerpts.¹⁵

Cardinal Vallini makes some good points, including that the divorced and remarried should be welcomed and encouraged to participate in the Church's parish life, including the liturgy—for example, the choir, the prayers of the faithful, and the offertory procession—and be supported by "pastoral worker couples."

Like the Argentinian bishops, Cardinal Vallini encourages couples to live as brother and sister, similarly not precluding admission to the Eucharist for those for whom the decision to live as brother and sister "is difficult to practice for the stability of the couple."

But then Cardinal Vallini—and by extension, Pope Francis—takes a fateful step, and it proceeds logically from the pastorally and theologically vulnerable guidelines of *AL*. He speaks about possibly allowing reception of the Eucharist for those couples in which "there is the moral certainty that the first marriage was null but there are not the proofs to demonstrate this in a judicial setting," that is, in a case before a marriage tribunal.

Who is to make this "morally certain" determination? Given his role in the internal forum (that is, the confessional), and after a long period of pastoral guidance, "it can be none other than the confessor, at a

certain point, in his conscience, after much reflection and prayer, who must assume the responsibility before God and the penitent and ask that the access take place in a discreet manner."

However well-intended the reasons for utilizing the internal forum for this purpose, the subjective nature of the decisions made therein necessarily cannot be confirmed in the external forum, that is, a marriage tribunal. And so the mainstreaming of this subjective standard will unmistakably open the door to ecclesiastical anarchy, as local priests and even the lay faithful seek to fill the resultant vacuum of authority regarding Church oversight.

For example, what divorced and remarried couple won't find it difficult to live as brother and sister and thus find incentive to discern with "moral certainty" that their first marriages were invalid? And this would presumably include the likely not infrequent cases of couples in which there are no mitigating factors of invincible ignorance or coercion. And we shouldn't be surprised if such couples expedite this subjective discernment process, seeking a more favorable diocese and/or priest, as needed, or perhaps making the decision on their own and choosing a parish in which they're not as well known to avoid concerns of scandal.

Or, if the number of these couples grow, and they're assisted by well-intentioned priests who help them expedite the discernment process, perhaps their reception of Holy Communion might eventually become more public and welcoming under the pastoral aegis of a greater application of God's mercy by parishes around the world.

And for validly married spouses who experience difficulties, might they not be more likely to seek a divorce when they come to their own "moral certainty" that their marriage is actually null, instead of persevering to resolve their marital difficulties? Not surprisingly, Magister and Fr. Basilio Petrà, the president of the Italian moral theologians, anticipate similar outcomes if "the floodgates" are opened by these and similar implementations of *AL*.¹⁶

But internal-forum advocates will respond that acts of contraception are always objectively evil, whereas a good number of these couples may actually have been in invalid marriages and thus deserve this form of ecclesiastical relief. Contraception is intrinsically evil, and marriage tribunals can possibly make errors in judging cases. Yet, subjective evaluations are inadequate to resolve questions of marital validity. Indeed, any imperfections of marriage tribunals are easily and

clearly exceeded by internal-forum judgments, which have no objective standards that can be double-checked by impartial judges and also cannot be cross-examined by a defender of the marriage bond. In significant contrast, internal-forum judgments will subject the Church to much harm, as noted. Consequently, through its laws, the Church has to safeguard the ecclesiastical common good, which would be deleteriously impacted by the practical and varied reverberations of subjective internal-forum policies.

Turning the Ecclesiastical Tide

Still, internal-forum advocates will persist, citing the CDF's 1998 document "Concerning Some Objections to the Church's Teaching on the Reception of Holy Communion by Divorced and Remarried Members of the Faithful":¹⁷

Others maintain that exceptions are possible here in the internal forum, because the juridical forum does not deal with norms of divine law, but rather with norms of ecclesiastical law. This question, however, demands further study and clarification. Admittedly, the conditions for asserting an exception would need to be clarified very precisely, in order to avoid arbitrariness and to safeguard the public character of marriage, removing it from subjective decision. (§3c)

Yet, here we see that the CDF—and by extension St. John Paul II—actually reaffirms the Church's perennial position that issues of marital validity cannot be resolved by subjective decisions in the internal forum, precisely "to safeguard the public character of marriage." And more recently, in its "Declaration Concerning the Admission to Holy Communion of Faithful Who Are Divorced and Remarried," the Pontifical Council for Legislative Texts—in agreement with the CDF and the Congregation for Divine Worship and the Discipline of the Sacraments—provides further affirmation of the Church's perennial position, noting first that canon 915 is derived from divine law, namely St. Paul's teaching on the perils of unworthy reception of the Eucharist (1 Cor 11:27-30), and that changes to canon law cannot contradict that unchangeable, biblically based doctrine of the Church.¹⁸

In addition, consistent with Peters's previously noted analysis, the Declaration adds that "manifest grave sin" refers to objective sin, since a minister of Communion would not be able to make judgments on a communicant's subjective culpability.

Pope Francis is certainly right in saying the Church must do more to accompany the divorced and remarried. Yet, any efforts must be unambiguously faithful to authentic Church teaching and pastoral practice, for the benefit of all concerned, including supporting divorced and remarried couples if new evidence arises that might reverse earlier canonical judgments about their first marriages. And encouraging them that faithful reception of the sacraments will not only aid them to bear their crosses, but bear them fruitfully. That's all legitimate mercy and accompaniment. Cardinal Ennio Antonelli covers these bases well in new guidelines for the Archdiocese of Florence.¹⁹

However, a new *Vademecum*, which should be written under the close supervision of the CDF, would go a long way toward normalizing the Church's pastoral outreach to the divorced and invalidly remarried, which is needed. It would help priests navigate difficult confessional waters well, and also serve as a bulwark against morally lax interpretations and applications that might otherwise prevail widely, given the current ecclesiastical climate. After all, as the CDF concludes in its aforementioned 1998 document (§5), any love and mercy that is not grounded in the truth is not worthy of the name:

If at times in the past, love shone forth too little in the explanation of the truth, so today the danger is great that in the name of love, truth is either to be silenced or compromised. Assuredly, the word of truth can be painful and uncomfortable. But it is the way to holiness, to peace and to inner freedom. A pastoral approach which truly wants to help the people concerned must always be grounded in the truth. In the end, only the truth can be pastoral. "Then you will know the truth, and the truth will set you free" (Jn 8:32). ✠



ENDNOTES

- 1 The term "divorced and remarried" is used here, as in various Church documents, to refer to those who are invalidly remarried. We recognize that there are those Catholics who have divorced, obtained an annulment, and thereafter remarried validly.
- 2 <https://www.thecatholicthing.org/2016/04/23/reflections-on-amoris-laetitia/>.
- 3 A *Vademecum*, Latin for "to accompany me," is a set of theological and pastoral guidelines for confessors to serve penitents better.
- 4 §§298, 301-02, 305; cf. CCC 1735.
- 5 §§3.7-9, 3.13.
- 6 §3.9, emphases original; cf. CCC 1793.
- 7 St. John Paul II, *Familiaris Consortio*, §34.
- 8 See <https://canonlawblog.wordpress.com/2016/10/19/taking-a-page-from-the-proportionalist-playbook/> and <http://www.canonlaw.info/canonlaw915.htm>
- 9 Canon 915.
- 10 <https://cruxnow.com/global-church/2016/09/18/guidelines-buenos-aires-bishops-divorcedremarried/>.
- 11 <https://cruxnow.com/global-church/2016/09/12/pope-okays-argentine-doc-communication-divorced-remarried/>.
- 12 <http://www.ncregister.com/daily-news/what-argentinias-amoris-laetitia-guidelines-really-mean>.
- 13 §9.
- 14 <http://www.romasette.it/wp-content/uploads/Relazione2016ConvegnoDiocesano.pdf>
- 15 <http://chiesa.espresso.repubblica.it/articolo/1351383?eng=y>.
- 16 <http://chiesa.espresso.repubblica.it/articolo/1351383?eng=y>.
- 17 http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19980101_ratzinger-comm-divorced_en.html
- 18 http://www.vatican.va/roman_curia/pontifical_councils/intrptxt/documents/rc_pc_intrptxt_doc_20000706_declaration_en.html
- 19 <http://chiesa.espresso.repubblica.it/articolo/1351390?eng=y> and http://www.familiam.org/pcpf/allegati/13757/Amoris_Laetitia_ING.pdf

Amoris Laetitia and "Pastoral Discernment": Areas of Concern

Rev. Thomas V. Berg
St. Joseph's Seminary, Dunwoodie

The critical importance and pastoral obligation of carefully discerning the particular situation of persons in problematic moral circumstances—particularly that of Catholics who have divorced and civilly remarried—is clearly a paramount concern of Pope Francis. He makes this issue the centerpiece of his post-synodal apostolic exhortation *Amoris Laetitia* (*AL*), particularly in its eighth chapter, which will be the focus of my attention here.¹

It is worth noting that in more recent remarks, the Holy Father has again revealed just how pressing an issue he believes *pastoral discernment* to be, particularly for the formation of candidates to the priesthood.

During the pope's encounter with Jesuits gathered for their General Chapter in Rome in October, the Holy Father was asked: "In your speech you clearly proposed a morality that is based on discernment. How do you suggest that we proceed in the field of morality with regard to this dynamic of discernment of moral situations?" He responded as follows:

Discernment is the key element: the capacity for discernment. I note the absence of discernment in the formation of priests. We run the risk of getting used to "white or black," to that which is legal. We are rather closed, in general, to discernment. One thing is clear: today, in a certain number of seminaries, a rigidity that is far from a discernment of situations has been introduced. And that is dangerous, because it can lead us to a conception of morality that has a casuistic sense... [and] I am very afraid of this. This is what I said in a meeting with the Jesuits in Krakow during the World Youth Day. There the Jesuits asked me what I thought the Society could do and I replied that an important task of the Society is to form seminarians and priests in discernment.²

In its call upon the Church's pastors to a merciful accompaniment and careful pastoral discernment with regard to the divorced and civilly remarried, *AL* in a sense offers nothing new. The document builds on and

reiterates an invitation that was urged some years ago in another Synod on the family and synthesized by Pope St. John Paul II in his own post-synodal apostolic exhortation *Familiaris Consortio*:

Pastors must know that, for the sake of truth, they are obliged to exercise careful discernment of situations... I earnestly call upon [them] and the whole community of the faithful to help the divorced, and with solicitous care to make sure that they do not consider themselves as separated from the Church, for as baptized persons they can, and indeed must, share in her life. (§84)

For the most part, then, *AL* offers a summation of what has long been sound pastoral practice both inside and outside the confessional with regard to the pastoral discernment of "those situations that fall short of what the Lord demands of us" (*AL* 7). Among other important elements, it reiterates the following:

1. Sound pastoral discernment, taking into account "the complexity of various situations" and "how people experience and endure distress because of their condition," is not incompatible with care for the truth; indeed, care for the truth demands this (*AL* 79).
2. Divorced persons who, for the sake of bearing witness to marital fidelity have not remarried must especially be the focus of the Church's pastoral concern (*AL* 242).
3. The divorced who have entered a new union should be made to feel part of the Church. They are not excommunicated: they should be made to know that they remain part of the ecclesial community (*AL* 243), where, like the penitent prodigal son, they might "experience being touched by an 'unmerited, unconditional and gratuitous' mercy" (*AL* 297).
4. This pastoral discernment should identify elements that can foster evangelization and human and spiritual growth in the lives of the civilly divorced and remarried, as well as elements in their lives that can lead to a greater openness to the fullness of the Gospel regarding marriage (*AL* 293).
5. Pastoral discernment and accompaniment will assist

such individuals in understanding the divine pedagogy of grace in their lives and offer them assistance so they can reach the fullness of God's plan for their lives, something always possible by the power of the Holy Spirit (*AL* 297).

6. Pastoral discernment will be attentive to those situations whose complexity is such that they "should not be pigeonholed or fit into overly rigid classifications leaving no room for a suitable personal and pastoral discernment" (*AL* 298).

Beyond this, however, there are affirmations made in chapter 8 on the nature of pastoral discernment that are concerning because they lend themselves to interpretations that would validate pastoral applications that are inconsistent with the Church's constant and universal practice, founded on the Word of God, of not admitting the divorced and remarried to Holy Communion—a practice that the Church has long held to be binding and not subject to modification because of diverse circumstances or situations.³

Pastoral approaches to the contrary, based on language found in *AL*, would constitute an injustice to the persons involved and would hardly embody the very mercy, accompaniment, conscience formation and sound discernment championed by Pope Francis. I am sure we would all agree—and hope—that any interpretation of *AL* or formulation of pastoral directives that it might inspire should all be harmonious the Church's ordinary and universal Magisterium.

Allow me then to explore briefly at least a few of the more notable elements which present concern in chapter 8 of *AL*. I am going to cover four of those elements in my remarks in increasing order of concern:

- (1) The misuse of authoritative texts.
- (2) The notion of "difficulty" as a factor supposedly mitigating moral responsibility.
- (3) The notions of conscience and freedom that are at work in the document.
- (4) And finally, chapter 8's silence on the Church's perennial teaching on the reality of exceptionless moral norms.

(1) The Misuse of Authoritative Texts

I will begin with the issue of misuse of authoritative teaching and/or mistranslation. Relative to the concerns that I will raise further ahead, this one is less problematic, but still concerning. To begin with, as

Fr. Kevin Flannery and I have demonstrated elsewhere,⁴ not one of the three attempts to support arguments in chapter 8 of *AL* by recourse to texts of St. Thomas Aquinas can be shown to succeed when those texts are looked at in their original context and interpreted in light of the whole of Aquinas's thought. Here I will just point out, ever so briefly, what is probably the most problematic of those misuses of Aquinas. At *AL* 304, the Holy Father observes:

I earnestly ask that we always recall a teaching of Saint Thomas Aquinas and learn to incorporate it in our pastoral discernment: "Although there is necessity in the general principles, the more we descend to matters of detail, the more frequently we encounter defects... in matters of action, truth or practical rectitude is not the same for all, as to matters of detail, but only as to the general principles; and where there is the same rectitude in matters of detail, it is not equally known to al... The principle will be found to fail, according as we descend further into detail."

The citation given here is to *Summa theologiae* I-II, q. 94, a. 4. But as Flannery and I point out, it is not at all Aquinas's suggestion in that passage that the moral truth one discovers at the level of general moral principles somehow disintegrates as one wades into the nitty-gritty of the "matters of detail" in an individual's particular situation (as if, at this level of analysis, we could not find moral truths that are true for all of us).

In fact, in article 4 Aquinas is *not* referring to "matters of detail" *at all*. What is here poorly and erroneously translated as "matters of detail" is Thomas's term *propria*, a term by which he means *proper principles* in contrast to the *common principles* from which they are derived. In other words, in *Summa theologiae* I-II, q. 94, a. 4, the contrast is not between "general principles" and concrete moral situations or "matters of detail" to which the "general principles" supposedly cannot be applied, but between common principles and proper principles.

What sometimes happens, as Aquinas teaches, is that a proper principle "is found not to hit the mark" (*invenitur deficere*). This never happens with a common principle (such as "Do not steal"). A proper principle, however, such as "return borrowed goods to their owner" can fail to hit the mark, but only in the sense that, when it was originally formulated, the lawmaker wisely did not mention explicitly the many situations that would make it not applicable.

When a man who owns the weapon that he lent to another returns and (with eyes darting back and

forth and mumbling curses about the president of the United States) demands his weapon back, the other person is not obliged to give it to him. In such a case, the proper principle as formulated misses the mark because the intervening circumstances give rise to a prudential judgment that rules out application of the proper principle in this circumstance. And in this sense—and in only this sense—the moral truth codified in the moral precept "return borrowed goods to their owner" fails to apply; it is not that the truth "fails" or is any less true in this case, or that there is a different truth for the guy who has to return the gun and another truth for the rest of us.

In fairness, *AL* in other sections makes ample and very appropriate use of Aquinas. But beyond the misuses of Aquinas in chapter 8, there is also a significant misquotation of a key passage from *Gaudium et Spes*, at least in English translations of *AL*. This happens at *AL* 298, where we read: "The Church acknowledges situations 'where, for serious reasons, such as the children's upbringing, a man and woman cannot satisfy the obligation to separate,'" the last bit of which is a quotation of *Familiaris Consortio* 84 and is sound as far as it goes.

But footnote 329 [which is attached to *AL* 298] goes further by stating: "In such situations, many people, knowing and accepting the possibility of living 'as brothers and sisters' ... point out that if certain expressions of intimacy are lacking, 'it often happens that faithfulness is endangered and the good of the children suffers.'" The last bit of that line is presented as a quote from *Gaudium et Spes* 51.

Michael Pakaluk has pointed out that—among other problems afoot in this paragraph—the first of them is a mistranslation and misuse of the plain meaning of *Gaudium et Spes* 51. He observes:

Thus, not only may a concern for "the good of the children" override a remarried couple's obligation to separate, it may also override their obligation to abstain from sexual relations. For the latter exception, the authority of a Vatican II Constitution, *Gaudium et Spes*, is cited... Footnote 329 fails in its purpose, however, because to use *Gaudium et Spes* in this way, it must distort and misquote that document's teaching. Accurately construed, the quoted line from article 51 of *Gaudium et Spes* never mentions children's welfare. The phrase at issue, in its authoritative Latin version, is *bonum prolis*, "the good of children"—that is, the good of marriage *which is children*, one of the traditional goods of the marriage bond. Here the Council Fathers are teaching

that if a married couple (and they are concerned with married couples; they are not addressing the particular case of the divorced and remarried) abstain from intimacy for too long, they may lose their zest for having more children, and thus may fail to enjoy this particular good of the marriage bond as fully as they might.⁵

These textual misfires cannot simply be attributed to carelessness; their use was intentional and raises serious questions about the direction and intent of *AL* on the matter of pastoral discernment. At very least, careful analysis shows that these texts fail to support the arguments for which they are referenced, and ought never to have been cited in the first place.

(2) Mitigating Factors

But now, on to some deeper areas of concern—namely, the teaching on mitigating factors, freedom and conscience. Paragraph 301 is particularly problematic. It reads in part:

A subject may know full well the rule, yet have great difficulty in understanding "its inherent values" or be in a concrete situation which does not allow him or her to act differently and decide otherwise without further sin. As the Synod Fathers put it, "factors may exist which limit the ability to make a decision."

Read in its entirety, this paragraph would seem to be implying that the subjective conviction that one is facing great difficulty in making the right moral choice renders one not responsible for performing an action not in harmony with the relevant objective moral norm. As Christian Brugger has observed, however, such an assertion is in tension with the Church's consistent and perennial understanding of the action of grace in the life of the disciple and would appear to be at odds with the doctrine on justification as defined at the Council of Trent, which condemns the notion that the keeping of the Commandments is "impossible."⁶

A person might well share with a priest in a pastoral context the conviction or fear that his situation leaves him no options other than to perform acts that are sinful. But clearly sound and genuinely pastoral accompaniment and discernment would oblige a priest to assure the individual that with God's grace, all things are possible, including living according to the Church's moral teaching rooted in the Gospel.

(3) Conscience and Freedom

We have to question, therefore, what conception of human freedom and what underlying anthropological vision is at work here when it conceives of situations that would leave us at times facing the putative impossibility of changing our behavior, namely, the impossibility of refraining from sexual relations, which would presumably open us to further sin according to *AL* 301.

Very recently Cardinal Francesco Coccopalmerio, president of the Pontifical Council for Legislative Texts, has published a personal commentary on this document in which he proposes (based on *AL*) two specific criteria by which—after a period of “discernment”—a divorced and civilly remarried Catholic who presently is unwilling to refrain from sexual relations with his or her partner could nonetheless be absolved in the internal sacramental forum and admitted to holy Communion, namely, (1) that the individual intend to reform his or her life, but that (2) such reform (that is, ceasing from sexual relations), is at present, “impossible.” According to Coccopalmerio, with those two criteria in place, a priest could absolve this individual and direct him or her to receive Communion. I do not find this to be a manner of proceeding that is reconcilable with the perennial pastoral practice and ordinary and universal Magisterium of the Church. As such, I find it to be an opinion that cannot be safely followed.⁷

At times, *AL* shifts from consideration of pastoral discernment (the work of discernment shepherded by a prudent and knowledgeable moral guide such as a priest) to consideration of “personal discernment,” presumably the discernment that the individual caught in the problematic moral situation can engage in himself. And at the heart of “personal discernment” would be ultimately the subject’s *decision* about what to do—which decision is presumably what the individual perceives to be the requirement of conscience. In this regard, we read in *AL*:

We also find it hard to make room for the consciences of the faithful, who very often respond as best they can to the Gospel amid their limitations, and are capable of carrying out their own discernment in complex situations. We have been called to form consciences, not to replace them. (*AL* 37)

Here *AL* expresses what I find to be an unreasonable optimism about the individual’s ability to navigate his own way through morally complex circumstances. Not

uncommon is the human tendency to allow a sentimental and subjective “sense” of one’s situation and what one ought to do about it to obfuscate a genuine and sound judgment of conscience. A sincere judgment of conscience, as human experience clearly reveals, can simply be wrong, not in accord with prudent moral reasoning such as looks to objective and true moral norms as one’s guide.

But the problems with the conception of conscience in play here are, I fear, deeper than that. Conscience is here conceived of as highly autonomous and even creative of personal solutions to moral problems that are rendered in the form of (and are often referred to in *AL* as) “decisions.” Indeed, paragraph 303 would seem to place those “decisions in conscience” in tension with objective moral norms. The text reads in part:

Yet conscience can do more than recognize that a given situation does not correspond objectively to the overall demands of the Gospel. It can also recognize with sincerity and honesty what for now is the most generous response which can be given to God, and come to see with a certain moral security that it is what God himself is asking amid the concrete complexity of one’s limits, while yet not fully the objective ideal.

This is to suggest that, by way of personal discernment, an individual could arrive at the determination that continuing to engage in what one knows to be gravely sinful behavior (for example, sexual intimacy with a person who is not one’s spouse) is “the most generous response” that one can give at this time and that, further, God is somehow “asking” this of one. Personally, I find this to be one of the most incredible and baffling affirmations in *AL*.

And here arises a further problem, as many commentators have noted, that that the relevant moral norm (that is, prohibiting fornication or adultery) is presented as an “objective ideal” to be attained. *AL* notably—and not without justification—criticizes a certain manner of teaching Catholic moral theology that treats the moral life as, in essence, a matter of rule-following. *AL* insists, rather, that the moral life is not, in the end, about conformity to moral rules, but about ever-closer approximations to the Gospel “ideal.” In lieu of attaining the ideal, *AL* implies that there can be degrees of disorder that an individual knowingly, deliberately, and indeed with moral rectitude, allows into his life since this is the “most generous response” he can make in pursuit of the ideal.⁸

Now, is there not in play here precisely the

understanding of conscience that was authoritatively rejected by Pope St. John Paul II in *Veritatis Splendor*? We would recall in particular the following two paragraphs:

In their desire to emphasize the “creative” character of conscience, certain authors no longer call its actions “judgments” but “decisions”: only by making these decisions “autonomously” would man be able to attain moral maturity. Some even hold that this process of maturing is inhibited by the excessively categorical position adopted by the Church’s Magisterium in many moral questions; for them, the Church’s interventions are the cause of unnecessary *conflicts of conscience*.

In order to justify these positions, some authors have proposed a kind of double status of moral truth. Beyond the doctrinal and abstract level, one would have to acknowledge the priority of a certain more concrete existential consideration. The latter, by taking account of circumstances and the situation, could legitimately be the basis of certain *exceptions to the general rule* and thus permit one to do in practice and in good conscience what is qualified as intrinsically evil by the moral law. A separation, or even an opposition, is thus established in some cases between the teaching of the precept, which is valid in general, and the norm of the individual conscience, which would in fact make the final decision about what is good and what is evil. On this basis, an attempt is made to legitimize so-called “pastoral” solutions that are contrary to the teaching of the Magisterium, and to justify a “creative” hermeneutic according to which the moral conscience is in no way obliged, in every case, by a particular negative precept. (*VS* 55–56)

It is this very conception of conscience—as actualized over and above, and indeed, in tension with “the general rule,” conscience as the ultimate determinant of moral value by way personal “decision”—that I find to be inherent in at least several paragraphs of chapter 8.

(4) Silence on Specific Moral Norms

Finally, let’s consider what I find to be the most troubling aspect of *AL*, namely, its utter silence regarding the Church’s perennial teaching on exceptionless moral norms. *AL* 304 says that “general principle... can never be disregarded or neglected” but also that “in their formulation they cannot provide absolutely for all particular situations.” This must be read with extreme caution since it appears to open a door to

conclusions that cannot be squared with the Church’s teaching that some moral norms are exceptionless. Also the next bit—“At the same time, it must be said that, precisely for that reason, what is part of a practical discernment in particular circumstances cannot be elevated to the level of a rule”—is likewise problematic.

As Aquinas explains, at the level of “particular circumstances”—that is to say, the level where our understanding meets the natural inclinations—“practical discernment” discovers the precepts of the natural law. Such discernment can indeed be “elevated to the level of a rule.” It is true that not every moral perception is reasonably made into a rule. But it is also true that all such moral perceptions are simply specifications of the “rules”—the precepts—of the natural law, as residing in the “intention of the lawmaker,” the author of all nature. If properly conducted, practical discernment can never contradict the precepts of the natural law.

When in the discernment of particular situations it becomes evident that the individual’s moral problem involves behavior that can never be rightly ordered toward the love of God and neighbor (such as is the case of being sexually involved with a person not one’s spouse), and is therefore prohibited by an exceptionless moral norm, then sound pastoral discernment must, in all cases, take as point of departure the exceptionless moral norm that bears upon that individual’s situation.

Despite the statement towards the end of *AL* 304 that general principles “can never be disregarded,” it is precisely this that the argument of paragraph 304 seems to be encouraging the reader to do in certain instances, even where the moral norm in question is a specific and exceptionless moral norm.

While *AL* is disturbingly silent on the reality of exceptionless moral norms, that doctrine is captured in the *Catechism of the Catholic Church* in the following terms:

It is ... an error to judge the morality of human acts by considering only the intention that inspires them or the circumstances (environment, social pressure, duress or emergency, etc.) which supply their context. There are acts which, in and of themselves, independently of circumstances and intentions, are always gravely illicit by reason of their object; such as blasphemy and perjury, murder and adultery. One may not do evil so that good may result from it. (1756)

In a number of places, Thomas Aquinas too affirms the reality of exceptionless moral norms. Frequently cited in this regard is *Summa theologiae* II-II, q. 33, a. 2 on fraternal correction. There Thomas distinguishes precepts

formulated in the negative that are applicable “always and at all times” (*semper et ad semper*) from positively formulated precepts directing us toward acts of virtue to be effected in the presence of certain circumstances. Sinful acts such as are prohibited by the negative precepts of the moral law, affirms Aquinas, “are evil in themselves, and cannot become good, no matter how, or when, or where, they are done.”

The Church’s perennial teaching on the reality of exceptionless moral norms was reaffirmed by Pope St. John Paul II in the encyclical *Veritatis Splendor*:

Reason attests that there are objects of the human act which are by their nature “incapable of being ordered” to God, because they radically contradict the good of the person made in his image. These are the acts which, in the Church’s moral tradition, have been termed “intrinsically evil” (*intrinsece malum*): they are such always and per se, in other words, on account of their very object, and quite apart from the ulterior intentions of the one acting and the circumstances. (80)

Conclusion

Since the Apostolic age—and drawing upon the teaching of Jesus Christ himself—the Church has consistently taught that sexual intercourse with a person other than one’s spouse is always, without exception, a gravely disordered behavior “incapable of being ordered to God.” Sound pastoral discernment will embrace such true, exceptionless moral principles and endeavor to find a way, consistent with God’s mercy and justice, of explaining their application even to particular situations that call for personal asceticism and sacrifice.

A pastoral accompaniment, enlivened by genuine concern for the human and spiritual good of divorced and remarried individuals, requires leading them to a proper understanding of the nature of conscience. Pastoral ministers need to help them to discover that living according to the truth of the Gospel and the Church’s teaching is life-giving and possible with God’s grace. Even in those cases where individuals are subjectively convinced that their previous marriage was null, the ordinary means of determining the truth of such a conviction is a canonical investigation in the external forum. When by these means the marriage cannot be shown to have been null, and resumption of the still valid marriage is impossible, as is separation from the current partner, there is no other pathway to

the reception of the Eucharist other than confessional and the determination to live as “brother and sister.” Even in such a case, it is essential for the couple to do all that they can to avoid giving scandal.

Not admitting the divorced and remarried to communion remains the sound pastoral practice of the Church. Nothing in *AL* has changed that. *AL* offers no new protocol for some putative “discernment” to be engaged in by priests in the confessional according to which a penitent and his or her partner, without committing to continence in their irregular situation, could be directed to approach Holy Communion in good conscience.

Nor is such a practice at odds with a careful discernment of the particular situations that the divorced and civilly remarried find themselves in. On the contrary, the invitation to refrain from communion, in the context of genuinely accompanying a couple, can and should be the very fruit of sound pastoral discernment. By acting in this way,

[T]he Church professes her own fidelity to Christ and to His truth. At the same time she shows motherly concern for these children of hers, especially those who, through no fault of their own, have been abandoned by their legitimate partner. With firm confidence she believes that those who have rejected the Lord’s command and are still living in this state will be able to obtain from God the grace of conversion and salvation, provided that they have persevered in prayer, penance and charity. (*Familiaris Consortio*, 84) ✠

ENDNOTES

- 1 Portions of the present article are taken from are taken from my forthcoming essay, “*Amoris Laetitia*, ‘Pastoral Discernment’ and Thomas Aquinas,” to be published in *Nova et Vetera* 15, no. 2 (Summer 2017).
- 2 Available at: <http://www.laciviltacattolica.it/wp-content/uploads/2016/11/Q.-3995-3-DIALOGO-PAPA-FRANCESCO-PP-417-431.pdf>.
- 3 “The doctrine and discipline of the Church in this matter are amply presented in the postconciliar period in the apostolic exhortation *Familiaris Consortio*. The exhortation, among other things, reminds pastors that out of love for the truth they are obliged to discern carefully the different situations and exhorts them to encourage the participation of the divorced and remarried in the various events in the life of the Church. At the same time it confirms and indicates the reasons for the constant and universal practice, ‘founded on Sacred Scripture, of not admitting the divorced and remarried to Holy Communion’ (*Familiaris Consortio*, 84). The structure of the Exhortation and the tenor of its words give clearly to understand that this practice, which is presented as binding, cannot be modified because of different situations” (Congregation for the Doctrine of the Faith, “Letter to the Bishops of the Catholic Church Concerning the Reception of Holy Communion by the Divorced and Remarried Members of the Faithful” [*Acta Apostolicae Sedis* 86 (1994), 976 §5]).

4 See n. 1.

5 Michael Pakaluk, “The Other Footnote in *Amoris Laetitia*,” *First Things* (May 26, 2016).

6 See Christian Brugger, “Five Serious Problems with Chapter Eight of *Amoris Laetitia*,” *Catholic World Report* (April 22, 2016). We should note as well, that the presence of a “difficulty” in embracing a moral norm indicates that the person has some knowledge of both what the norm requires, and of how his or her behavior is at odds with the norm. Clearly then, *AL* 301 is not here referring to persons in a state of invincible ignorance. In the latter state “difficulties” of this sort simply do not arise, since one is (without guilt) either unaware of the norm or of the fact that one’s behavior is at odds with the norm. Consequently, this discussion rests within the domain of vincible ignorance which, of itself, does not excuse from culpability.

7 Germain Grisez and John Finnis have made the extremely important

point that discernment, in the tradition of St. Ignatius of Loyola, is not properly speaking the kind of process one engages in when attempting to arrive at moral determinations: “Discernment properly so-called, by contrast, is not concerned with the morally right and wrong but with the suitability of different morally acceptable possibilities for some purpose. For example, one discerns the suitability of different possible ways of using one’s gifts in service pleasing to God, or of different possible forms of recreation for one’s physical and mental health.” “The Misuse of *Amoris Laetitia* to Support Errors Against the Catholic Faith: A Letter to the Supreme Pontiff Francis,” 17. Available at: <http://www.twotlj.org/OW-MisuseAL.pdf>.

8 One cannot help but detect in chapter 8 of *AL* a proclivity for moral gradualism. This was also present in the two preparatory synods on the family. See my “Conscience, freedom, and the ‘Law of Graduality’ at the Synod on the Family,” *Homiletic and Pastoral Review* (September 2015).

The Canonical Position of *Amoris Laetitia*

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In the maelstrom following the publication of Pope Francis’s apostolic exhortation *Amoris Laetitia* (8 April 2016) so many questions about so many parts of the document erupted that one can scarcely do most of them, let alone all of them, justice in any one setting. Instead, I will highlight just three points that, if set out reasonably coherently, should help folks follow the many discussions surrounding *Amoris* and, in particular, help them to be better aware of when a participant in that discussion is making a claim for or against *Amoris* that is more significant or more complicated than it might at first seem.

The three points I wish to highlight are: (1) How many actors are involved in the “Communion event” and why does that number matter? (2) Where does *Amoris* fit in the canonical world and where does it fit in the spectrum of discussions about the admission of divorced-and-remarried Catholics to holy Communion? (3) Where, if anywhere, and how, if at all, does the “internal forum” apply to this discussion?

(1) How Many Actors Participate in the “Communion Event”?

Pretend for a minute: You are a student of marriage, studying theology, law, and pastoral practices related to marriage. You read an article on marriage and, while everything it says about marriage seems correct, the article focuses, you notice, almost exclusively on the bride who does this and the bride who does that. Odd emphasis, you think, but you go on to the next part of your study. You read another article, and you notice it does the same thing, it focuses almost entirely on the bride. Odd, you note again, but still you proceed. You then read a monograph on marriage, and an episcopal document on marriage, and an online commentary about marriage, and an interview with a famous cardinal on marriage, and nearly all of them, you find, nearly exclusively, talk only about the role and the place and various factors with impact on the bride in regard to marriage.

Your concern, again, is not that what these items say about brides in the context of marriage is wrong, it is that almost all of these discussions leave out one of

the two key actors in a wedding, the groom, and they seem quietly to assume that the bride is, in the end, the only one who really counts in a wedding.

Eventually this imbalance gets to you and you voice your concerns that everything you are reading about marriage and weddings deals with brides as if they were the only ones who matter, and the response comes back, “Don’t you care about brides? How unfeeling and narrow minded and downright chauvinistic of you. Brides are very important!”

Okay, if you can imagine this sort of scenario about discussions of weddings, you can empathize a bit with some of us who, in regard to the question of the reception of holy Communion by divorced-and-remarried Catholics, have been reading and reading and reading all of these discussions about the would-be communicant, and about what has an impact on his or her conscience, faith, personal story, and so on, to the near exclusion of the fact that there is another actor up there at Communion time—namely, the minister of holy Communion who also has decisions to make and who also has a crucial role to play in what I call “the Communion event.”

The “Communion event” is, then, a mildly awkward term I have invented to describe what happens during the congregation’s part of the Communion rite at Mass. I use this term in an effort to avoid prejudicing our discussion (as happens if we describe the Communion event simply as the “reception of holy Communion” or as the “distribution of holy Communion”). This Communion event does not, *pace* the overwhelming majority of discussions in the wake of *Amoris*, consist of one act by only one person, but instead of two distinct human acts performed by two different human beings: (1) the would-be communicant who requests the sacrament and (2) the minister of holy Communion who makes the decision, as a minister of the Church, to distribute the sacrament to the individual in question or to withhold it. Both of these acts are external, public, and have an impact on good Church order. As such they are both regulated by law, mostly canonical but some liturgical, to which ecclesiastical laws both actors are bound.

It is important to stress that the Communion event consists of two actions performed by two different actors because common parlance—which is acceptable enough during times of agreement on the fundamental principles involved in such events—and *Amoris* in particular, seem to discuss what happens at Communion time as if it were essentially an event

driven by considerations revolving around just one person (the would-be recipient), and not two persons (the would-be recipient and the minister of holy Communion). Again, as was the case in my analogy with discussions of marriage that are almost exclusively about brides, the problem is not that most of what is said about would-be communicants is wrong, the problem is that these discussions are imbalanced in focusing almost entirely on would-be communicants while forgetting about ministers of holy Communion. This pervasive imbalance in the discussion surrounding *Amoris* is becoming, I fear, a distortion of Church teaching and discipline.

If you will permit another analogy, consider how we use an ATM, with an emphasis on the word “automated” in the abbreviation for “automated teller machine.” One approaches the device, responds correctly to a couple of preprogrammed prompts, and the machine delivers the money.

The ATM exercises no discretion or independent judgment about what we may call the “money event.” It does not ask a customer, say, “Why do you want the money?” or “Do you understand what money is for?” or “Are you sure you will make good use of the money?” and so on. Rather, if the answer to its simple prompts comes back in due form, the money is dispensed. Period.

This is, I suggest, the way in which a startling number of people now seem to regard ministers of holy Communion, that is, as sacramental ATMs who state a programmed prompt (“Body of Christ”) and, upon getting the correct response (“Amen”), dispense the sacrament irrespective of any other factors. Better by far, because it is more accurate, I suggest, to view the two actors in the Communion event, the minister and the would-be recipient, as each doing two different things, and as acting in accord with two different laws.

For practical purposes Canon 916 is the main norm governing the acts of the would-be communicant in approaching for holy Communion while Canon 915 is the main norm governing the acts of the minister of holy Communion. There are different canons precisely because they apply to different people who are performing different roles in the one phenomenon I call the “Communion event.” These norms read differently, as the following texts make clear (emphasis added):

Canon 915. Those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin *are not to be admitted* to holy communion.

Canon 916. A person who is conscious of grave sin is *not to celebrate Mass or receive the body of the Lord* without previous sacramental confession unless there is a grave reason and there is no opportunity to confess; in this case the person is to remember the obligation to make an act of perfect contrition which includes the resolution of confessing as soon as possible.

Now, the mere fact that the legislator (a canon lawyer’s term for the pope) has stated these two norms for conduct in law itself makes a demand on our conscience. But, I suppose, some, in this antinomian age, might see such laws and say, “Fine, I see they are canons. So what? Where does it say that I have to follow what canon law says?” That question is fair enough, and here is the answer. In the promulgating document by which the 1983 Code of Canon Law came into effect, the apostolic constitution *Sacrae Disciplinae Leges* (25 January 1983), John Paul II wrote: “*Finally, canonical laws by their very nature are meant to be observed.* The greatest care has therefore been taken to ensure that in the lengthy preparation of the Code the wording of the norms should be accurate, and that they should be based on a solid juridical, canonical, and theological foundation” (emphasis added).

So, in short, those who discuss *Amoris* and the admission to holy Communion of divorced-and-remarried Catholics without discussing the minister of holy Communion and the demands made by Canon 915, are making the same kind of distortional error that one who discusses weddings solely from the point of view of the bride is making, namely, they are leaving out one of the two actors in the event.

With that as background let’s turn to our second topic, the canonical status of *Amoris* itself and its place in the spectrum of the debate it has engendered.

(2) The Nature of *Amoris* and Its Place in the Spectrum of Discussion

Our next question is whether *Amoris* itself makes any legal or normative demands on our conduct. To answer this question, we need to examine the literary form and the content of *Amoris* for clues as to what kind of document it is.

The ecclesiastical genre of *Amoris* is that of a “post-synodal apostolic exhortation,” such as John Paul II’s *Familiaris Consortio* (1981) and his *Christifideles Laici* (1988) were. The lawyer in me notices that *Amoris* is not an “apostolic constitution,” which is the kind of docu-

ment that most Church laws are. Further, *Amoris* is not a “*motu proprio*,” which is the kind of document that most other Church laws are if they do not come out as apostolic constitutions. Moreover, in *Amoris* there is no “promulgating language” (as is necessary for most norms for behavior to become law under Canon 7), and this document has not appeared in the official journal *Acta Apostolicae Sedis* as is usually required by Canon 8 for something to become a law (although I suspect that at some point *Amoris* will come out in the AAS, along with numerous other papal, but *nonlegislative*, materials). Now, while it is possible that some norms for behavior, intended to be read as laws, could come out in other kinds of ecclesiastical documents, the less such documents look and feel like instances of these standard, legislative genres above, the more evidence would be required in order to conclude that the Legislator intended such a document to be normative. In short, little or nothing about the form of *Amoris* suggests that it is law or directive of conduct.

As for its content, especially its chapter 8, I think that *Amoris* consistently avoids juridic and directional language. The words “canon” or “canonical,” for example, show up maybe a half-dozen times, and in no instance in a way establishing a rule for behavior, which is, of course, the primary thing that canon law does in the Church. The same can be said of terms such as “law,” “norm,” “rule,” “directive,” or my personal favorite “guideline.” I grant some express or implied exhortational language in *Amoris*, but no relevant imperatives.

In short, neither the form nor the content of *Amoris* support its being read as any kind of canonical law or ecclesiastically normative document. And if it is not a norm-making document, then appeals to *Amoris* as somehow establishing new norms for conduct in the Church (say, in regard to new rules for sacramental participation) are suspect and probably just plain wrong.

Next we consider where *Amoris* fits in the spectrum of discussion about admission of divorced-and-remarried Catholics to holy Communion.

At one extreme there are, as of this writing, the Maltese bishops (8 January 2017), the German episcopal conference committee (1 February 2017), and Cardinal Coccopalmerio (14 February 2017), all of whom approve of the administration of holy Communion to those who, for various reasons, decide against living in accord with Church teaching on marriage and, moreover, decide not to live in a “brother-sister” relationship. I find such a position, of course, to be in flat contradiction to Canon 915 and the unanimous

sacramental and canonical tradition behind it.

At the other end of the spectrum are the positions taken by, for example, the Archdiocese of Philadelphia (1 July 2016), the Diocese of Phoenix (18 September 2016), and the Anglican Ordinariate (16 January 2017) reiterating, among other things, the just requirements of Canon 915. What is remarkable about these diametrically opposed applications of Canon 915, though, is that both schools of thought can invoke *Amoris* in support of their approach and neither needs to worry about being contradicted by anything in *Amoris*. Why? Because, in the final analysis, *Amoris* neither reiterates the requirement that ministers of holy Communion are to withhold the sacrament from divorced-and-remarried Catholics nor cancels it. This studied ambiguity on the very point most contested in its wake allows *Amoris*, ironically, to sit in the middle of the storm surrounding it, without taking a clear position for or against one practice or the other. I think such ambiguity to be a serious flaw in a papal document meant to guide concrete pastoral practice, but it is a failure of omission, not commission.

Finally, the Buenos Aires document (5 September 2016), notable in that apparently Pope Francis thinks it to be a masterful application of *Amoris*, shares *Amoris*'s ambiguity, but only narrowly so. While I hold that the Buenos Aires document can, without torturing its text, be given an orthodox interpretation, one can scarcely sense in that document anything less than an endorsement of holy Communion for divorced-and-remarried Catholics living together without observing a brother-sister manner of life.

(3) The Internal Forum

Moving to our final topic for consideration, the first question that comes to mind here is: Why are so many people talking about the internal forum in the context of *Amoris*? The external forum, per se, is never mentioned in *Amoris*, and the internal forum comes up only once: "Conversation with the priest, in the internal forum, contributes to the formation of a correct judgment on what hinders the possibility of a fuller participation in the life of the Church and on what steps can foster it and make it grow" (AL 300)—an obviously unremarkable comment on the internal forum. But because nearly everybody seems to think the internal forum has something to do, and not just tangentially, but centrally, with the question of admitting divorced-and-remarried Catholics to holy Communion, we should look at it too.

We set the stage thus: In administering holy Communion we are acting in the external forum, so we recall that Canon 915 (which, as we have seen, is meant to be observed) prohibits admission to holy Communion by, among others, divorced-and-remarried Catholics. Now, some folks come along and say that an "internal forum solution" obviates the demands of Canon 915. But I ask: How exactly? Without surrendering the important point that the "burden of proof" is on proponents of the "internal forum solution" to prove that it works here—and it does not fall on folks like me to prove that it doesn't—let's look at some places where canon law does indeed see an "internal forum" operation at work.

The internal forum can be the place for absolution from an undeclared, automatic excommunication, interdict, or suspension per Canon 1357, but of course divorced-and-remarried Catholics are not excommunicated or interdicted, and so there is no sanction to absolve them from in our case. Canon 915 is a sacramental disciplinary norm controlling ministers, not a penal law sanctioning would-be communicants.

Might the internal forum solution simply "dispense" from Canon 915, rather as internal forum dispensations release persons from matrimonial impediments (1078–1080)? There are several problems with this idea.

First, Canon 85 limits the notion of dispensation to matters of merely ecclesiastical law and one would be hard pressed to argue (let alone prove) that a norm prohibiting the distribution of the Body, Blood, Soul, and Divinity of Christ to Catholics who obstinately persevere in manifest grave sin is a merely disciplinary law unrooted in and unreflective of divine law. Second, recalling that Canon 915 binds ministers and not recipients, it is not clear how members of the faithful who wish to receive holy Communion could ask for a dispensation from a minister's canonical obligation to withhold it from them. Third, noting the common refrain that calls for pastors to "accompany" would-be communicants, even portraying them as "authoritative-ly" approving someone's reception of holy Communion, Canon 89 basically excludes priests and deacons from issuing dispensations, and thus certainly any that are contrary to the plain requirements of Canon 915.

In short, the main places that canon law might find the internal forum at work (for example, marriage impediments dispensation, penal sanction absolution) seem not to apply to our question. Nevertheless, might there yet be an internal forum solution available to divorced-and-remarried Catholics who wish to go to holy Communion but who are unable to separate? Yes, and you

likely already know what it is. You just have not heard it called by that name, and so you do not think of it as an "internal forum solution": it is the brother-sister relationship. That is the internal forum solution for these cases. How so?

Remember, it is the canonically "manifest" quality of divorce and remarriage that damages not just the couple but the community, and this is what is necessary to "trigger" Canon 915. The best solution to that public scandal is, of course, separation of residence. But all admit that there are times where separation is impractical. So, a spiritual director or a confessor could advise penitents, in the internal forum, maybe even the internal sacramental forum, that, if they live continentally (that is, refrain from using the sexual rights of married people), they could approach for holy Communion, with the caveat that, if their irregular status is known in that community, they cannot make use of their "internal forum" permission to approach for holy Communion. That is the internal forum solution that can be offered in these cases, and we would all do well to bear

in mind that the "brother-sister relationship" is the only legitimate application of the term "internal forum" in this case, lest we allow people to continue slipping into the idea that there are, for cases such as these not only a "brother-sister solution" but also some kind of as-yet-to-be-articulated "internal forum solution" besides. But there isn't. The brother-sister relationship *is* the internal forum solution for these cases.

In sum: (1) The Communion event features two actors complying with two laws, laws that are meant to be observed. (2) Neither the form nor the content of *Amoris* suggests that it is making normative changes in sacramental discipline, and *Amoris* itself sits in the "non-committal middle" part of the spectrum of approaches here. (3) *Amoris* does not propose an internal forum solution (beyond the brother-sister relationship) as a way to permit reception of holy Communion by sexually active, divorced-and-remarried Catholics. Those who want to raise it anyway need to be very careful about proposing a solution that they seem not to understand to situations that it was never designed to cover. ✠

Michael Novak, 1933–2017

William L. Saunders

Americans United for Life

The renowned Catholic intellectual Michael Novak died recently. As every reader will know, Novak was a prolific writer whose work ranged widely over the decades, and he was a very public intellectual, highly influential in not only in Catholic, but also national conservative, circles. Readers will likely remember his close relationship and exchange (along with Fr. Richard Neuhaus and George Weigel) with John Paul II. It is one aspect of this relationship that readers may not know about on which I would like to offer a brief comment.

Novak, Weigel, and Neuhaus started the Tertio Millennio summer seminar in Poland. That seminar still exists and teaches post-college graduates from, chiefly, Central Europe about the principles of the free society and relies heavily on Catholic social teaching. But Novak also began a similar seminar a few years later in his ancestral nation, Slovakia, a key state in the heart of Central Europe. Called the Free Society Seminar (FSS), and now lead by Robert Royal of the Faith & Reason Institute, the FSS, in which I am one of the professors,

teaches a small group of students, composed mainly of Slovaks, other Central Europeans, and Americans, and engages intellectual, political, and moral issues in a manner similar to Tertio Millennio.

The point I wish to make is this: through the FSS, Michael Novak did a great work in the service of the Church. Many of the young leading intellectuals—chiefly, but not all, Catholics—in Central Europe have positively been influenced by it. It will help shape a region that struggles under the twin threats of Western consumerism and hedonism and heavy-handed Russian influence.

As he aged, Michael Novak was no longer able to teach in the FSS. However, I was there when he returned for the tenth anniversary. Not only did he give a standing-room only address in Bratislava, but the event was filmed and carried on Slovak television. In subsequent days, I would turn on the television and Michael was often there—carefully considering matters at the heart of Catholic social teaching, in a gentle and thoughtful way. I think John Paul II would have been pleased.

Michael has legions of friends and students in Central Europe. The FSS is one small but important part of his legacy. Rest in peace, my friend. ✠

The Vibrance of Reality: On Being a “Rigid” Thomist

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St. Thomas's *Summa* is also attempting to give an embodiment to an idea. Its structure attempts to express the structure of reality as a Whole. 'Reality' is at bottom not a static state but a happening, dynamic—in more precise language, history, which means event permeated by spirit and flowing out of freedom.

—Josef Pieper, *Guide to Thomas Aquinas*¹

What is it which the mind is bound to conceive both as belonging to all things and as not belonging to any two things in the same way? Such is the riddle which every man is asked to read on the threshold of metaphysics.

—Etienne Gilson, *The Unity of Philosophical Experience*²

I

WE might well call our age “the failure of the elites.” “Elites” seem to cut themselves off from most everyone else. Hence, they betray their real vocation. This theme recalls the 1927 book of the French essayist Julien Benda, *The Treason of the Intellectuals*, as well as the 1998 volume *The Intellectuals* by the English historian Paul Johnson. There is a recurrent problem with intellectuals when they fail to live up to the ideal embodied in the classical notion of an aristocracy. The highest levels of human virtue and intelligence are rare among men in every society and age. But they are nonetheless needed for any common good to flourish and for any polity to endure over time. We should understand the American Founders in this light. They manifested the rare confluence of a genuinely aristocratic element within a broader republic composed largely of people with ordinary virtue and common sense.

The most dangerous vice that can appear in an aristocracy is envy. Envy basically means the refusal to

honor the genuine good of another. To the envious, giving such honor seems to reflect badly on their own character. Envy is something of the spirit. Its essence does not concern material things, and it is by far a more dangerous vice than either injustice or greed, the vices most prevalent in a democracy or an oligarchy.

In a recent column on the elitism of Starbucks's coffee houses (of all things!), George Will, with a passing nod to Plato, wrote: “After elementary needs—food, shelter, clothing—are satisfied, consumption nevertheless continues, indeed it intensifies because desires are potentially infinite. People compare themselves to their neighbors, envy their neighbors' advantages, and strive to vault ahead in the envy ostentation sweepstakes.”³ Envy obscures the real aristocratic virtues needed in all societies. There is nothing wrong in recognizing the fact that that occurrences of high moral virtue and intelligence are usually rare.

Our world is populated with billionaires, not just millionaires, who look for ways to dispose of their wealth in ways that are good, true, or beautiful. Thus, such deeds are but contemporary examples of what Aristotle noted in his tracts on oligarchy and aristocracy, along with what Aquinas confirmed in his penetrating commentaries. The feeling of a need to do something grand and worthy with one's riches illustrates the validity and centrality of Aristotle's teachings on both the intellectual and the moral virtues—wisdom, first principles, and science; courage, temperance, justice, and prudence. There is need for free men to be willing to rule themselves responsibly according to an objective standard that is based on *what is*. It does not accord with their dignity as free men to be ruled by ungrounded will or changeable historical mores.

To clarify my point here about the need for aristocracy, an old *Peanuts* sequence shows Charlie Brown walking lazily by a brooding Snoopy who recognizes something weird in the whole order of things. In gazing on the placid figure of Charlie, Snoopy asks himself: “I wonder why some of us were born dogs while others were born people...”

The next scene shows Snoopy watching Linus

walk by as if he did not have a clue about where he was going. Mindful of the virtue of justice in the world, Snoopy says to himself: “Somehow the whole thing doesn't seem very fair.” How so?

In the third scene, we see Snoopy off by himself, diligently trying to figure it all out. He asks himself: “Is it just pure chance or what is it?”

In the final scene, the mutt happily trots away. His conclusion is just the opposite of the answer we might expect. “Why,” he asks himself, “should I have been the lucky one?”⁴ In this view, it's the dog, not the human, who ended up with the better deal.

On considering these canine reflections, we may rightly conclude for ourselves that something makes it more difficult to be a human being than to be a dog. The same principle makes it more important, more aristocratic, to be a good human being, one who exercises “dominion” over creation. Somehow, because of their status in reality, it may even be better in the long run to have been a canine than a fundamentally bad human being. To recall the words of Gilson that I cited in the beginning, the issue is metaphysical.

We are not, to be sure, given the choice at the outset about whether we want to be a human being or a beagle. We are only given the choice—a much more difficult choice—of being a good human being or a bad one. It is on this that we shall be judged, as Plato intimated at the end of the *Republic*.

I recall once, during a summer school at Caen in northern France, running into a young German student while visiting the home of William the Conqueror. He was angry, he told me, at not being given the choice of whether to be born or not. Ironically, this is the situation in every abortion. The only difference is that in the first case it is God's choice about whether we will exist or not; in the second, it is the choice of another human being, and a choice about someone whom God has already decided to create. Both choices have enormous consequences, but very different ones.

II

OUR recent elections have been about the neglect of the ordinary man by the elite. The elite tend to contrast his moral lot and his ever so practical virtues unfavorably with the moral status they assign to the very rich and the very poor. The elite presume their wealth is a sign of their virtue. To ease their consciences, they conceive the destitute largely as the “victims” of someone

else's sins. The elite cannot imagine that the very poor have any internal autonomy of their own. “Helping the poorest” has become the moral slogan of modern elites, including state authorities. The thought that they are helping them is what justifies what they do, even though the “help” that they give them is mostly things like population control. Justice Ginsburg, for instance, wants to give social help by getting rid of the poor through abortion and other such supposedly advanced compassionate programs.

Curiously, in this view of things we need the very poor to be helpless victims—rather than free, responsible, middle-class citizens—so as to justify the moral authority of the centralized state in the way that it “cares” for its citizens. The state has also come to regard itself as the chief and only body capable of defining “rights” and “values,” and the elite think that it may do so in almost any way it wants. This way of thinking entitles the foundations of the very rich to assist in “humanitarian” intentions of the modern state to control and define what man is allowed to be.

A concern for the poor, of course, comes largely from the heritage of Christian priorities, but these perverse ways of offering help are the result of the secularization of that heritage. The ordinary men who are not exactly poor or destitute are often disdained or deplored by their betters. They are said to be motivated by sundry phobias, the very classification of which betrays a strange utopianism that also shows the sign of having twisted what were originally sound theological roots.

But, thankfully, ordinary men often reveal a stubborn common sense rooted in an awareness (like the awareness Aristotle describes) that decent men can see the truth of things even when they cannot articulate it in the sanitized terms often required by the academic journals and elite media.

We might note too that the current advances in robotic and other technologies bring up Aristotle's considerations about slavery in a new way. Our modern experience with socialism has pretty clearly shown that programs that make work just to keep people employed are actually degrading and inefficient. Men need to know that they are producing something well-made, something worthwhile, something that people in a market really want.

Aristotle once remarked that if we could invent machines that could do the labor that we need to keep a society going, we would have no need for manual slavery. Well, nowadays we have such machines. Our technological advances have made many middle-class jobs

obsolete. Of course, other kinds of jobs are constantly being developed, and they often require more technical education. Work thus becomes ever more sophisticated, while traditional middle-class jobs disappear. It was this middle class—neither slave nor aristocrat but simply ordinary—that Aristotle argued to be the stabilizing factor in society. We are thus presented with a new necessity to think through not only what we mean by full employment but also whether we need it. Early retirement and shorter work days may be part of the answer.

We also need to know just what we mean by an education. We ought to look for one that will enable us to spend our leisure in a way that does not mean bread and circuses. True leisure means, rather, a genuine life in the midst of things done for their own sakes, rather than time off from doing things that need to be done simply because we need food, clothing, shelter, and other things vital for survival.

III

Although our present Holy Father seems to be enamored by ecological and socially leftist movements, despite the peculiar distortions of their theological roots, he wastes no time complimenting intellectuals. Political correctness, dogmatic diversity, and the primacy of feeling over reason and of relativity over truth have left our academic institution open to much ridicule. There is a none too subtle censorship that seldom allows any real critique to be heard by tender student ears. A clerical friend of mine tells me that he has managed to teach Christology over many semesters in several Chinese national universities. It is something he could not have easily done in most of our own public, or many private, institutions.

Both the *National Review* and the *Intercollegiate Review* have regular columns, often quite amusing, that record the foibles and absurdities found in major universities, public, private, or religious as they may be. In one major institution, it was forbidden to say that someone belonged to the “human” race, for that was regarded as biased. Just why that was thought to be the case we can only speculate, but I suspect that it had something to do with Snoopy and being lucky to be a dog. If we would say that we belong to the human race, we might discriminate against the other races of creatures that are not quite so unfortunate. Or perhaps claiming to belong to the human race could be a form of racism that would allow us not to identify the real race to which we belong.

Those who still read with care Plato on sophistry or Augustine on pride will be alerted to certain kinds of aberration that first arise in the minds and hearts of academic and clerical dons. Such figures are valuable—indeed necessary—to a civilization if only they can keep themselves from corrupting their own souls and minds. Those who know Chesterton’s “common man” will appreciate his preference for ordinary common sense and sanity over the theories of intellectuals bent on transforming mankind into something that no one, in his right mind, would want to be.

In a chapter on Ronald Knox in a book on scholar-priests of the twentieth century, Terry Testard wrote: “Knox paid his congregation the compliment of believing that they had minds, minds that could be challenged and enlarged.”⁵ What does it mean to “have minds”? The best book on this topic, I think, is Msgr. Robert Sokolowski’s *The Phenomenology of the Human Person*, a book whose erudite title ought not to frighten anyone away. It is one of the clearest expositions of the relation of mind and reality that we have. It is a book whose structure comes close to the method Aquinas used when guiding the reader to see with his own mind what is the truth of any question that concerns itself with reality.

I am thinking here primarily of the student who is a bit skeptical about what it is all about. He has heard of the marvels of the great books, but not of the confusion that he will likely experience when he finds out, as Leo Strauss put it, that the great books contradict each other. He needs something more than just great books to become an educated man.

Before he is twenty, such a student will have read or heard learned men maintaining some pretty ridiculous notions. The young student may not be quite sure why these learned opinions were ridiculous. But it will be a good sign if he has a gut-feeling that something is awry. With a disciplined education he might well become able to identify the problem. But, as Aristotle intimated, if our lives are marred by habits of moral vice, we will probably use our minds to concoct theories that justify what we have chosen to do and how we have decided to live. That would be a sad use of our learning.

When we try to find the truth of things, we are really entering into the work of getting an education in the spirit of Thomas Aquinas. Crucial to Aquinas’s teaching on this topic was the virtue of clarity. He had the ability to understand and articulate what other people, including professors and clerics, were talking about even when they were wrong.

Aquinas was able to reduce what people claimed to be true to the bare essentials. In any argument, one needs to grasp what is coherent and what is not, what is true in it and what is wrong. Unless we do this, we are bound to follow our desires and to drift away from the truth about reality.

The mission of finding the truth is the first requirement of any civilization and, *a pari*, of any education. We can profit much from Edward Feser’s remark on this topic: “No great philosopher, no matter how brilliant and systematic, ever uncovers all the implications of his position, foresees every possible objection, or imagines what rival systems might come into being centuries in the future.”⁶ Getting an education is hard work.

We sometimes forget that the study of truth is also a study of error. While we should do our level best not to fall into error, we would do well to devote a considerable amount of time to discerning what error is and why something is erroneous. Aristotle says somewhere in his *Ethics* that when we understand why a given position is in error, we are better able to grasp the truth. This view, to be sure, presents a peculiar problem for anyone who refuses to admit there is truth or who has trouble even imagining that he might be subject to it.

We live in a relativist culture that insists that no such things as errors can be identified. We have only feelings and ungrounded opinions. Gilson showed a much healthier view of the topic when he wrote: “It is the privilege of a truly philosophic history of philosophy, that in its light, not only philosophical truth, but philosophical error becomes intelligible, and to understand error as such is also to be free from it.”⁷ That is very well said.

IV

In the subtitle of this essay, I playfully suggest that we have here the confessions of a “rigid” Thomist. Pope Francis has recently become famous for warning against “rigidity” in all its forms. Some things, no doubt, should be rigid. Chesterton said that a glass goblet, so long as we do not drop it, will retain its form down the ages. But it does this because it is rigid. You cannot bend it. By contrast, a small bird is soft. Because it is soft, it can fall and yet survive. Some things, in other words, are supposed to be rigid, other things not.

To be “rigid” in this papal usage seems to mean being unable to see exceptions or to accommodate oneself to new circumstances. Of course, St. Thomas’s

discussion of the nature of law includes an analysis of justice and *epikeia*. By this he proves quite clear about when one needs to be rigid and when one needs to be flexible. The circumstances surrounding any act always need to be considered. There are relevant circumstances of time, place, and the condition of those who are acting. This sort of flexibility of approach was, in Aquinas’s view, crucial to a sound approach to any moral assessment. What needs always to be “rigid,” however, is the principle of justice. It is the principle that grounds our civilizations. We must be rigid about the Socratic principle that it is never right to do wrong. If this principle is not “rigid,” if it does not hold. What then follows is that there will be times when it is right to do wrong. This is a pseudo-principle that much of the culture now accepts and for which it foolishly demands universal compliance.

In sound thinking, circumstances do not change principles. Rather, by a proper consideration of the circumstances we can learn to see the proper application of the unchanging principles to these circumstances, for we will be seeing objective reality. Without the abidingness and unchangeability of the principles, we will have no principles but only flux, as Heraclitus said long before Socrates. If flux and not principle governs, then what we must do in order to be true men will vanish and we will be told to do what men must not do. As Leo Strauss said, we must make ourselves the objects of our own sciences, not their subjects. There is only danger lurking if we decide to “re-create” ourselves on a model other than the divine model of our being. We will not have new order but only chaos if we use some model of our own vain imaginings.

In the tradition of Aquinas, we must not only strive to know *what is* but also to know what is not and why it is not. Considered in light of the end of the ages, the knowledge of the whole universe needs to include the knowledge of what went wrong in it and why. While I would not say that the study of error is more fascinating than the study of what is true, I would maintain, as Chesterton did in his 1905 book *Heretics*, that the study of error has an abiding fascination.

Murphy’s famous law, that “if a thing can go wrong, it will go wrong,” is not devoid of philosophical insight. Its opposite is also true: “If a thing can’t go wrong, it won’t go wrong.” When things go wrong in human society, they do so with man’s consent. The great Socratic principle that “No evil can touch a good man” is to be seen in the light of the Socratic addendum that we should not be sure that death is evil. The book of

Wisdom (1:13-15) teaches that from the beginning God did not intend death. He did, however, intend to do something about it when it came about.

V

In his insightful book *American Heresies and Higher Education*, Peter Augustine Lawler tells us that all we really need for our education is a good book, a teacher who has read it, some students, and perhaps a piece of chalk. I would certainly agree with this assessment. Lawler adds: No need for computers, cell phones, or PowerPoint either. He says that the best educated people often have large vocabularies, usually acquired from reading, and they often come from homes in which there were books that parents or siblings had read. I have often told students not only to form their own libraries of books (read and unread, and not just e-books) but to plan their homes, if they can, so that it includes a library of some sort.

Lawler points out something very interesting about books. We often hear about the necessity of adapting ourselves to circumstances. But a book requires us to do just the opposite. It requires us to adapt to it, to grasp what it tells us. "Books speak to no one in particular," Lawler writes, thus "violating the common-principle that your teaching style ought to vary according to the learning style of your students."⁸

It always seemed to me, as a teacher, that the last thing a student ought to hear was what he wanted to hear. A teacher, provided that he himself is a man of truth, does the greatest favor to a student when he takes him to a book that they both read together, a book that takes them both to *what is*, to what is true.

My greatest adventures as a teacher, partially because I knew so little, were the semesters in which, with a class of some sixty or seventy students, we would read together all the dialogues of Plato, except the *Parmenides* and the *Timaeus*, for which we simply did not have the time. There is nothing quite like reading Plato, unless perhaps it is reading Aquinas.

In conclusion, what I want to do is simply to give an assurance that one can get an education in college even if one's college is off on some ideological or technical tangent that makes learning about important things next to impossible. This endeavor is what my book *Another Sort of Learning* is about: "how to get an education even if you are in college." A.-D. Sertillanges's 1920 book *The Intellectual Life* will tell you pretty much how to organize your life so as to include the formation of your mind.

People with usable brains should not be considered oddities. Even the learned, to recall Plato's Thracian maidens, should be able to tie their shoe strings, shoot baskets, or run a shop if they had to. Lawler made this same point in another way:

As St. Augustine said, action and contemplation are for all of us. Even Socrates should have practiced the virtues of generosity and charity and parental responsibility, and all of us should have some time, because we're all given the inward inclination, to contemplate the truth about who each of us is and what we were born to do.⁹

This mention of St. Augustine, the man whom Aquinas so often cited, reminds us again of a man than whom there is no one we will ever read who will prove more provocative to our souls. My favorite passage in Augustine is one I did not even notice when first I read it. I saw it only when I read another book, one that I came upon quite by chance in a book store off of M Street in Washington. It was E. F. Schumacher's *A Guide for the Perplexed*. This is a book that, for most of us, will be simply soul-changing.¹⁰

The first page of that book contained a sentence, cited both in Latin and English, from the nineteenth book of *The City of God*. The sentence reads: *Nulla est homini causa philosophandi, nisi ut beatus sit*. "There is no other reason for philosophizing except that we be happy." What this means is that there are issues in our souls that are not merely practical in nature: issues about learning how to do things. Now, there is nothing wrong with knowing how to build a better mousetrap or computer or robot. But until we come to these great issues, things that deserve to be for their own sake, and reflect on them, we are really not fully living a human life.

In the breviary on the Feast of Thomas Aquinas, we find one of his conferences. It begins with a question: "Why did the Son of God have to suffer for us?" If we have never wondered about this question, we have barely begun the life of the mind. Here is the beginning of Aquinas's succinct response: "It can be considered in a twofold way: in the first place, as a remedy for sin, and secondly, as an example of how to act."

We note that the "remedy" for sin involved the willingness of the man-God to take on our sins, the consequences of our choices. The redemption of our sins does not eliminate suffering. It does teach us that suffering is not useless or the worst evil, as we would be likely to think if God himself in the Person of Christ was not at the same time someone who was sinless and someone who suffered. Suffering is not the problem; sin is.

Unless we begin to wonder about these things, we have not even begun to be what it is to be a man, a human being, with a complete understanding of himself as man. ✠

ENDNOTES

- 1 Josef Pieper, *Guide to Thomas Aquinas* (San Francisco: Ignatius Press, 1986), 101.
- 2 Etienne Gilson, *The Unity of Philosophical Experience* (San Francisco: Ignatius Press, 1999), 251.
- 3 George Will, *The Washington Post* (December 15, 2016).

- 4 Strip found in Robert Short, *The Gospel according to Peanuts* (Richmond: John Knox Press, 1964), 114.
- 5 Terry Testard, "Ronald Knox, Scholar, Wit and Man of Letters, in *The Ministry of the Printed Word: Scholar-Priests of the Twentieth Century* (Stratton-on-the-Fosse: Downside Abbey Press, 2016), 195.
- 6 Edward Feser, *Scholastic Metaphysics: A Contemporary Introduction* (Neunkirchen-Seelscheid, Germany: Editiones Scholasticae, 2014), 7.
- 7 Gilson, *The Unity of Philosophical Experience*, 256.
- 8 Peter Augustine Lawler, *American Heresies and Higher Education* (South Bend, IN: St. Augustine's Press 2016), 62.
- 9 Ibid., 81.
- 10 E. F. Schumacher, *A Guide for the Perplexed* (New York: Harper Colophon, 1977).

The Catholic Mind

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A Catholic mind is one formed by the Hebrew scriptures, the Gospels, and the Fathers of the Church as commented upon through the ages. But there is another sense in which "the Catholic mind" is to be understood. The Catholic mind is one that is historically conscious, that is, one that is conscious of origins. So constituted, it provides a forum that allows the ancients, no less intelligent than we, to speak to us across the ages. They can teach us much about the moral order, human nature, and political organization as well as about wisdom that is experience-based and otherwise unavailable. So oriented, we can feel at home with Plato and Aristotle, understand the Stoics, appreciate the dilemma faced by Justin Martyr, and identify with St. Augustine and countless others across the ages.

Such knowledge brings with it the opportunity for participation in a great dialogue that transcends centuries. Theologians speak to theologians, philosophers to philosophers, and not without consequences. Ideas beget ideas, and books beget books. Thus the historically aware can follow through generations the progression of an idea as it shapes and reshapes thought. To provide one example, we can follow the effects of Hume's empiricism upon Kant, and Hegel's reaction to Kant, and then follow that discourse on to Heidegger and

others, and in a different progression from Comte to Durkheim to Marx and Dewey. The historically aware can discern where intellect has faltered and where it has made some modest contribution to the vault of knowledge. Dramatically, the Catholic mind spills over into the arts, for Thomas influences Dante and the development of dogma bears artistic fruit in the paintings of the Italian Renaissance.

The reader may object that these observations are rather obvious. Why bring them up? In fact, they are not evident to everyone. For many of those who have been schooled in a progressive educational system, the past appears as a dark background against which the present and the future shine with alluring promise. Where knowledgeable professors have to fight for even a one-semester college course in Western civilization, something is amiss. A society forgetful of its own past is ill-equipped to take the measure of the present. "To be steeped in history is to cease to be a Protestant," wrote John Henry Newman. We might well speak in a similar way: to be steeped in the history of ideas is to cease to be a materialist, a Marxist, or a Darwinian. Understanding where ideas came from is a gift to be treasured. There is a remark attributed to the French novelist Francois Mauriac: "Tell me what you have read and I will tell you who you are." Heidegger, his contemporary, said much the same thing.

The formation of a Catholic mind is not easy when professional historians, writing from chairs at

prestigious universities and with access to major presses, distort history so as to promote a view or to advance a cause in the face of evidence to the contrary. Popular histories, written with a view their authors want to promote, are as old as the events they purport to describe. Many a mind as been permanently formed by erroneous accounts of the Crusades and the Spanish Inquisition. Witness Henry Higgins's reference to the Spanish Inquisition in *My Fair Lady*.

Pope Leo XIII, recognizing that some historians are frankly partisan, established in 1883 a Pontifical Commission for Historical Sciences that continues its work today. In an address to that Committee in March 2008, Pope Benedict XVI cited Leo's remark when making the Archives of the Holy See accessible to scholarly research: "We do not fear the publication of documents." Benedict added: "Since then the cultural context has undergone a profound change. We are not concerned solely in facing a historiography hostile to Christianity and the Church. Today it is historiography itself that is undergoing the most serious crisis, having to fight for its very existence in a society shaped by positivism and materialism." He observes that in many fields of study, Western history is taught from the beginning of the French Revolution as if nothing of consequence occurred before that: "This inevitably produces a society

ignorant of its own past and therefore deprived of historical memory. No one can fail to see the grave consequences of this as the loss of memory provokes a loss of identity in the individual and analogously for society as a whole."

For Benedict, even though the Church is not of this world, it lives in it and by means of it, and consequently cannot be oblivious of the demands of the historical context in which she is transmitting her teaching. As if to accent that point, Cardinal Walter Brandmüller, president emeritus of the Pontifical Commission for Historical Sciences, recently entered the dialogue concerning the meaning of *Amoris Laetitia*. "It is completely clear," he said in an interview with a representative of Life Site News, "and also not new that the promulgation of the teaching of the Church has to be adapted to the concrete life situations of society and of the individual, if the message is to be heard. But this applies only to the manner of the proclamation and not to its inviolable content. An adaptation of the moral teaching is not acceptable." Time-transcending moral teaching can change only if human nature itself changes. Brandmüller, with three other cardinals, has issued a request to Pope Francis to clarify the meaning of *Amoris Laetitia*, and we are eager to learn of his response. ✠

Implications of *Obergefell* for the Catholic Church in the U.S.

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This is a modified version of the Msgr. William B. Smith Lecture given at St. Joseph's Seminary, Dunwoodie, NY, on October 28, 2016.

The United States Supreme Court decision in the case of *Obergefell v. Hodges* on June 26, 2015 redefined the legal institution of marriage in the United States to now include so-called same-sex marriages. This decision has serious implications for the Catholic Church in this country. This paper will explore some of the canonical and

pastoral issues resulting from this decision.

Suffice it to say that Catholicism teaches the impossibility of same-sex marriages. Thus her canonical legislation and pastoral activities have never taken into account such a legal institution. It has no canonical existence or recognition, as it is an impossibility in complete contradiction to the Christian doctrine of marriage.

Now that this new civil legal institution has been created by the Supreme Court, the Church will have to deal with the reality of people, including Catholics, who having entered into same-sex marriages, will seek to be included in the operations, activities, and institutions of the Church while living in a legally established

state of life that is in itself a public rejection of Catholic teaching on the nature of marriage.

Canon 1055 §1 describes the nature of marriage: "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized."

Canon 1057 §1 describes matrimonial consent: "Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage."

Canon 1061 §1 speaks about the consummation of marriage: "A valid marriage between the baptized is called *ratum tantum* if it has not been consummated; it is called *et consummatum* if the spouses have performed between themselves in a human fashion a conjugal act which is suitable in itself for the procreation of offspring, to which marriage is ordered by its nature and by which the spouses become one flesh."

The matrimonial covenant cannot be established between two people of the same sex who are incapable of consenting to and then consummating a valid marriage by a conjugal act "suitable in itself for the procreation of offspring."

The Congregation for the Doctrine of the Faith in June 2003 issued a document treating this question: *Considerations regarding proposals to give legal recognition to unions between homosexual persons*.¹

In paragraph 4 the Congregation teaches: "There are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family. Marriage is holy, while homosexual acts go against the natural moral law. Homosexual acts 'close the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.'"

The Congregation went on in paragraph 5 to address those situations in which same-sex unions have been given legal status: "In those situations where homosexual unions have been legally recognized or have been given the legal status and rights belonging to marriage, clear and emphatic opposition is a duty. One must refrain from any kind of formal cooperation in the enactment or application of such gravely unjust laws and, as far as possible, from material cooperation on the level of their application. In this area, everyone can exercise the right to conscientious objection."

The serious pastoral and canonical questions raised by the legal institution of same-sex civil marriage stem from the public nature of entering into such unions. The Congregation states in paragraph 6:

It might be asked how a law can be contrary to the common good if it does not impose any particular kind of behavior, but simply gives legal recognition to a *de facto* reality which does not seem to cause injustice to anyone. In this area, one needs first to reflect on the difference between homosexual behavior as a private phenomenon and the same behavior as a relationship in society, foreseen and approved by the law, to the point where it becomes one of the institutions in the legal structure. This second phenomenon is not only more serious, but also assumes a more wide-reaching and profound influence, and would result in changes to the entire organization of society, contrary to the common good. Civil laws are structuring principles of man's life in society, for good or for ill. They 'play a very important and sometimes decisive role in influencing patterns of thought and behavior'. Lifestyles and the underlying presuppositions these express not only externally shape the life of society, but also tend to modify the younger generation's perception and evaluation of forms of behavior. Legal recognition of homosexual unions would obscure certain basic moral values and cause a devaluation of the institution of marriage.

One sometimes hears arguments in favor of the Church not opposing same-sex civil marriage based on a respect for the dignity of people who enter into such unions. The Congregation rejects these arguments in paragraphs 8 and 11:

"The principles of respect and non-discrimination cannot be invoked to support legal recognition of homosexual unions. Differentiating between persons or refusing social recognition or benefits is unacceptable only when it is contrary to justice. The denial of the social and legal status of marriage to forms of cohabitation that are not and cannot be marital is not opposed to justice; on the contrary, justice requires it."

"The Church teaches that respect for homosexual persons cannot lead in any way to approval of homosexual behavior or to legal recognition of homosexual unions. The common good requires that laws recognize, promote and protect marriage as the basis of the family, the primary unit of society. Legal recognition of homosexual unions or placing them on the same level as marriage would mean not only the approval of deviant behavior, with the consequence of making it a model in present-day society, but would also obscure

basic values which belong to the common inheritance of humanity. The Church cannot fail to defend these values, for the good of men and women and for the good of society itself.”

The good of persons who experience same-sex attraction, and the good of society, require that the Church reject any attempt to redefine marriage to include same-sex relationships. Such relationships, even when accorded the status of marriage by the civil authority, are not and can never be real marriages. They are counterfeit, pseudomarriages that involve equating sodomy with the marital union of a husband and wife. Such an equation is impossible and involves an attempt at socially normalizing what the Church teaches is gravely sinful behavior.

Let us now look at the pastoral and canonical questions that arise concerning the suitability of people in same-sex civil marriages for various roles in the life of the Church.

Canon 209 §1 states: “The Christian faithful, even in their own manner of acting, are always obliged to maintain communion with the Church.” It seems clear to me that anyone who freely and knowingly enters into a same-sex civil marriage is not maintaining communion with the Church. This person has publicly embraced a redefined version of marriage that is not “even remotely analogous to God’s plan for marriage and family.” This version of marriage involves “homosexual acts [that] go against the natural moral law.” The exchange of “marriage” vows with a person of the same sex before a civil official is a public rejection of the Church’s doctrine on marriage, and involves the plain intention to engage in sexual acts that go against the natural moral law.

It seems clear to me that such persons are now in the category of public sinners, described in canon 915 as those who are “obstinately persevering in manifest grave sin.” For this reason, persons in same-sex civil marriages should refrain from receiving Holy Communion. Should they seek to receive Holy Communion, they should be turned away, but only after, as canonist Edward Peters reminds us, “being rebuked under Canon 1339 §2, and/or being sanctioned under Canon 1369 for gravely injuring good morals.”²

Peters writes that persons who enter into same-sex civil marriages may also be subject to sanctions under canon 1379 for simulating a sacrament.³ I doubt this: same-sex marriages are not in themselves “even remotely analogous to God’s plan for marriage and family,” and a Catholic who contracts such a union before a civil authority is necessarily conscious that

the Church gives no recognition to this redefinition of marriage. He seeks a solemnization and recognition by the state of being married to a person of the same sex, something that the Church declares herself incapable of giving him. He does not seek what the Church tells him is marriage, and thus he is not simulating entering into a sacramental marriage by contracting a same-sex marriage before a civil official. Same-sex weddings are in themselves lamentable parodies of marriage ceremonies, but they are not instances of canonically sanctioned simulations of the sacrament of marriage.

This does not mean that a canonical penalty cannot be applied to those who enter into same-sex civil marriages. Canon 1399 states: “In addition to the cases established here or in other laws, the external violation of a divine or canonical law can be punished by a just penalty only when the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandals.” It is clear that contracting a same-sex civil marriage is rightly considered scandalous and involves a publicly known vow to establish a union that involves the willingness to commit objectively grave violations of the moral law.

The public state of life of a person who enters into a same-sex civil marriage is the key to understanding his suitability for carrying out various functions in the Church. His suitability for various roles and benefits comes into discussion in the following matters among others: baptism, liturgical ministries, Catholic education, Catholic institutions and organizations, funerals, and burials. Let us look at these issues.

Baptism

Should a child of a same-sex couple be baptized? The 1980 *Instruction On Infant Baptism* of the Sacred Congregation for the Doctrine of the Faith says the following in paragraph 28:

Concretely, pastoral practice regarding infant Baptism must be governed by two great principles, the second of which is subordinate to the first.

1) Baptism, which is necessary for salvation, is the sign and the means of God’s prevenient love, which frees us from original sin and communicates to us a share in divine life. Considered in itself, the gift of these blessings to infants must not be delayed.

2) Assurances must be given that the gift thus granted can grow by an authentic education in the faith and Christian life, in order to fulfill the true meaning of

the sacrament. As a rule, these assurances are to be given by the parents or close relatives, although various substitutions are possible within the Christian community. But if these assurances are not really serious there can be grounds for delaying the sacrament; and if they are certainly non-existent the sacrament should even be refused.

3) With regard to the assurances, any pledge giving a well-founded hope for the Christian upbringing of the children deserves to be considered as sufficient.

Can there be “an authentic education in the faith and Christian life” of a child living in a family with two “husbands” or two “wives”? It is possible in theory, and the document states that persons other than the parents can assure this Christian education. I think we need further guidance on this question from the Holy See.

Were the child to be admitted to baptism, various questions arise: whose name should be recorded in the baptismal register as the father or mother of the child when the birth certificate indicates parent 1 and parent 2? If the child is the natural offspring of one of the same-sex “spouses,” then the name of that parent alone should be recorded. What should be done in the case of an adopted child with no natural filiation to either parent?

What about someone in a same-sex civil marriage serving as a Godparent/sponsor at baptism or confirmation? Canon 874 §1 states: “To be permitted to take on the function of sponsor a person must: ... 3/ be a Catholic who has been confirmed and has already received the most holy sacrament of the Eucharist and who leads a life of faith in keeping with the function to be taken on; 4/ not be bound by any canonical penalty legitimately imposed or declared.”

A Catholic in a same-sex marriage cannot be considered as leading “a life of faith in keeping with the function to be taken on” and may, in an individual case, “be bound by [a] canonical penalty legitimately imposed.”

Baptismal ceremonies involving two same-sex “parents” have already occurred in Catholic parishes and have caused understandable consternation. Such events easily give the impression that the Church is giving approval to two people of the same sex living together in an immoral sexual relationship while claiming to be spouses by virtue of a civil marriage certificate, and parents by virtue of an incomplete or falsified birth certificate that intentionally omits the name of either the true mother or father of the child.

Liturgical Ministries and Ecclesiastical Office

Can a person in a same-sex civil marriage serve as a lector, acolyte, extraordinary minister of Holy Communion, usher, parish finance council or parish council member, or member of similar councils at the diocesan level?

Canon 145 §1 states: “An ecclesiastical office is any function constituted in a stable manner by divine or ecclesiastical ordinance to be exercised for a spiritual purpose.”

For the prerequisite qualities for holding ecclesiastical office we turn to Canon 149 §1, which states: “To be promoted to an ecclesiastical office, a person must be in the communion of the Church as well as suitable, that is, endowed with those qualities which are required for that office by universal or particular law or by the law of the foundation.”

It is obvious that a person in a same-sex civil marriage is unsuitable for exercising liturgical ministries or for holding an ecclesiastical office or anything equivalent to it in practice, such as a parish trustee or a parish secretary.

Associations of the Faithful

Canon 298 §1 describes associations of the faithful: “In the Church there are associations distinct from institutes of consecrated life and societies of apostolic life; in these associations the Christian faithful, whether clerics, lay persons, or clerics and lay persons together, strive in a common endeavor to foster a more perfect life, to promote public worship or Christian doctrine, or to exercise other works of the apostolate such as initiatives of evangelization, works of piety or charity, and those which animate the temporal order with a Christian spirit.”

Canon 305 §1 describes the qualities that must be maintained in these associations: “All associations of the Christian faithful are subject to the vigilance of competent ecclesiastical authority which is to take care that the integrity of faith and morals is preserved in them and is to watch so that abuse does not creep into ecclesiastical discipline.”

It is clear that anyone who has entered into a same-sex civil marriage would do harm to the nature and purpose of the association by the fact of his public behavior that violates the integrity of faith and morals;

he is therefore unsuitable for membership in such associations.

The disqualification from membership would hold for both private and public associations of the faithful, and, by analogy of law, for any Catholic organization that requires or customarily assumes that the members are practicing Catholics who are in good standing with the Church, such as the Knights of Columbus, the St. Vincent de Paul Society, the Holy Name Society, the Legion of Mary, or the Knights of St. Peter Claver.

Catholic Schools and Educational Institutions and Programs

Canon 803 §2 states: “The instruction and education in a Catholic school must be grounded in the principles of Catholic doctrine; teachers are to be outstanding in correct doctrine and integrity of life.”

Canon 804 §2 states: “The local ordinary is to be concerned that those who are designated teachers of religious instruction in schools, even in non-Catholic ones, are outstanding in correct doctrine, the witness of a Christian life, and teaching skill.”

Canon 805 states: “For his own diocese, the local ordinary has the right to appoint or approve teachers of religion and even to remove them or demand that they be removed if a reason of religion or morals requires it.”

These canons make clear that persons in same-sex civil marriages are not qualified to serve as teachers in Catholic schools, or as teachers of religious instruction in non-Catholic schools, at any educational level. The logic of the law would likewise apply to those involved in any related educational functions in the school, such as administrators, counselors, coaches, staff members, program directors and tutors. Any leadership roles in school-related organizations such as the parent-teacher association and the alumni association should also not be given to those in same-sex civil marriages.

What about the question of admitting the children of same-sex couples into a Catholic school? This is a serious problem that is being debated. Does not the admittance of such children necessarily mean that the school will have to treat both same-sex “parents” as being the married Mom and Mom or Dad and Dad of the student, and thus require acquiescence to this notion in the way it teaches the students about marriage and family? I think it does in practice. Does a same-sex married couple have the right to disrupt the religious culture of a Catholic school by insisting that their

ongoing public rejection of Catholic doctrine should be treated as irrelevant when seeking the admission of their child into that school? I do not think so.

Ecclesiastical Funerals and Burials

Canon 1184 §1 states: “Unless they gave some signs of repentance before death, the following must be deprived of ecclesiastical funerals: 1/ notorious apostates, heretics, and schismatics; 2/ those who chose the cremation of their bodies for reasons contrary to Christian faith; 3/ other manifest sinners who cannot be granted ecclesiastical funerals without public scandal of the faithful.”

Canon 1184 §2 continues: “If any doubt occurs, the local ordinary is to be consulted, and his judgment must be followed.”

Canon 1185 states: “Any funeral Mass must also be denied a person who is excluded from ecclesiastical funerals.”

I think it is clear that someone who enters into a same-sex civil marriage and obstinately persists in such until death, without having given some sign of repentance, falls into the category of “manifest sinners who cannot be granted ecclesiastical funerals without public scandal of the faithful.”

There is no prohibition of burying the person in a Catholic cemetery even if the funeral rites have been denied. Masses other than a Funeral Mass can be offered for the repose of the soul of the deceased. A question, however, arises about identifying the deceased as husband or wife of a person of the same sex on the tombstone in a Catholic cemetery. This would be scandalous.

Questions of Church and State Relations

At present a religious wedding carried out by a priest or deacon, who has previously registered with the civil authority, has civil effects when the couple obtains a wedding license from the state and the priest or deacon signs the license and sends it into the appropriate government office. By virtue of this registration and mailing in of the signed marriage license, the officiant at a religious marriage ceremony is acting as an unpaid agent of the state. Now that same-sex civil marriage is the law of the land, it is

very likely that laws or regulations will be enacted in some jurisdictions that disallow the registration of anyone who refuses to witness a same-sex marriage. The Catholic Church will thus face the situation in which some couples will have to have a separate civil marriage ceremony before having a religious ceremony, as is the case in France and other countries. This will be a big change, of course, and will cause confusion where jurisdictions have different practices. If this scenario were to come about, perhaps the USCCB should adopt a national policy renouncing the registration of priest and deacons with the state and thus making separate civil and religious ceremonies the uniform practice in all U.S. dioceses.

A similar issue arises regarding parish civil trustees in states where parishes are legally established as civil corporations with boards of trustees under state law. Will the various dioceses in such states be sued for discrimination if, for instance, a currently serving trustee entered into a same-sex civil marriage and was consequently removed as trustee? Remote as this may sound, it is not impossible.

Likewise, what about contracts for various services between institutions of the Catholic Church and the different government agencies, such as for social welfare programs, immigration and refugee services, or educational services? Will the Church be coerced into agreeing to employ people in same-sex civil marriages as a condition of obtaining or continuing in such contracts? Will the Church be sued for discrimination if it refuses to employ or fires current employees who enter into same-sex civil marriages? I think this is very likely. The state could very well argue that if a Catholic institution is willing to employ people in mixed-sex civil marriages who are not religiously married, then it must also employ people in same-sex civil marriages.

A similar problem arises regarding insurance benefits given to spouses of employees of Church institutions. Will those benefits now be given to the spouse of an employee who is in a same-sex civil marriage? Does not granting such a benefit necessarily mean that the Church institution is thereby recognizing the same-sex couple as married and treating them as spouses?

These are some of the questions and problems that arise as a result of the *Obergefell v. Hodges* decision. The attempt by the Supreme Court to rewrite human nature and the natural institution of marriage will cause no end of difficulties for the Catholic Church and all those who uphold the absolute necessity that law conform to reality if the common good is to be promoted. ✠

ENDNOTES

- ¹ AAS 96 (2004): 48.
- ² Edward Peters, JCD, a primer on Church teaching regarding “same-sex marriage,” In the Light of the Law blog (March 27, 2013), <https://canonlawblog.wordpress.com/page/33/>.
- ³ Canon 1339: “§1. An ordinary, personally or through another, can warn a person who is in the proximate occasion of committing a delict or upon whom, after investigation, grave suspicion of having committed a delict has fallen.
§2. He can also rebuke a person whose behavior causes scandal or a grave disturbance of order, in a manner accommodated to the special conditions of the person and the deed.
§3. The warning or rebuke must always be established at least by some document which is to be kept in the secret archive of the curia.”
Canon 1369: “A person who in a public show or speech, in published writing, or in other uses of the instruments of social communication utters blasphemy, gravely injures good morals, expresses insults, or excites hatred or contempt against religion or the Church is to be punished with a just penalty.”
The public speech involved is the exchange of vows in the civil ceremony, and by extension, the continued making public of those vows by asserting that one considers oneself married to a person of the same sex.
- ³ Canon 1379: “In addition to the cases mentioned in can. 1378, a person who simulates the administration of a sacrament is to be punished with a just penalty.”



Obergefell v. Hodges: A Judicial Flight into Fantasyland

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For several decades now we have been witnessing the promiscuous proliferation of specious rights. One of the remote but significant sources of this strange phenomenon is the influence of a critical mass of port-listing academic intellectuals, composing a large portion of the profession to which they belong, who have exchanged the commitment to disinterested scholarship and teaching for the propagandizing of a variety of wayward ideologies. Under their tutelage, many of their charges, the “citizens of tomorrow,” were persuaded to adopt an attitude that was markedly egocentric, making them think less in terms of their obligations to society, as citizens, and more in terms of what was owed to them by society. The accent was on rights, and pronouncedly so, the result of which was that the very notion of obligations began to fade from consciousness. Over time, as these young auditors left college and took jobs that put them in a position where they could influence others, this attitude began to be disseminated throughout the larger society, and eventually it seeped into the popular culture. In due course it made its entry into the judiciary community, where it received a cordial welcome, especially by the Supreme Court of the United States, which has managed to turn the practice of manufacturing rights into a veritable art form. Again and again, the Court has wonderfully discovered and ferreted out of the more occult regions of the Constitution, what would have been invisible to the untrained eye but was patently obvious to highly motivated and especially discerning judicial diviners. First to be identified by these justices was a generic right to privacy, under whose capacious umbrella there were to be found any number of more specific rights of a sort, which were, so it seemed, potentially numberless. And thus it came to pass that, in the *Roe v. Wade* decision of 1973, we were informed by the Supreme Court of the existence of a right to abortion, which means, in plain terms, it was decided that the Constitution of the United States provides sanction

for the killing of innocent human life.

Now, with the *Obergefell v. Hodges* decision of 2015, the same Supreme Court has announced to the world that in the U.S. Constitution, buried deep within the concept of liberty, which figures importantly in Section 1 of the Fourteenth Amendment, there is, *mirabile dictu*, to be found nothing less than a positive right for a male to pledge his troth to a male, with a companion right for a female to pledge her troth to a female, and, more, these same-sex couples have the additional right to have their “marriages” legally recognized by the state. And thus the practice of conjuring pseudo-rights out of thin air continues; but in this instance we are bearing witness to a new phase of the process: here the Court has made a dramatic exit from the realm of reality and has, accompanied by fanfare supplied by the Court itself, entered boldly into the realm of pure fantasy.

In this article, by submitting the *Obergefell v. Hodges* decision to a close critical examination, I intend to show that the reasoning the Court offered to the public in support of their momentous decision is of the most paltry kind, so much so that it can be said without exaggeration that the decision, in effect, simply has no reasonable support behind it at all. It floats in mid-air, surrounded by clouds of unsubstantiated assertions and emotion-laden irrelevancies. This state of affairs was at once predictable and inevitable, for what the Court attempted to do in this case was to alter what it is not given to man to alter. One cannot mount reasoned arguments for the unreasonable. Following my critique of the decision, and in order to place it in a larger cultural context without which it cannot be fully understood, I will briefly discuss how it reflects some of the foundational philosophical disorientations besetting the age in which we live.

In the very first paragraph of the decision, written by Justice Anthony Kennedy, we are apprised of a right with remarkably broad and deep ontological implications, for it is nothing less than a right of persons “to define and express their identity” (2). [The page numbers I cite throughout refer to the set of documents published by the Supreme Court of the United States,

and which carry the following general identification: 576 U.S. ___2015; Nos. 14-556, 14-562, 14-571, and 14-574, all of which can be found on the Internet.] Here we are immediately introduced, without ceremony, to a so-called right whose nebulousness is such that it challenges any attempt to see the kind and the extent of public recognition which, as a presumed right, it is to be given. And thus the tone is set for what is to follow; we have here a document fairly awash in elusive vagaries, the explanations and defenses of which are conveyed in language that is dominated by sustained emotionalism, as a result of which clear ideas are very difficult, if not impossible, to identify and respond to.

The document’s first and relatively short section simply describes the nature of the issue to be dealt with. The second section is devoted to discussing “the history of the subject now before the Court” (3). Here the Court follows the same pattern set by the *Roe v. Wade* decision, which also contained a foray into history, the purpose of which in that case was to show that attitudes toward abortion, pro or con, have varied over the course of centuries, from which we were invited to conclude that no clear moral judgment could be made concerning the question. Beginning in this section and interspersed throughout the whole of the document there are a number of statements about marriage, the overall purpose of which is to blur the distinction between the reality that is marriage itself and the fictional substitute for it being advocated by the Court. Legitimacy is being claimed for the illegitimate by slyly associating it with the legitimate. Thus, in the first paragraph of Section 2 we read: “Marriage is sacred to those who live by their religions and offers unique fulfillment to those who find meaning in the secular realm. Its dynamic allows two people to find a life that could not be found alone, for a marriage becomes greater than just two persons.” A few lines later we are told that “marriage is essential to our most profound hopes and aspirations” (3). While these and like statements found throughout the document are unarguably true, they amount to little more than pious banalities and have no direct bearing on the Court’s position. If anything, they can be read as so many antitheses to that position. Though perhaps wincing at the cloying manner in which they are expressed, one can easily assent to these statements, because in every case it is obvious that they clearly refer to marriage, the existential reality, and not to the fabricated monstrosity that is being advocated by the Court. In effect, then, these statements would seem to serve as so many ways of distracting direct attention

away from the oxymoron of same-sex marriage. It is instructive that nowhere does the Court wax eloquent in speaking of same-sex marriage itself. None of its statements can be fittingly applied to that aberrational arrangement, whereas all of them describe aptly enough marriage as it is traditionally understood. It is as if the Court, in the attempt to sell us a bouquet of noisome weeds, can do nothing else but go on and on, in the promotion of its questionable product, about the surpassing beauty of long-stemmed roses.

It is necessary to be plain, to state the obvious, in order to give apt reply to a Court that systematically eschews plain speech, and to spell out clearly what, in talking about marriage, we all should be referring to: the permanent, life-long union of a man and a woman the principal end of which is the procreation and education of children. So-called same-sex marriage, for its part, is a fiction whose advocates want to be taken as if it were real; in fact, it is, ontologically, a nonentity. The term “marriage,” as applied to that aberration, is an egregious misnomer. There is no law against trafficking in misnomers, even though they be egregious. One is free to call a bouquet of weeds a bouquet of roses; even so, the weeds remain weeds all the same.

There is a disconcerting strain of disingenuousness that runs through this entire document, an example of which is the way the Court quotes the words of certain distinguished historical personages as if what they have to say bolsters the position the Court is advocating. And so we have Confucius, Cicero, and Alexis de Tocqueville called to the stand to testify. Everything these notables have to say about marriage is sound and altogether uncontroversial. We are informed that Confucius taught that marriage and the family formed the foundation of good government. Cicero is quoted directly: “The first bond of society is marriage, next children, and then the family” (3). Later in the document de Tocqueville is quoted at some length, from his *Democracy in America*, wherein, among other things, the French diplomat notes that in this country “the tie of marriage is so much respected,” and the average American finds in the family a haven of order and peace, a refuge from “the turmoil of public life” (16). Now, it is unambiguously clear that all three of these worthies are talking about marriage, the reality, not about the Court’s contorted version of the reality. Kennedy concedes as much, frankly acknowledging that these and other quoted statements about marriage in the document refer to “a union between two persons of the opposite sex” (4). Given this fact, it is difficult to see how he thought

these citations would advance his cause, when in fact they have just the opposite effect. They keep before the reader's mind the authentic institution whose status the Court is determinedly trying to depreciate.

We are assured that the petitioners in this case, those who want same-sex marriage legalized, do not intend to devalue marriage; rather, they simply "seek it for themselves because of their respect—and need—for its privileges and responsibilities" (4). Whatever might be the intentions of the petitioners, they are, by their actions, with the approving assistance of the Court, effectively devaluing marriage in a radical way. First of all, it needs to be stated forthrightly that what they seek is not marriage. They have put themselves in a position where they are irrationally refusing to accept a natural institution simply for what it is, and which no amount of mental gymnastics or raw willfulness can make anything other than what it is. Moreover, they are directly undermining the integrity of that institution by committing themselves to what is no more than a crass mockery, supposing it to be a fitting substitute for the institution itself. What they are petitioning for can only serve purposes that are totally alien and antithetical to marriage. They presumably believe they can gain respectability for an unnatural arrangement by gratuitously expropriating the name that properly belongs to a natural arrangement, but this is only to indulge in wishful thinking, fueled by an errant imagination that has wandered well beyond the borders of the real. Nonetheless, all that being said, once the nation's courts grant legitimacy to a fiction, to which they have accommodatingly attached a wide range of pseudo-rights, then, as we have already witnessed, the scene is set for the generation of any number of social conflicts that could eventually prove seriously corrosive of the common good. It would be naïve to think that the legalization of an arrangement that in its essence is directly contradictory to marriage and the family is a benign move, and that it will not have deleterious repercussions for political unity and coherence. It represents a degrading of the value of marriage and the family, the conditions of both of which are already in a precarious state in this country. Confucius was altogether right in holding to the view that it is impossible to have a sound state without sound families, and we would add that the sound family is not possible without the integrity of marriage being preserved. Pseudo-marriage makes for pseudo-families, and pseudo-families would only contribute to a fundamentally disoriented state.

However one might construe the declared need of

the petitioners for the real responsibilities of marriage, it is manifestly clear that the arrangement to which they are committed cannot, by its very nature, meet that need. But we are apparently not to give serious consideration to insuperable existential difficulties of this sort, and are invited instead to dispense with reason and allow our minds to be narcotized by frontal and completely irrelevant appeals to the emotions. Sensibility is called upon to shoulder out sense. Thus we are told that if the petitioners are not allowed to "marry" they will be deeply hurt, "even for the rest of time" (5); they will be "impermissibly disparaged" (9), and will then have no choice but to resign themselves to experiencing "the universal fear that a lonely person might call out only to find no one there" (14). Syrupy prose of this sort is more appropriate for soap opera scripts than for decisions coming from the highest court in the land. Even a sympathetic reader would be hard pressed to find in this document a clearly delineated argument. The closest I could come to finding one could be expressed in the following terms:

Homosexuals urgently want their unions to be legally recognized as marriages.

If the Court does not grant them this urgent desire, formally declaring that same-sex unions are marriages and that there is a right to such unions, then homosexuals will be deeply hurt.

Therefore, it is imperative that this Court grant them their urgent desires.

Such is the basic logic that underlies this decision.

The Court implicitly makes the case that marriage is not a natural institution, with an identity and structure which are fixed and permanent. In the spirit of evolutionism, it maintains that marriage has been undergoing, especially in very recent times, some "progressive" transformations. But the evidence it offers for this is often faulty. Several court cases are cited that supposedly support their contention but in fact do not. For example, a case is cited where the principle of coverture, the principle whereby man and wife were treated by the state as a single legal entity, was nullified. In another case the ban against interracial marriages was struck down. In cases of this sort, unlike what the Court wants us to believe, there was no alternation whatever to the institution of marriage itself, and to interpret them otherwise is to make the serious mistake of failing to distinguish between substantial and accidental change. Here certain accidental features of marriage were altered, but the substance of marriage was left untouched. In sum, the

document erroneously leads us to believe that the cited precedents had the effect of altering the nature of marriage itself. This was not the case.

However, subsequent judicial decisions were indeed to attempt to alter the very nature of marriage, when certain states, such as Massachusetts, legalized same-sex marriage. Kennedy speaks of an evolutionary process underway regarding the nature of marriage, but that characterization does not quite fit. Evolution is to be understood as a natural process; what has been done to marriage by an activist judiciary was entirely artificial. As a result of those judicial actions there may have been an alternation in the minds of many people regarding the nature of marriage, leading them to believe that these court decisions were justified. Thus the confusion of a few judges was communicated to many ordinary citizens. But that it should be thought that the changed attitudes of a portion of the populace regarding the nature of marriage has the effect of changing marriage itself is no more the case than it is the case that peoples' changed attitude toward pornography alters the nature of pornography. Those lower court decisions that anticipated the decision made by the Supreme Court in this case are, unsurprisingly, reverently cited. It was "thoughtful District Court decisions" (10), Kennedy tells us, that "[help] to explain and formulate the underlying principles this Court must now consider" (9). Following precedent is a time-honored aspect of judicial procedure, but it is rationally justifiable only to the extent that the precedent being followed is sound. To follow bad precedent, which the Supreme Court was doing in this case, is only to endorse an error made by a previous court.

In the third section of the document, its centerpiece, the Court introduces yet another violent treatment of the Fourteenth Amendment of the U.S. Constitution, which has already been the object of excessive judicial battering in a number of previous decisions. We read in Section 1 of the amendment that no state shall "deprive any person of life, liberty or property, without due process of law" (10). Of those thirteen words the Court chose to focus its attention on "liberty," and managed to find within that concept what less avid investigators would never have imagined to have been there. In brief, liberty, according to the Court, involves "certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs" (10), and all that, we are calmly assured, leads eventually to a right of same-sex marriage. This is reasoning strained to the breaking

point, and it simply cannot be taken seriously. What is at play here is a reckless disregard for the integrity of language. The meanings incorporated within words, though they may be ample in certain instances, as, granted, can be the case with "liberty," nonetheless have their boundaries. To go beyond them, as the Court is doing here, is to subject them to gross misuse. The Court, in order to achieve its preconceived ideological purposes, has simply imposed upon "liberty" meanings which are so wildly inapplicable as to be positively preposterous.

The Court radically misunderstands the nature of liberty, conceiving it to be an active principle, a source of human action, mental or physical, whereas it is rather that which provides the proper conditions which allow for the possibility of human action. It is not causative, in other words, but it is that without which causation could not take place. In this sense liberty might be compared to oxygen, which is not in itself a cause of combustion, but is a necessary condition for combustion. Liberty, in itself, is not a direct cause of free human action, but is a necessary condition for that action. Liberty is, so to speak, the enabler of freedom, it makes freedom possible, but, again, it is not its source; freedom is specific to the individual person, and has its source in the will. In sum, the Court is attributing to liberty active powers it simply does not possess, powers which, according to the Court, are pregnant with truly fantastic possibilities. There would seemingly be no end in sight to what can be ferreted out of the concept of liberty, as indicated by the Court's calling our attention to "the right of all persons to enjoy liberty as we learn its meaning" (11). As is made evident by the Court's decision in this case, the meanings we learn from concepts like liberty are just those meanings we choose to impose upon them.

The document asserts that the "identification and protection of fundamental rights" is part of the Court's judicial duty in interpreting the Constitution. Agreed, this is what the Court should be doing; but what it has too commonly done in recent cases, and does once again in this case, is not to identify but rather to fabricate rights, rights whose purported clear and evident sources in the Constitution are simply not there to be found, as judged by any intelligent reading of that document. After citing several cases that he interprets as defending a blanket "right to marry," one which he wants to cover same-sex couples, Kennedy then admits: "It cannot be denied that this Court's cases describing the right to marry presumed a relationship involving

opposite-sex partners” (11). This is the second time Kennedy makes this acknowledgment, which seems to indicate an uneasiness on his part over his introducing into the discussion material which, as I have already noted, is not at all germane to the position the Court is proposing, and which actually counts against it. The cases he cites have to do with marriage, not a forgery of it, and in relation to marriage itself one can of course reasonably speak in terms of a right. Reflecting an historicist way of thinking, Kennedy, while recognizing that the cases he has cited refer to marriage as traditionally understood, argues that they were decided before the progressively evolving understanding of marriage had reached its present, presumably adequately developed stage. Certain precedents, therefore, because of their dated understanding of the nature of marriage, prove to be not particularly helpful for the decision the Court is now prepared to make. As it happens, however, there are other “more instructive precedents,” representing later adjudicated cases, which “express constitutional principles of broader reach” (12), a reach, as it happily turns out, sufficiently broad to be able to grasp a “right to marry” that is not limited to opposite-sex couples.

At this point of the discussion we read the following declaration: “This analysis compels the conclusion that same-sex couples may execute the right to marry. The four principles and traditions to be discussed demonstrate that the reasons marriage is fundamental under the Constitution apply with equal force to same-sex couples” (12).

The surprise announcement that what has been provided up to this point in the document is regarded by the Court as sufficient to compel that august body to conclude “that same-sex couples may exercise the right to marry” does not speak well for the majority’s ability to recognize what counts as sound argument and substantive evidence. The premises presented thus far by the Court to support the conclusion it has reached are anything but compelling. However, perhaps we should withhold a final judgment regarding the decision, for there is more to come. Noting the emphasis given them, it would seem that the four principles, mentioned just above, are regarded by the Court as something like a conclusive summarizing statement of the case it is making in defense of same-sex marriage. Indeed, the principles are explicitly described as *demonstrating* the Court’s position. Do they?

Let us look at them closely. In doing so it will be my intention to demonstrate that these principles lack anything like demonstrative force. Quite the contrary,

like so much else in this document, they do little more than traffic in an assortment of vague, mainly irrelevant, generalizations.

The first principle, or premise as it is otherwise called, has it “that the right to personal choice regarding marriage is inherent in the concept of individual autonomy” (12). This assertion may be taken at face value, as referring to real marriage, and not to a fantastical substitute for it. It stands to reason that marriage, if it is to be valid, is freely entered into by any given couple. A man commonly takes the initiative by proposing marriage to the woman he desires to be his wife. By accepting the proposal she freely chooses him to be her husband. So, on both sides we have in this important matter, it may be said, if we insist upon talking about it in these terms, the exercise of a right to make a personal choice, and an expression of individual autonomy. But then, expatiating on this principle, Kennedy makes an unwarranted move by replacing the proper understanding of marriage with the Court’s distorted version of it. Incongruous references are then made to the family, not as it is commonly understood to be, but as the Court would have it be, so that it will fit into its ideologically motivated program. Thus we have here another instance of gratuitous redefinition; first marriage is redefined, now the family. We are assured that the ever handy and pan-applicable “right to privacy” allows for this second redefinition. Because no substantive arguments can be mounted by the Court in defense of these assertions, we are treated instead to more irrelevant banalities: “Choices about marriage shape an individual’s destiny” (12). A few lines later we are informed: “The nature of marriage is that through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality” (13). One could imagine a certain setting in which statements of this kind might be read aloud, with violins playing in the background. It would be left to a discriminating audience to decide just what they have to do with the decision made by the Court in this case.

The second principle, supposedly providing firm evidence in support of the Court’s position, is “that the right to marry is fundamental because it supports a two-person union unlike any other in its importance to the committed individuals” (15). The basic idea being communicated by that fulsome statement can be fairly stated as follows: marriage is a union “unlike any other” because of its importance to those who are married. One can certainly accept this statement as true, without being at all sure of the import and applicability of the

truth it contains. However, that reaction would show only that the one entertaining it has not been paying enough attention to the whole drift of this document, which regularly makes these vague, high sounding pronouncements about marriage with the intention that they are to be accepted as applicable, not to marriage itself, but to the aberration being promoted by the Court. The Court does not want us to think, but to feel, to feel good about same-sex unions to the point where we concede that it is fitting and proper that they be legitimized by the state. The commentary on this second principle incorporates some rather fine things that are said about marriage in the *Griswold v. Connecticut* decision, again with the idea that we will cooperatively, and mindlessly, see them as applicable to same-sex unions. The incongruity of citing this particular case borders on the comical, however, in that the issue *Griswold v. Connecticut* had to deal with was contraception, scarcely a subject relevant to same-sex unions.

Perhaps increasingly aware that no reasoned defense can be made for what the Court is advocating, Kennedy, in continuing his commentary on the second principle, makes the now quite predictable aversion to sentimental pronouncements regarding marriage, as exemplified in the following statements: “The right to marry thus distinguishes couples who wish to define themselves by their commitment to one another” (14). “When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring” (18). The conceptual emptiness of these statements is especially striking in light of how they are being employed in this document. The following would seem fairly to express the thinking that governed the fashioning of the document: “Since we have nothing of real substance to support our position, by which we could appeal to the intellect, our only option is to appeal to the emotions.”

The third principle, which is presented as a “basis for protecting the right to marry,” is that the right to marry “safeguards children and families and thus draws meaning from related rights of childbearing, procreation, and education” (14). Once again, assuming the “right to marry”—the phrase is repeated throughout the doctrine in mantra-like fashion—to have but a single intelligible meaning, that is, as referring to the reality not to the fiction, no objection can be raised to this principle simply as stated. But especially noteworthy about this part of the document is how it vividly reflects the Court’s near obsessive preoccupation with

rights, to the extent that one is prepared to wonder if there is for it any conceivable, not-harm-rendering human action not covered by a right of some kind or another. So we should not be surprised to learn here that childrearing, procreation, and education are rights. Would it not be more apt to describe the first two as natural obligations that accompany the marital state, rather than rights? And as for the cited education right, is this the right to educate, or the right to be educated, or both? In the discussion of this principle, various statements (not arguments, mind you) are made on behalf of the proposition that “family” life of same-sex unions somehow provides a healthy environment for the children who are incorporated into such unions. It is revealing that in this instance the document, in order to make its case, relies entirely on hearsay or anecdotal evidence, while summarily ignoring what the sciences of psychology and sociology have to say about the subject. We are told, remarkably, that the mere fact that certain states have allowed same-sex couples to adopt children “provides powerful confirmation *from the law itself* [emphasis mine] that gays and lesbians can create loving, supportive families” (15). The only proper response to that bold assertion is: *non sequitur*. We are additionally told that the marriage laws as presently constituted “harm and humiliate the children of same-sex couples” (15). Another *ipse dixit* from the Supreme Court of the United States of America.

The fourth principle put forward by the Court, which apparently we are immediately to recognize for its profundity and earth-shaking significance, is that “this Court’s cases and the Nation’s traditions make clear that marriage is a keystone of our social order” (16). As with the first three principles, so too with this one, if “marriage” is taken for what it can only reasonably refer to, this declaration, for all its vapidness, can be accepted as true. Who will be prepared to deny that marriage can be regarded as a keystone to social order? Such is the fourth principle.

In summarizing what these four “principles” have to say, it is important, first of all, to call attention to the interesting fact that the term “same-sex marriage” is not to be found in any of them. All references are made simply to “marriage,” and what they have to say about this subject, as I have repeatedly noted, is acceptable enough. Avoiding the term “same-sex marriage” was calculated, for were it to be used it would be quite obvious that all of the positive pronouncement made about marriage fittingly apply only to the reality and not to the gross distortion of the reality which

the Court is promoting. People cannot be expected to accept a plethora of glowing descriptions of a swan as aptly applying to an ugly duckling. So the Court had to craft its discourse in such a way that it can hope that a connection which it was not prepared to make in explicit terms has been successfully conveyed implicitly.

As it happens, however, matters are made explicit later in the commentary when we are frankly told that “there is no difference between same- and opposite-sex couples with respect to this principle” (17), in response to which one can only say, then so much for the principle, for the statement that there is no difference between the two is categorically and blatantly false. Despite this, the document continuously clings to pure fantasy, and insistently stands by the unsupportable contention that there is a real, that is to say, ontologically based, analogy between same- and opposite-sex marriage, between fiction and fact. Following the tactic taken throughout the document, the Court, eschewing reason, once again appeals to the emotions, contending that in the situation that prevailed before its decision, same-sex couples were cruelly consigned to an “instability” that opposite-sex couples would find “intolerable,” and consequently same-sex couples were thereby locked out “of a central institution of the Nation’s society” (17). It should be known by all, the Court earnestly advises us, that same-sex couples “aspire to the transcendent purposes of marriage and seek fulfillment in its highest meaning” (17). With that we have a lapse into complete incoherence. What rationally founded meaning can be assigned to the “transcendent purposes of marriage,” knowing that the Court wants us to see that lofty phrase as applicable to something whose purposes are directly antithetical to those of marriage? The Court asserts that the prohibition against same-sex marriage, which its decision has removed, was inconsistent “with the central meaning of the fundamental right to marry which is now manifest” (17). The reasoning here is marvelously convoluted. By its decision the Court has created a monstrosity, to which it insistently and perversely applies the term “marriage.” In the status quo ante there was nothing at all inconsistent with the central right to marry, because that right referred to the reality that is marriage and not to the Court-created monstrosity. The only thing that is now “manifest” is the existence of the monstrosity, and the fictional rights that accompany it.

The Court manages eventually to address a pointed objection to its project, raised by respondents, who rightly contend that “the petitioners do not seek to exercise the right to marry but rather a new and nonexis-

tent ‘right to same-sex marriage’” (18). The respondents correctly call attention to the fact that the petitioners in this case must rely on the Court to fabricate for them a phantom right to a let’s pretend marriage, for they are biologically incapable of exercising the genuine right to a real marriage. The Court’s response to this objection is entirely unsatisfactory, for all it can do is to make a feeble appeal to the supposedly successful but actually failed attempt to find in the Fourteenth Amendment a right to same-sex marriage.

It must be admitted that the Court displays a kind of genius in its ability to invent entirely new categories within which it then finds exactly what it is looking for. And so, “within the right to marry in its comprehensive sense” (18) there is, sure enough, to be found the right to same-sex marriage. By the “comprehensive sense” of marriage is to be understood the Court’s arbitrary and totally unwarranted redefinition of marriage. Part of the Court’s strategy in furthering its agenda was to treat the traditional understanding of marriage as if it were little more than a social convention which, while perhaps deserving of a pro forma deferential nod on account of its long-standing status, was not to be treated as representing the last word on marriage. This rejection of the traditional understanding of marriage was the logical accompaniment of the Court’s rejection of a coherent understanding of rights. The understanding of marriage becomes as malleable as the understanding of rights, for, as the Court reasons, how both were understood in the past was entirely dependent upon nothing more than social convention. According to this view of things, a right ceases to be something rooted in nature, thus fixed and permanent, and therefore serving the purpose of shaping and preserving stable and enduring societal norms. According to the Court’s thinking, on the other hand, the shaping influence moves in just the opposite direction. Rights are looked at from a historicist perspective; they change with changing times. Therefore, the Court insists, the focus must be on “new insights and societal understandings” (20), and due sensitivity must be given, specifically, to the “changed understandings of marriage” (7). The Court’s thinking, in essence, is that we must heed the way the cultural and political winds are blowing, submitting passively to the temper of our intemperate times.

As if by way of an afterthought, Kennedy makes in-passing reference to those citizens who, “based on decent and honorable religious or philosophical premises” (19), take same-sex marriage to be wrong. But then, after acknowledging as much, he goes on to claim that

when the reasoned position of these dissenters becomes reflected in public law, as was the situation before the Court made its decision, we then have a state of affairs that “demeans or stigmatizes those who want to have open to them the option of same-sex marriage” (19). But this erroneously presupposes that the understanding of marriage previously reflected in public law had its foundation in nothing more than the opinions of religious or philosophically minded people, rather than in nature. Moreover, what else has this Court now done by its decision but make same-sex marriage a matter of enacted law and public policy? And it certainly did not do so on the basis of decent and honorable religious or philosophical premises, nor, it bears repeating, on the basis of any rational premises at all, but simply by judicial fiat. The manufactured sense of “urgency” that moved the Court to act when and as it did counted more than did the views of a clear majority of the American public. What has happened to “the democratic process”? The Court concedes that “democracy is the appropriate process for change,” but only “so long as the process does not abridge fundamental rights” (24). But in this case the “fundamental rights,” the need of which to protect the Court saw as justifying its circumventing democracy, were “rights” invented by the Court itself. Kennedy grants the concession that those who oppose same-sex marriage “may engage those who disagree with their view in an open and searching debate” (27). A questionable bit of beneficence on his part, to allow open debate on an issue that has already been settled! What is markedly absent from this document is any attempt on the part of the Court to give adequate attention to, and seriously address, the arguments of those who, quite rightly, take same-sex marriage to be wrong.

Because the Court clearly failed to demonstrate that there is any rational basis for declaring a right to same-sex marriage, and specifically that this so-called right is grounded in the U.S. Constitution, the text in which this decision is expressed represents an elaborate begging of the question, that is, it is assuming to be true that which is not self-evidently true and the purported truth of which therefore has to be made evident. The only recourse the Court then had, as I have called attention to several times, was to eschew reasoned discourse and to put all its eggs in the basket of emotion. This approach is sustained, with considerable verve, through the third and fourth sections of the document, in the latter of which we are grimly informed that prohibiting same-sex couples from legally “marrying” would work “grave and continuous harm” upon them,

and in addition serve “to disrespect and subordinate them” (22).

The fourth section of the document, taking up some five pages of text, is bereft of any substantive intellectual content. We have here only a gathering of vagrant generalizations whose purpose is seemingly to provide additional supporting reasons for a “right” which, despite these and all preceding efforts, remains in the end as dubious as it was in the beginning. The stark poverty of the arguments put forward in the document on behalf of that ethereal right, and the embarrassing reliance on saturated sentimentalism, are in full display in the document’s final paragraph, the first sentence of which reads: “No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family.” Precisely because all this can be taken as true, we then might ask why the Court chose to exercise its power to defend, promote, and foist upon the American public what is in fact a complete sham. The Court, not admitting of course to have fostered a sham, would respond: So that “two people” can avoid being “condemned to live in loneliness, excluded from one of civilization’s oldest institutions” (28). And thus the Supreme Court of the United States, because a quintet of its membership had been sufficiently moved by “the petitioners’ stories” of the “urgency of the issue,” decided it was necessary to raise a fiction to the status of reality.

The foregoing analysis has attempted to demonstrate, what I asserted at the outset, that the arguments provided by the Court to support its decision are radically inadequate, hence the decision, as assessed by any reasonable standards, must be declared to be unsubstantiated. This outcome was inevitable. The Court had put itself in the position of choosing to defend a set of propositions that were essentially irrational, thus closing the door to any possibility of their being defended by rational argument. And so the Court, following the precedent set by the infamous *Roe v. Wade* decision, exercised what Justice Byron White memorably described as an act of raw judicial power. Given the subject with which it was dealing, the decision in this case was immoral as well as irrational, for it runs directly contrary to the natural law. The decision could not have been made by anyone possessed of even a dim sense of the natural law. Nowhere in the document is there to be found the slightest indication that there is, in the minds of the Court’s majority, an operative awareness of the fact that there is a universal moral order that has objective standing, and whose principles should have a

governing influence on the creation of civil law.

Coupled with the absence of any sense of the natural law, which stands as a signal feature of the *Obergefell v. Hodges* decision and goes far in explaining it, there is something of yet deeper significance reflected in the thinking of the majority, and that is, on its part, either a chronic inability to recognize and acknowledge, or a deliberate refusal to recognize and acknowledge, that there is an objective order of things—in other words, that there is, underlying and lending intelligibility to the natural law, the foundational fact which is *nature*, the given, that which, following reason, is ours simply to accept for what it is, for if we fail to do so we render ourselves vulnerable to a whole train of delusional thinking.

Nothing leads more immediately to a delusory mode of thinking than a loss of a sense of nature; it invites man to believe that he is the measure of all things, and the architect and engineer of them as well. If one supposes there is no nature, no set order, no firmly established foundational arrangement of things, then it is up to man to arrange things as he sees fit. There is prominently present in contemporary culture a peculiar mind-set that fondly entertains the deluded conviction that reality is flexible, that it can be reconstituted so as to be made consonant with one's ideological predilections. Precisely this mindset is clearly reflected in the *Obergefell v. Hodges* decision. It was given explicit and emphatic expression by Justice Kennedy in the decision he wrote for the *Planned Parenthood v. Casey* case of 1992. In that decision Kennedy wrote, in language very reminiscent of the language he uses in *Obergefell*: "These matters, involving the most intimate choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the very heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." Here Orwellian language strives to reach new heights of eloquence. Have we ever heard of an act that, viewed squarely, is nothing else than outright murder being spoken of in terms of an intimate choice, a choice "central to personal dignity and autonomy"? It is the second sentence of that statement that is worthy of special attention, for it perfectly reflects the mindset that governed the thinking of not only *Planned Parenthood v. Casey* but *Obergefell v. Hodges* as well.

We are being told in the most solemn tones that it is "the heart of liberty to define one's own concept of existence." But there is more, according to Kennedy:

it is entirely within man's Protagorean province to set the parameters for meaning itself. So man, armed with and invigorated by an untrammelled and ever expanding liberty, a magnanimous gift granted to him by the ever generous Fourteenth Amendment, is not to be told the meaning of marriage, or anything else, by any voice other than his own. Protagorean man has heard it said that marriage is the permanent, life-long bond between a man and a woman, the principal end of which is the procreation and education of children, but he brushes that notion away as if it were a pesky fly. He will have none of it. Today marriage means for him the legalized union of a man with a man, of a woman with a woman. Who knows how he may decide tomorrow what it might mean? In any event, he is entirely without constraints in how he decides to define things, including nothing less than the mystery of life, and, while he is at it, he may as well try his hand at defining the universe. The man blessed by "liberty" thinks big.

As Kennedy himself admits in *Obergefell v. Hodges*, he sees no boundaries that can be put upon the fantastic kind of liberty which he has managed to dig out of the inner recesses of the Fourteenth Amendment. This remarkable insight is the nourishing matrix of the decision he has handed down. One wonders if this notion of boundless liberty might not represent the last desperate attempt of postmodern man to fill the haunted void he has created by his abandonment of God.

To conclude this commentary, I would like to say a few words about the opinions given in this case by the four dissenting justices, Roberts, Scalia, Thomas, and Alito. The text of Justice Kennedy's decision covers twenty-eight pages, that of the dissenting justices adds up to a total of sixty-four pages. The statement of Chief Justice Roberts alone is longer than the one written by Justice Kennedy. But the real difference between the two documents is qualitative, not quantitative, and provides us with a study in contrasts, marked contrasts, between impressively reasoned discourse, on the part of the dissenting judges, and a prolonged display of the *ad misericordiam* fallacy on the part of Justice Kennedy. What is particularly distinctive about the statements made by the dissenting judges is that in each case they do not simply assert, they *argue*; they show cause. And in each case their arguments are sound and compelling. There are many pertinent quotations from these statements that would be worth quoting, but here I can cite only a few. Chief Justice Roberts wrote: "The majority decision is an act of will, not legal judgment. The right it announces has no basis in the Constitution or this

Court's precedents" (3). Justice Thomas: "The Court's decision today is at odds not only with the Constitution, but with the principles upon which our Nation was built" (1); "The majority decision threatens the religious liberty our Nation has long sought to protect" (14). Justice Alito: "For millennia, marriage was inextricably linked to the one thing that only an opposite-sex couple can do, procreate" (4). Justice Scalia: "But what really astounds is the hubris reflected in today's judicial Putsch" (6); "The opinion is couched in a style that is as pretentious as its content is egotistic" (7); "The Supreme Court of the United States has descended from the disciplined legal reasoning of John Marshall and Joseph Story to the mystical aphorisms of the fortune cookie" (8n).

Taken altogether, the opinions expressed by the four dissenting judges provide reason for hope that the dignity and authority of the Supreme Court has not been irreparably damaged by the decision handed down by the majority in this case. However, I feel obliged, regarding one point, to register my dissent from the dissenters. An objection to the decision shared by all four judges is that the issue that was decided by the Court should have been left to the people to decide. Given an issue of this importance, they argue, the final say should have been left to the democratic process. The clear implication behind that judgment seems to be that if we suppose there were something like a national plebiscite on the question of same-sex marriage, and if it should result in an approval of that aberration by a majority

of the citizenry, so that the way would be open for it to be legally established, everything would then be all right. This is a democracy; the people have decided; the case is closed: same-sex marriage should be accepted as somehow fitting and proper. This is an unacceptable point of view, and one is disappointed to know that these justices seemingly abide by it. The best explanation I have for their doing so is that these honorable and upright men are not themselves unaffected by the current intellectual climate of opinion, and as a result they too lack a sufficiently vivid sense of the natural law, but here qualifications have to be made with respect to Justice Thomas.

Nothing at all would be changed should same-sex marriage be legalized by way of the democratic process. So-called same-sex marriage is inherently irrational, is contrary to the natural law, and does not wonderfully cease to be such if a majority of the citizenry should approve of it. Sound law reflects reality; it does not contradict it. And the standard by which we determine the soundness of civil law is the natural law. William Blackstone, and St. Thomas Aquinas before him, were of the same mind in holding that any civil law, however properly it might have been put in place according to the legal apparatus of any political community, does not qualify as law if it is not consonant with the natural law, for it would then be contrary to the law of God. If no court has the power to redefine marriage, neither is that power invested in "the people." ✠



Lessons from the Jürgen Habermas and Joseph Ratzinger Debate

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The only strength with which Christianity can make its influence felt publicly is ultimately the strength of its intrinsic truth. This strength, though, is as indispensable today as it ever was, because man cannot survive without truth. That is the sure hope of Christianity; that is its enormous challenge to each and every one of us.¹

The focus of this article is the Habermas and Ratzinger debate in Munich, at the invitation of the Catholic Academy of Bavaria, on January 19, 2004.² Joseph Ratzinger, then Cardinal-theologian Prefect of the Congregation of the Doctrine of the Faith, and now Emeritus Pope Benedict XVI, and Jürgen Habermas, who for decades has been a leading figure in German and Continental philosophy as a whole, took up the question of the pre-political normative presuppositions of the democratic constitutional state and whether or not those presuppositions can be justified without appealing to religious or metaphysical foundations. Before examining that exchange of views itself, I want to frame it in the context of a larger picture, namely, their understanding of the relationship of faith and reason, because that understanding shapes their reflections on secularization and the role of religion and reason in a postsecular society, meaning thereby a pluralist society. I contend that there is much to learn from this exchange even now, more than ten years later, and I shall conclude by drawing from it some lessons about a Christian orientation in a pluralist democracy.

Faith and Reason in a Postsecular Age

My starting point for considering their understanding of the relationship of faith and reason is the First Vatican Council's teaching

regarding a *duplex ordo cognitionis*. The latter refers to a "twofold order of knowledge [that is] distinct both in principle and also in object," according to the dogmatic constitution of that 1870 Council on the Catholic faith, *Dei Filius*.³ "In its principle, because in the one we know by natural reason, in the other by divine faith; in its object, because apart from what natural reason can attain, there are proposed to our belief mysteries that are hidden in God that can never be known unless they are revealed by God."⁴ Corresponding to the epistemological distinction between faith and reason are the lines of demarcation between the disciplines of theology and philosophy. Theology, which presupposes the truth of the Christian faith, is the disciplined exploration of the content of revelation; it is faith seeking understanding of that truth-content received from revelation, with the aim of understanding the truths of revelation in their inner coherence, intelligibility, and justification. Philosophical knowledge, in contrast, remains within the bounds of unaided reason, that is, independent of the truths of revelation, aiming at the kind of knowledge that reason as such can gain by itself.

In principle, both Habermas and Ratzinger share this *duplex ordo cognitionis* as a starting point in their reflections. Still, their interpretation of the *duplex ordo* sharply differs, and that is clear from the answer each gives to the following question raised by Ratzinger: "Can philosophy and theology [and hence faith and reason] still enter into any kind of mutual relationship at the level of methodology?"⁵

Ratzinger responds to this question by arguing that the *duplex ordo* "could be expressed using the formula that the Council of Chalcedon adopted for Christology: philosophy and theology must be interrelated 'without confusion and without separation'. 'Without confusion' means that each of the two must preserve its own identity. Philosophy must truly remain a quest conducted by reason with freedom and responsibility; it must recognize its limits and likewise its greatness and immensity." Still, the interrelationship is such that there must be a balance of "without confusion" and "without separation." "For philosophy and, albeit in a different way, for

theology, listening to the great experiences and insights of the religious traditions of humanity, and those of the Christian faith in particular, is a source of knowledge, and to ignore it would be an unacceptable restriction of our listening and responding."⁶ Furthermore, adds Ratzinger, "The truth of revelation does not superimpose the truth achieved by reason; rather, it purifies and exalts reason [in its own order], thereby enabling it to broaden its horizons to enter into a field of research as unfathomably expansive as mystery itself."⁷ In short, for Ratzinger—and I would say for Aquinas, down to Leo XIII and then to Vatican I and John Paul II's *Fides et Ratio*—the Christian faith "is a purifying force for reason, helping it to be more fully itself."⁸

In his address at the Catholic Academy, Habermas a couple of times refers explicitly to the Catholic tradition, as he understands it, in precisely the terms of the *duplex ordo*.⁹ Unlike Ratzinger, however, Habermas's view of this *duplex ordo* reminds me of the neoscholastic interpretation¹⁰ found in Heidegger, Jaspers, Copleston, and others. It is indebted more to Descartes than to Thomas Aquinas and his neo-Thomist interpreters Gilson¹¹ and Maritain.¹² For instance, regarding the matter of the "grounding" of morality and law, the natural law is always defined by Thomas in reference to the eternal law: "It should be said that the natural law is a participation of the eternal law, and therefore endures without change owing to the unchangeableness and perfection of divine reason."¹³

Habermas is not clear that the Catholic tradition does not hold that natural law is grounded in (rather than known by) human reason; otherwise, human reason would subvert the metaphysical order laid out in the *Summa*. In other words, while many things are known from the bottom up, as it were, they are not "grounded" in this way. In short, a metaphysics of theism is not something that may or may not be attached to an ethics or law that is presumed to be all it should be in itself.

This Cartesian-inspired interpretation of the *duplex ordo* claims not only a valid disciplinary autonomy for philosophy but also a self-sufficiency of rational thought. Philosophy is based solely upon a "non-religiously informed" reason "just in case it is based solely on premises and inferences that all cognitively competent adult human beings would accept if those premises and reasons were present to them, if they understood them, if they possessed the relevant background information, and if they freely reflected on them at sufficient length."¹⁴

Where it critically differs from any neoscholastic interpretation of the *duplex ordo* is that the neoscholastics held that not only may philosophical conclusions *not* conflict with the givens of revelation but also that metaphysics is a foundational philosophical discipline. By contrast, according to Habermas, there is a necessity for a postmetaphysical philosophy, meaning thereby that it "refrains" from making "ontological pronouncements on the constitution of being as such."¹⁵ He explains the reason for the necessity of postmetaphysical philosophy: "The secular awareness that we live in a post-secular world is reflected philosophically in the form of post-metaphysical thought."¹⁶

Habermas makes clear the difference between *secularistic*¹⁷ and the *secular* character of postmetaphysical philosophy. This philosophical position is, he claims, agnostic, and hence *antimetaphysical* philosophy; it is nonreductionist; it suspends judgment on religious truths, and rejects scientism, its naturalistic worldview,¹⁸ and the corresponding epistemology that excludes theological judgments from the genealogy of reason. Elsewhere he says that this is "a philosophical reason which had become self-critical to break with metaphysical constructions of the totality of nature and history."¹⁹ Again, in his address to the Academy, he says that a "non-religious and postmetaphysical justification of normative foundations of the democratic constitutional state ... is part of the tradition of rational law, which does without the 'strong' cosmological or salvation-historical [*heilsgeschichtlich*] assumptions found in classical and religious teachings of natural law."²⁰ I shall return to the significance of Habermas's claim that those rights which human beings enjoy by the very fact of their humanity have no need of any metaphysical or religious grounding.

Still, Habermas insists on drawing a strict line between faith and knowledge: "In my view, a philosophy that oversteps the bounds of methodological atheism loses its philosophical seriousness."²¹ In other words, he writes, "[postmetaphysical philosophy] treats revelation and religion as something alien and extraneous. . . . The cleavage between secular knowledge and revealed knowledge cannot be bridged."²² Summarily stated, postmetaphysical philosophy, says Habermas,

can draw *rational* sustenance from the religious heritage only as long as the source of revelation that orthodoxy counterpoises to philosophy remains a cognitively unacceptable imposition for the latter. The perspectives which are centered *either* in God *or* in human beings cannot be converted into *one another*.

Once the boundary between faith and knowledge becomes porous, and once religious motives force their way into philosophy *under false pretenses*, reason loses its foothold and succumbs to irrational effusion.²³

Habermas emphasizes the anthropocentric character of postmetaphysical philosophy. Whereas the assertion, more precisely, a metaphysical claim about God's existence that is inherent to faith's knowledge of God makes it clear that "theocentric thinking, by definition, is not post-metaphysical philosophy."²⁴ In short, epistemologically and hence methodologically speaking, philosophy qua philosophy has nothing to do with theology, and reason has nothing to do with revelation. On this view, as Ratzinger clearly puts it, "[i]t must be granted, in fact, that if a reason entirely neutral vis-à-vis the Christian faith is part and parcel of the philosophical act, and if philosophical knowledge necessarily excludes any prior given which streams into thinking from faith, then the philosophical activity of a believing Christian must indeed appear to be something of a fiction."²⁵

But this is not yet the full picture of Habermas's view. He advances what he calls a "dialogical" approach to the relation between theology and philosophy, revelation and reason. He distinguishes this approach from not only the Hegelian or Marxist approach that intends to subsume the substantial truth of faith into philosophy, but also the rationalistic one denying "religion any rational content."²⁶ Postmetaphysical philosophy does not presume "to decide what is true or false in religion"; rather, it "leaves the internal questions of the validity of religion to disputes within rational apologetics."²⁷ Says Habermas, "Faith remains opaque for [philosophical] knowledge in a way which may neither be denied nor simply accepted. This reflects the inconclusive nature of the confrontation between self-critical reason that is willing to learn and contemporary religious convictions. This confrontation can sharpen post-secular society's awareness of the unexhausted force [*das Unabgegoltene*] of religious traditions. Secularization functions less as a filter separating out the contents of traditions than as a transformer which redirects the flow of tradition."²⁸ So, Habermas holds that a dialogical approach in philosophy to religious traditions is "open to *learning* from them." This approach aims "to salvage cognitive contents from religious traditions. All semantic contents count as 'cognitive,'" he adds, if they "can be translated into a form of discourse decoupled from the ratcheting effect of truth of revelation. In this discourse, only 'public' reasons count, . . . reasons that have

the power to convince also beyond the boundaries of a particular community."²⁹

In this connection, Ratzinger asks the right question: "In what way is philosophy *open* to faith and oriented from *within* toward dialogue with its message?"³⁰ Well, the brief answer to this question here is that a philosopher's philosophical views is, according to Habermas, not altered from within by the ontological content of the biblical revelation and hence is philosophically open to the Christian faith. Rather, according to Habermas, the philosopher's interest in religion is only "as a potential source of insights that can be appropriated for his own purposes."³¹

To get at the precise nature of appropriation, we shall need to distinguish it from what Habermas sometimes calls "translation." The difference is made clear by Nicholas Wolterstorff:

We have all had the experience, upon listening to someone of a quite different persuasion from our own, of seeing the reality that he was trying to get at even though we ourselves would never put it that way. Though we dissent from the propositions he affirms, we see what he was trying to get at. We then put that in our own words; we *appropriate* it. We don't translate *what he said* into a different language; we appropriate *what he was trying to get at*. Habermas's thought is that appropriation, so understood, is what the postmetaphysical philosopher mainly aims at in his dialogue with religion.³²

To translate *what is said* into a different language such that the translator also affirms the *idem sensus* of cognitive contents—*eodem sensu eademque sententia*—presupposes the distinction between propositional truth and its historically conditioned formulations, between form and content, truth-content and context. This distinction was also invoked by John XXIII in his opening address at Vatican II, *Gaudet Mater Ecclesia*, and this has been viewed by many as a clear indication that he wished the considerations begun by the *nouveaux théologiens* to be given continued study. The pope made this distinction between truth and its formulations in a famous statement at the beginning of Vatican II (quoted above): "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 [*eodem sensu eademque sententia*], is another." The subordinate clause in this passage is part of a larger passage from Vatican I, *Dei Filius* (Denzinger 3020), and this passage is itself from the *Commonitorium primum* 23.3 of the fifth-century monk Vincent of

Lérins (died c. 445): "Therefore, let there be growth and abundant progress in understanding, knowledge, and wisdom, in each and all, in individuals and in the whole Church, at all times and in the progress of ages, but only with the proper limits, i.e., within the same dogma, the same meaning, the same judgment." So, we can say with justification that John XXIII framed the question regarding the nature of doctrinal continuity in light of the Lérinian thesis, received by Vatican I, that doctrine must progress according to the same meaning and the same judgment (*eodem sensu eademque sententia*).³³

Clearly, Habermas does not have the main claim of hermeneutical projects, such as the Lérinian one, in mind when he talks about "translation of their [religious traditions] rational content."³⁴ *Pace* Habermas, given his postmetaphysical philosophical perspective it seems that he cannot be engaging in the "potentially translatable *truth content* of religious utterances."³⁵ Still, he recognizes that philosophy "has long since appropriated biblical motifs." He comments on some examples of appropriation by philosophy of genuinely Christian ideas:

This work of appropriation found its expression in heavily laden, normative conceptual networks, such as: responsibility; autonomy and justification; history and memory; beginning anew, innovation, and return; emancipation and fulfillment; or externalization, internalization, and embodiment; individuality and community. It is true that the work of appropriation transformed the originally religious meaning, but without deflating or weakening it in a way that would empty it out. The translation of the notion of man's likeness to God into the notion of human dignity, in which all men partake equally and which is to be respected unconditionally, is such a saving translation. The translation renders the content of biblical concepts accessible to the general public of people of other faith, as well as to nonbelievers, beyond the boundaries of a particular religious community.³⁶

Appropriation, then, removes the insight—say, the identical dignity of all men that deserves unconditional respect—from the revelational narrative of creation, fall, and redemption, and from the ontological content of the theocentric language in which it was asserted, formulating this insight in its own anthropocentric secular language—"suppressed or untapped moral intuitions"³⁷—and justified by secular arguments whose premises express the basic principles of egalitarianism in law and morality as well as the authority of natural reason as manifested in the institutionalized sciences.³⁸

Furthermore, given the universalization of religious freedom and the concomitant recognition of irreducible religious diversity, in assent and practice, says Habermas, "religion has had to give up the claim to interpretive monopoly and to a comprehensive organization of life."³⁹

In all of these instances, religious traditions experience "cognitive dissonance," according to Habermas, and hence self-reflective accommodation is required, for example, by the Christian faith, given irreducible religious diversity, the secularization of knowledge and its institutionalized monopoly by modern scientific experts, and the priority of or "the precedence of secular reasons and the institutional translation requirement"⁴⁰ in anthropocentric secular language. Habermas assures us that religious traditions, such as Christianity, hold on to their exclusive truth claims, with the autonomous progress in secular knowledge and egalitarianism in law and morality being consistent with their faith.⁴¹

Still, given this demand of accommodation, religious traditions seem to be asymmetrically burdened, since those whom Habermas calls "enlightened secular citizens . . . are not exposed to similar cognitive dissonances." Habermas denies this asymmetry, arguing that secular citizens living in a postsecular society must also "epistemically adjust" by grasping that "their conflict with religious opinions [is] a reasonably expected disagreement." "An epistemic mindset is presupposed here that would originate from a self-critical assessment of the limits of secular reason. However, this cognitive precondition indicates that the version of an ethics of citizenship I have proposed may only be expected from all citizens equally if both, religious as well as secular citizens, already have undergone complementary learning processes."⁴²

I am not persuaded by Habermas's assurances that their cognitive burdens are symmetrical and that the corresponding learning processes are complementary. And I do not think Ratzinger would be either. Yes, Ratzinger agrees broadly with Habermas in rejecting secularism, scientism, and naturalism, in urging the importance of expanding the concept of rationality, and the like. Regarding the broadening of our understanding of rationality, Ratzinger writes, "A correct understanding of the challenges posed by contemporary cultures and the formulation of meaningful response to those challenges must take a critical approach toward narrow and ultimately irrational attempts to limit the scope of reason. The concept of reason needs instead to be broadened in order to be able to explore and

embrace those aspects of reality that go beyond the purely empirical.”⁴³

However, Ratzinger makes a point that highlights a crucial difference between himself and Habermas: “To cease asking questions about the origin and goal of the whole of reality [of being as such] is to leave out the characteristic element of philosophical questioning itself.”⁴⁴ In particular, consider Habermas’s demand that “methodical atheism” define the boundaries of serious philosophy. This surely means that a Christian way of philosophizing, a philosophical reasoning conceived and practiced in dynamic union with or vitally conjoined to faith, is ruled out of bounds as a sham.⁴⁵

Also, consider his disavowing, or at least forgoing, metaphysics from philosophical inquiry, which leads to a notion of rationality that is not inherently “open to God.” On Habermas’s view, philosophy cannot be open to faith and hence oriented from within toward dialogue with the Christian faith, because he thinks—given his methodical atheism—that to take seriously “the answers of the Christian faith . . . is to cut off the path of thought.” Ratzinger disagrees. “Might it not be that it is only such answers that give questions their true depth and drama? Could it not be that they radicalize not only questioning but thinking itself, setting it on its path instead of obstructing it?”⁴⁶

This is particularly the case if the prior claim of the biblical revelation itself advances an ontological judgment, as Ratzinger puts it, “when it professes the existence of God, indeed, of a God who has power over reality as a whole.” This is, Ratzinger adds, “a statement about reality as it is in itself.” Christianity has hitched its philosophical wagon, as it were, to the movement of the logos against the myth, to the God of philosophers against the gods of religion, or as he also puts it, “against the myth of mere custom for the truth of being.”⁴⁷ He says:

This breakthrough [from mythos to logos] in thinking about God to a fundamental claim on human reason as such is wholly evident in the religious critique of the prophets and the biblical wisdom literature. If the prophets ridicule man-made idols with mordant acerbity and set the only real God in contrast to them, in the wisdom books the same spiritual movement is at work as among the pre-Socratics at the time of the early Greek enlightenment. To the extent that the prophets see in the God Israel the primordial creative ground of all reality, it is quite clear that what is taking place is a religious critique for the sake of a correct understanding of this reality itself. Here the faith

of Israel unquestionably steps beyond the limits of a single people’s peculiar worship: it puts forth a universal claim, whose universality has to do with being rational. Without the prophetic religious critique, the universalism of Christianity would have been unthinkable. It was this critique which, in the very heart of Israel itself, prepared that synthesis of Hellas and the Bible which the Fathers labored to achieve. For this reason, it is incorrect to reduce the concepts *logos* and *aletheia*, upon which John’s Gospel centers the Christian message, to a strictly Hebraic interpretation, as if *logos* meant “word” merely in the sense of God’s speech in history, and *aletheia* signified nothing more than “trustworthiness” or “fidelity.” For the very same reason, there is no basis for the opposite accusation that John distorted biblical thought in the direction of Hellenism. On the contrary, he stands in the classical sapiential tradition. It is precisely in John’s writings that one can study, both in its origins and in its outcome, the inner movement of biblical faith in God and biblical Christology toward philosophy philosophical inquiry.⁴⁸

The upshot of this long passage is in the concluding sentence, where Ratzinger suggests that the fundamental affirmation of “Christ the Logos” radicalizes philosophical reflection by setting it on a path where philosophy inquires about truth, being, and reason—indeed, the logos-structure of reality. Implicit, then, in this fundamental affirmation is a two-part statement: “1. In the Christian faith, *reason* comes to light; precisely as faith it demands *reason*. 2. Reason comes to light through the Christian *faith*; reason presupposes the *faith* as its living space.”⁴⁹ This is not just a claim about theological method as the project of faith seeking understanding (*fides quarens intellectum*). Rather, it “expresses the conviction that what is reasonable, indeed, fundamental reason itself, comes to light in the Christian faith.” What exactly does the biblical revelation that Christ is Logos bring to light about fundamental reason itself? Ratzinger writes, “[I]t means to say that the very foundation of being is reason, and that reason is not a random byproduct of the ocean of irrationality from which everything actually sprang.”⁵⁰

Thus, on the one hand, the reasonableness of reality must be understood as an essential conviction of the Christian faith. On the other hand, as philosophical reason sets out on her search for truth, Ratzinger adds, “faith commissions her to recognize in the faith the prerequisite that makes her [reason’s] own operation possible and not to pursue her claim to comprehensive-

ness to the point of abolishing her own foundation, for that would mean that she was mistaking herself for divine reason and thereby abandoning communication with the divine reason on which her life depends.”⁵¹ That is, in response to the question of how the mind and language are fit to grasp the reality of things as they are, Ratzinger answers that the intellectual structure of the human subject and the objective structure of reality coincide precisely because “it is ‘one’ reason that links them both.” In short, “our reason could not discover this other reason were there not an identical antecedent reason for both.”⁵² This means that theocentric thinking, for whom God is *prima veritas*, in God, and only in God, are knowledge and reality, not only in correspondence, but directly known to correspond. Only in him do truth and knowledge of truth, alethiology and epistemology, coincide.⁵³ Consequently, continues Ratzinger, “if it [reason] no longer recognizes this prerequisite for its own existence and exaggerates its own absolute character beyond this previously assumed absoluteness of the truth, it reverts by an inner logic to a justification of the irrational and makes reason itself out to be an irrational accident.”⁵⁴

To conclude this section and prepare for the next, let me say that if Habermas aims at learning from the Christian tradition, as he insists, then it is unacceptable to insist on a postmetaphysical standpoint, as he does: “The secular awareness that we live in a post-secular world is reflected philosophically in the form of post-metaphysical thought.” Christian orthodoxy demurs. Given the priority Habermas ascribes to the “secularization of knowledge” and the corresponding postmetaphysical standpoint, he “takes it for granted that human knowledge is self-sufficient, and in no need of any metaphysical, or religious grounding.”⁵⁵ But philosophical inquiry must address the question regarding the implications of whether or not God exists. There are only two options in response to this question.

Either one recognizes the priority of reason, of creative Reason that is at the beginning of all things and is the principle of all things—the priority of reason is also the priority of freedom—or one holds the priority of the irrational, inasmuch as everything that functions on our earth and in our lives would be only accidental, marginal, an irrational result—reason would be a product of irrationality.⁵⁶

Ratzinger invites human reason, philosophical inquiry, to set out ever anew in its search of what is true and good, indeed, in search of God. Says Ratzinger, “The Question of God is the *Crucial Question*.” He

explains: “The theological horizon can and should value all the resources of reason. The question of the Truth and the Absolute—the question of God—is not abstract investigation divorced from daily life, but is the *crucial question* on which the discovery of the meaning of the world and life defends.”⁵⁷ According to Ratzinger, God himself is Logos, the rational primal ground of all that is real, the creative reason that is the origin of the world and that is reflected in the world. It is here that the idea of universal human rights, rooted in the nature of the person, and drawing their legitimacy in the objective and inviolable demands of a universal moral law, finds its deepest metaphysical foundations.

The “end of metaphysics,” which in broad sectors of modern philosophy is imposed as an irreversible fact, has led to juridical positivism, which today especially has taken on the form of a theory of consensus: if reason is no longer able to find the way to metaphysics as the source of law, the state can only refer to the common convictions of its citizens’ values, convictions that are reflected in the democratic consensus. Truth does not create consensus, and consensus does not create truth as much as it does a common ordering. The majority determines what must be regarded as true and just. In other words, law is exposed to the whim of the majority and depends on awareness of the values of the society at any given moment, which, in turn, is determined by a multiplicity of factors. This is manifested concretely by the progressive disappearance of the fundamentals of law inspired by the Christian tradition.⁵⁸

I will now examine the exchange between Habermas and Ratzinger in order to show the philosophical relevance, indeed necessity, of metaphysical and religious grounding.

The Prepolitical Foundations of the State

There are two major questions addressed in the Habermas and Ratzinger exchange. First, can the normative bases of the validity of a free, secular democratic constitutional state, governed in its innermost core by the rule of law and human rights, be justified independently of religious and metaphysical grounding? Second, what binds us together with an orientation to the common good in a democratic constitutional state in which the freedom of the individual

to order his own life is declared to be the real goal of societal life? Both questions pertain to prepolitical foundations.

I shall limit myself to the first question in this article. In reply to the first question, Habermas says “yes.” He attempts to justify “a rational law that does without the ‘strong’ cosmological or salvation historical assumptions found in classical and religious teachings of natural law.”⁵⁹ The difference between “strong” and “weak” justifications of the validity of law and human rights is that the former thinks there is a “deficit of validity” without a metaphysical or religious grounding—this is Ratzinger’s view—whereas the latter thinks that, according to Habermas, “the liberal state is self-sufficient with regard to its need for legitimation, that is, that it can draw upon the resources of a set of arguments that are independent of religious and metaphysical traditions.”⁶⁰ What, then, are the “normative contents” of a secular democratic constitutional state that needs justification?

Habermas argues that secular justification of the democratic process is possible in virtue of two components that make up the practice of democratic self-determination, or the deliberative mode of democratic will formation: first, the equal participation of all citizens in the democratic process, guaranteeing the basis of mutual respect among them as free and equal members of the political community—this is the core of civic solidarity that interconnects democracy and human rights from the very outset; and second, the epistemic dimension of a deliberation that can be justified in light of generally accessible reasons—the so-called nonreligiously informed use of reason—and that grounds the presumption of rationally acceptable outcomes. “This grounding strategy refers to the constitution that the consociated citizens give to themselves and not to the domestication of an existing state authority, as the latter should be created only through the democratic drafting of the constitution. A ‘constituted’ (rather than a merely constitutionally tamed) state authority is governed to its very core, so that the law completely penetrates political authority.”⁶¹ In addition, says Habermas, “the legal institutionalization of the procedure of democratic legislation requires that *both* liberal *and* political basic rights [*Grundrechte*] be guaranteed simultaneously,” because “democracy and human rights co-originally interpenetrate each other in the process of drawing up constitutions.”⁶² In reply to the criticism that the free, secularized democratic constitutional state cannot itself guarantee the foundations of its validity—of law and of human rights—and hence is in need of prepolitical

metaphysical or religious grounding, Habermas says that this conclusion overlooks “the point that systems of law can be legitimated only in a self-referential manner, that is, on the basis of legal procedures born of democratic procedures.”⁶³

Ratzinger is unpersuaded by Habermas’s ultimate appeal to democratic procedures, that is, to the idea, as Habermas puts it, “whereby legitimacy is generated by legality.”⁶⁴ Some four years after his exchange with Habermas, Ratzinger, then Benedict XVI, addressed the members of the General Assembly of the United Nations, making a point aimed at positions like those of Habermas:

Experience shows that legality often prevails over justice when the insistence upon rights makes them appear as the exclusive result of legislative enactments or normative decisions taken by the various agencies of those in power. When presented purely in terms of legality, rights risk becoming weak propositions divorced from the ethical and rational dimension which is their foundation and their goal. The *Universal Declaration*, rather, has reinforced the conviction that respect for human rights is principally rooted in unchanging justice, on which the binding force of international proclamations is also based. . . . Since rights and the resulting duties follow naturally from human interaction, it is easy to forget that they are the fruit of a commonly held sense of justice built primarily upon solidarity among the members of society, and hence valid at all times and for all peoples. . . . Human rights, then, must be respected as an expression of justice, and not merely because they are enforceable through the will of legislators.⁶⁵

In his Address to Representatives of British Society, Benedict XVI raises the same point about where is the ethical foundation for political choices to be found. “Each generation, as it seeks to advance the common good, must ask anew: what are the requirements that governments may reasonably impose upon citizens, and how far do they extend? By appeal to what authority can moral dilemmas be resolved? These questions take us directly to the ethical foundations of civil discourse. If the moral principles underpinning the democratic process are themselves determined by nothing more solid than social consensus, then the fragility of the process becomes all too evident—herein lies the real challenge for democracy.”⁶⁶

Furthermore, Ratzinger adds, “Since unanimity among people is rarely achieved, democratic will-formation must reply on one of two essential tools, either

delegation or majority decision, in which, according to the importance of a question, different ratios for a majority might be required. But majorities too can be blind or unjust. History makes this quite clear. When a majority, however large it may be, represses a minority—for example, a religious or a racial one—by means of oppressive laws, can one still speak of justice, of law?” Ratzinger explains: “It is in this way that the principle of majority rule still leaves the question of the ethical bases of the law unanswered, still leaves open the question whether there is anything that can never become law, that is anything that always remains unlawful in essence or, conversely, anything that by its very nature is unalterably a right and precedes every majority decision and must be respected by it.”⁶⁷ What things are these?

Briefly, these are the normative elements in, for instance, the *Universal Declaration of Human Rights* (1948) that define some inalienable rights of the human person. Such rights transcend the positive law of states, serving both as a reference and norm for a lawmaker. They are prepolitical rights, possessing objective existence, prior to any decision of the lawmaker. Yes, democracy is necessary precisely in order to secure and protect these rights. But as Ratzinger says, “Law and freedom can never mean robbing another person of his rights. And this means that a basic element of truth, namely, ethical truth, is indispensable to democracy.”⁶⁸ He continues: “Modernity has formulated a reserve of such normative elements in the different declarations of human rights, thereby withdrawing them from the discretion of majorities. Now, one may well, in the present state of affairs, be content with the inner evidence of these values. But even such a deliberate restriction of the question has a philosophical nature. There are, then, values that follow, in and of themselves, from the essence of human existence and that are, for that reason, inviolable for everyone who is human.”⁶⁹ Among others, Ratzinger gives the following examples of unconditional values: that killing innocent persons is never right; the equality of men regardless of race; the equal dignity of the sexes; freedom of thought and belief; and the right to life of every person, that is, the inviolability of human life in all its phases from conception to natural death.

What, then, are the presuppositions of law, the deeper grounds for law and human rights other than legality? The brief answer is that these rights would be incomprehensible without the presupposition that man as such, in virtue of his human nature, is the subject of rights.⁷⁰ Human rights are “rights inherent in every

person and prior to any Constitution and state legislature.” Such rights acknowledge, protect, and secure the worth and dignity of every individual as a human being, irrespective of race, ethnicity, creed, political views, or social class. Indeed, human rights are universal because “there is a human nature shared by everyone.” Such rights manifest the genuine dignity and objective value that every individual person possesses—an intrinsic value of the objective order of creation, not only linked to our human nature but also to a universal moral order, which is evidence that “we do not live in an irrational or meaningless world.”⁷¹ Here we return to the fundamental question of whether the objective reason that manifests itself in nature presupposes a *Creator Spiritus*.

As I argued earlier, Christians would see this universal moral order, or a moral logic as John Paul II called it,⁷² built into human life and reflecting the objective and inviolable demands of a universal moral law, “as connected with Creation and the Creator.”⁷³ Furthermore, adds Ratzinger, “man’s existence bears in itself values and norms that are to be found but not invented,”⁷⁴ which is the reflection of a law that derives from nature and nature’s God. These human rights are correlative to duties, and so there is a limitation of the language of rights. Rights are not separate entities; rather, they are intelligible only in terms of duties, and duties must be reduced to principles. Moreover, natural human rights are not cultural constructions, for they are grounded in an objective ontological criterion, a higher order of moral reality that depends on truth, corresponding to true requirements of human existence. Central here is “the absoluteness that must be affirmed with regard to human dignity and human rights. This is antecedent to every law promulgated by the state. . . . This validity of human dignity, which counts before all political action and decision making, points ultimately to the Creator. It is only he who can posit laws that are rooted in the essence of man and that no one may alter. This means that an essential Christian inheritance is codified here in its own special form of validity. The fact that there exist values that no one may manipulate is the real guarantee of our freedom and of our human greatness. Faith sees therein the mystery of the Creator and of the divine likeness that he has bestowed on man. Hence, this proposition protects an essential element of the Christian identity of Europe in a formulation that even the nonbeliever can understand.”⁷⁵ Essential elements of Europe’s cultural heritage play a significant role: “the conviction that there is a Creator God is what

gave rise to the idea of human rights, the idea of equality of all people before the law, the recognition of the inviolability of human dignity in every single person, and the awareness of people's responsibility for their actions. Our cultural memory is shaped by these rational insights."⁷⁶

In this connection, Ratzinger notes that this complex of ideas—the legal affirmation of the unconditional value and dignity of man, of liberty, equality, and the principles of a democratic constitutional state and the rule of law — all this entails an image of man, a moral option, and a concept of law that constitute a prepolitical foundation not at all self-explanatory or self-evident to “nonreligiously informed reason,” that is, unaided natural reason. Rather, adds Ratzinger, “[t]he developments of the twentieth century have taught us that this evidential character—as the subsistence and reliable basis of all freedom—no longer exists. It is perfectly possible for reason to lose sight of essential values.”⁷⁷ This is precisely where the Christian tradition remains a vital force in civil society, restoring the evidential quality that is lost when the historical basis of a culture and the ethical-religious insights that it preserves are no longer taken seriously, and thereby contributing to the legitimation of a democratic constitutional state. In order to grasp the evidential quality of these unconditional values, a corresponding moral consciousness must be developed anew. In short, the “truth about the good supplied by the Christian tradition becomes an insight of human reason and hence a rational principle.”⁷⁸

In other words, Christianity is considered here as the source of moral knowledge, antecedent to the political action on which it sheds light. Christianity, not as a revealed religion, but Christianity as a leaven and a form of life which has proved its worth in the course of history. “The Catholic tradition maintains that the objective norms governing right action are accessible to reason, prescinding from the content of revelation.” In other words, Christianity “has pointed to nature and reason as the true sources of law—and to the harmony of objective and subjective reason, which naturally presupposes that both spheres are rooted in the creative reason of God.” According to this understanding, Ratzinger adds, “the role of religion in political debate is not so much to supply these norms, as if they could not be known by nonbelievers—still less to propose concrete political solutions, which would lie altogether outside the competence of religion—but rather to help purify and shed light upon the application of reason to the discovery of objective moral principles. This ‘corrective’

role of religion vis-à-vis reason is not always welcomed, though, partly because distorted forms of religion, such as sectarianism and fundamentalism, can be seen to create serious social problems themselves. And in their turn, these distortions of religion arise when insufficient attention is given to the purifying and structuring role of reason within religion. It is a two-way process. Without the corrective supplied by religion, though, reason too can fall prey to distortions, as when it is manipulated by ideology or applied in a partial way that fails to take full account of the dignity of the human person.”⁷⁹

Christian faith, argues Ratzinger, has proved to be the most universal and rational religious culture. Even today, it offers reason the basic structure of moral insight which, if it does not actually lead to some kind of evidential quality, at least furnishes the basis of a rational moral faith without which no society can endure. In sum, the state may and must acknowledge the basic values without which it would not have come into being and without which it cannot survive. “A state based on abstract, ahistorical reason has no future.” Here in this pithy formulation we find Ratzinger's rejection of Habermas's “nonreligiously informed reason” because the Christian faith forms reason to be fully itself.

If reason, out of concern for its alleged purity, becomes deaf to the great message that comes to it from Christian faith and wisdom, then it withers like to a tree whose roots can no longer reach the waters that give it life. It loses the courage for truth and thus becomes not greater, but smaller. Applied to our European culture, this means: if our culture seeks only to build itself on the basis of the circle of its own argumentation, on what convinces it at the time, and if—anxious to preserve its secularism—it detaches itself from its life-giving roots, then it will not become more reasonable or purer, but will far apart and disintegrate.⁸⁰

In practical terms this means that we Christians must join all our fellow citizens in elaborating a moral justification of law and of justice that is nourished by fundamental Christian insights, no matter how the individual would justify these and no matter how he connects them to the totality of his life. However, such shared rational convictions will be possible, and “right reason” will not forget how to see, only if we live our own inheritance vigorously and purely. This will make its inherent power of persuasion visible and effective in society as a whole.

Lessons for a Christian Orientation in a Pluralist Democracy

Turn now to state four lessons from this debate for a Christian orientation in a pluralist democracy. First, the upshot of this debate is that there is a basic difference between a secularistic society and its attendant, “thinly disguised totalitarianism” (to borrow a phrase from John Paul II⁸¹) of secularism, on the one hand, and a postsecular or pluralist society, on the other. A secularistic society squeezes religion out of the public realm by subjectivizing its claims, marginalizing and hence privatizing it in a religious realm in which it makes no public difference. The latter society purports to leave us with a “naked public square” (to borrow Richard John Neuhaus' phrase) whereas a postsecular or pluralist society is such that reasoned public debate between the truth claims of the religious and the irreligious, engaged in a mutual learning process about the foundations of society, is necessary. Furthermore, Habermas is right that “[t]he secularization of the state is not the same as the secularization of society.” Religious communities play a vital role in civil society and the public square. Deliberative politics and its corresponding ethics of citizenship entail the duty of reciprocal accountability of all citizens, religious and secular. The latter, in particular, says Habermas, “are obliged not to publicly dismiss religious contributions to political opinion and will formation as mere noise, or even nonsense, from the start. Secular and religious citizens must meet in their public use of reason at eye level. For a democratic process the contributions of one side are no less important than those of other side.”⁸² Ratzinger registers his broad agreement with Habermas's remarks about a postsecular society, that is, the willingness to learn and mutual self-limitation between religious and secular citizens.⁸³

Second, Ratzinger holds, rightly in my view, that the Christian faith's claim to truth is *per se* a public claim. Of course he insists that this claim “must not be detrimental to the pluralism and religious tolerance of the state.” Significantly, however, Ratzinger urges that “from this one cannot conclude that the state is completely neutral with respect to values. The state must recognize that a fundamental system of values based on Christianity is the precondition for its existence. In this sense it simply has to know its historical place, so to speak: the ground from which it cannot completely detach itself without falling apart. It has to learn that

there is a fund of truth that is not subject to consensus but rather precedes it and makes it possible.”⁸⁴ We find a well-articulated version of what Ratzinger is getting at in Jacques Maritain's vision of a democratic society.⁸⁵ This involves respecting the diverse philosophical and religious creeds and traditions of contemporary society. In his public philosophy, Maritain develops with sophistication the prospects for a common foundation in religiously and philosophically pluralistic societies. He advances a chartered pluralism⁸⁶ that is able to explain (a) the pluralist principle in democracy, (b) the charter and basic tenets that are at the core of its existence, and (c) the philosophical and religious justification of the democratic charter. Briefly, this charter includes:

[R]ights and liberties of the human person [and] corresponding responsibilities; ... functions of authority in a political and social democracy, moral obligation, binding in conscience, regarding just laws as well as the Constitution that guarantees the people's liberties; ... human equality, justice between persons and the body politic, civic friendship and an ideal of fraternity, religious freedom, mutual tolerance and mutual respect between various spiritual communities and schools of thought; ... obligations of each person toward the common good of the body politic and obligations of each nation toward the common good of civilized society, and the necessity of becoming aware of the unity of the world and of the existence of a community of peoples.⁸⁷

Third, natural law is appealed to by the Church in three principal contexts. The Church faces an aggressive secularism that wants to exclude believers from public debate, by referring to the interventions of Christians in public life on subjects to which the natural law pertains: “the defense of the rights of the oppressed, justice in international relations,” “the defense of human life,” from conception to natural death, and of “the family [and marriage],” “religious freedom and freedom of education,” and others. These natural law arguments “are not in themselves of a confessional nature, but derive from the care which every citizen must have for the common good of society.” There are three other contexts where natural law may be invoked. For instance, there is the context of a culture that limits rationality to the natural sciences and abandons the moral life to relativism. In this connection, the natural law insists on “the natural capacity of human beings to obtain by reason ‘the ethical message inscribed in the actual human being’”⁸⁸—as Benedict XVI put it in an Address to the International Congress on Natural Moral Law.⁸⁹ Also, to know in their

main lines the fundamental norms of just action in conformity with man's nature and dignity so that a basis in reason and nature for the rights of man is provided.

There is a second context to which appeal is made to the natural law, that is, the presence of relativistic individualism. The latter “judges that every individual is the source of his own values, and that society results from a mere contract agreed upon by individuals who choose to establish all the norms themselves.” To this view, the natural law urges us to consider the natural and objective character of the fundamental norms that regulate social and political life. As I argued in the second lesson, “the democratic form of government is intrinsically bound to stable ethical values, which have their source in the requirements of natural law and thus do not depend on the fluctuations of the consent of a numerical majority.”⁹⁰

I understand that the term “natural law” is fraught with misunderstanding in our present cultural context. The International Theological Commission described this situation and possible corrective measures:

At times, [1] it evokes only a resigned and completely passive submission to the physical laws of nature, while human beings seek instead — and rightly so — to master and to direct these elements for their own good. At times, [2] when presented as an objective datum that would impose itself from the outside on personal conscience, independently of the work of reason and subjectivity, it is suspected of introducing a form of heteronomy intolerable for the dignity of the free human person. Sometimes also, [3] in the course of history, Christian theology has too easily justified some anthropological positions on the basis of the natural law, which subsequently appeared as conditioned by the historical and cultural context.

And hence a better understanding is needed that responds to these objections:

But a more profound understanding [4] of the relationships between the moral subject, nature and God, as well as a better consideration of the historicity that affects the concrete applications of the natural law, help to overcome these misunderstandings. It is likewise important today [5] to set out the traditional doctrine of the natural law in terms that better manifest the personal and existential dimension of the moral life. It is also necessary [6] to insist more on the fact that the expression of the requirements of the natural law is inseparable from the effort of the total human community to transcend egotistical and partisan tendencies and develop a global approach of the “ecology of values” without which human life risks losing its integrity

and its sense of responsibility for the good of all.⁹¹

Four, Ratzinger holds that the Church cannot close her eyes to the pathologies of religion and secularism that, in the name of ideologies purporting to be religious or scientific, claim the right to impose on others their own concept of what is true and good. As John Paul II said, however, “*Christian truth* is not of this kind. Since it is not an ideology, the Christian faith does not presume to imprison changing socio-political realities in a rigid schema, and it recognizes that human life is realized in conditions that are diverse and imperfect. Furthermore, in constantly reaffirming the transcendent dignity of the person, the Church's method is always that of respect for freedom.”⁹² Yet, significantly, the Catholic tradition holds that freedom attains its full development only by accepting the truth. For in a world without truth, freedom loses its foundation and man is exposed to the violence of passion and to manipulation, both open and hidden. In accordance, however, with its respect for freedom, “[t]he only strength with which Christianity can make its influence felt publicly is ultimately the strength of its intrinsic truth.”⁹³ Alternatively, the Declaration on Religious Freedom of Vatican II states, “The truth cannot impose itself except by virtue of its own truth, as it makes its entrance into the mind at once quietly and with power.”⁹⁴ Yes, the Church respects the legitimate autonomy of the democratic order. But her deepest contribution to the civil order and hence by implication to the political order is precisely her vision of the dignity of the person revealed in all its fullness in the mystery of the Incarnate Word. “It is only in the mystery of the Incarnate Word that the mystery of man takes on light.”⁹⁵ ✠

ENDNOTES

- 1 Joseph Ratzinger, “A Christian Orientation in a Pluralistic Democracy [1984],” in *Church, Ecumenism, & Politics*, trans. Michael J. Miller et al. (San Francisco: Ignatius Press, 2008 [1987]), 193–208, and at 208.
- 2 Jürgen Habermas and Joseph Ratzinger, *The Dialectics of Secularization, On Reason and Religion*, trans. Brian McNeil, C.R.V., ed. Florian Schuller (San Francisco: Ignatius Press, 2006). In my opinion, a better translation of these addresses is found in *Political Theologies, Public Religions in a Post-Secular World*, ed. Hent De Vries and Lawrence E. Sullivan (New York: Fordham University Press, 2006): Jürgen Habermas, “On the Relations between the Secular Liberal State and Religion,” 251–60; and Joseph Ratzinger, “Pre-political Moral Foundations of a Free Republic,” 261–68. Both translated by Anh Nguyen. In this article I cite from the Nguyen translations.
- 3 Heinrich Niebecker calls this twofold order of knowledge “das erste grosse Wesensgesetz des katholischen Offenbarungsbegriffs [the first great essential law of the Catholic notion of revelation]” (*Wesen und Wirklichkeit der übernatürlichen Offenbarung—Eine Besinnung auf die Grundlagen der Katholischen Theologie* [Herder: Freiburg, 1940], 198).
- 4 Heinrich Denzinger, *Compendium of Creeds, Definitions, and Declarations on Matter of Faith and Morals*, ed. Peter Hünermann, 43rd ed., trans. and ed.

Robert Fastiggi and Anne Englund Nash (San Francisco: Ignatius Press, 2012), §3015.

- 5 Joseph Cardinal Ratzinger, “Faith, Philosophy and Theology,” in *The Nature and Mission of Theology*, trans. Adrian Walker (San Francisco: Ignatius Press, 1995), 13–29, and at 17.
- 6 Pope Benedict XVI, Regensburg Address, “Faith, Reason, and the University,” in *A Reason Open to God, On Universities, Education & Culture*, ed. J. Steven Brown (Washington, DC: The Catholic University of America Press, 2013), 7–19, and at 18. Pope Benedict XVI, “Christian Faith Forms Reason to be Itself,” in *A Reason Open to God*, 27: “Philosophy does not start again from zero with every thinking subject in total isolation, but takes its place within the great dialogue of historical wisdom, which it continually accepts and develops in a manner both critical and docile. It must not exclude what religions, and the Christian faith in particular, have received and have given to humanity as signposts for the [philosophical] journey.”
- 7 Pope Benedict XVI, “The Achievement of Reason,” in *A Reason Open to God*, 32–36, and at 35.
- 8 Pope Benedict XVI, “Christian Faith Forms Reason to be Itself,” in *A Reason Open to God*, 28.
- 9 Habermas, “On the Relations between the Secular Liberal State and Religion,” 252, 257.
- 10 Neoscholasticism maintains that philosophy is self-sufficient in the natural realm of reason, that it must not be influenced by faith in that realm, and that there is no such thing as Christian philosophy. Of course they affirm that the philosophical reflection of Christians should be true and compatible with the Christian faith, but such reflection should stand on its own, being the exclusive work of autonomous reason in the natural realm, unaided by faith, and indebted to faith no more than their secular counterparts in philosophy. Indeed, the concept of “Christian philosophy” makes no more sense to a neoscholastic than it does to Martin Heidegger, who famously wrote, “A ‘Christian philosophy’ is a round square and a misunderstanding. There is, to be sure, a thinking and questioning elaboration of the world of Christian experience, i.e. of faith. That is theology” (*An Introduction to Metaphysics*, trans. Ralph Manheim [Garden City, NY: Anchor Books, 1961], 6). In line with Heidegger, well-known historian of philosophy Frederick Copleston, S.J., succinctly writes, “The most that the phrase ‘Christian philosophy’ can legitimately mean is a philosophy compatible with Christianity; if it means more than that, one is speaking of a philosophy which is not simply philosophy, but which is, partly at least, theology” (*A History of Philosophy*, Vol. 2, *Medieval Philosophy*, Part II, *Albert the Great to Duns Scotus* [Garden City, NY: Image Books, 1962], 280–81).
- 11 Etienne Gilson, *The Spirit of Medieval Philosophy*, Gifford Lectures 1931–1932, trans. A. H. C. Downes (New York: Charles Scribner's Sons, 1940), 1–41. See also, “The Idea of Philosophy in St. Augustine and in St. Thomas” and “What is Christian Philosophy?” in *A Gilson Reader, Selections from the writings of Etienne Gilson*, ed. Anton C. Pegis (Garden City, NY: Image Books, 1957), 68–81 and 177–91, respectively. Etienne Gilson, *Christianity and Philosophy*, trans. Ralph MacDonald, C.S.B. (London: Sheed & Ward, 1939).
- 12 Jacques Maritain, *An Essay on Christian Philosophy*, trans. Edward H. Flannery (New York: Philosophical Library, 1955).
- 13 Thomas Aquinas, *Summa Theologia* I–II, q. 93, a. 2.
- 14 Nicholas Wolterstorff, “An Engagement with Jürgen Habermas on Post-metaphysical Philosophy, Religion, and Political Dialogue,” in *Habermas and Religion*, ed. Craig Calhoun et al. (Cambridge: Polity Press, 2013), 92–111, and at 97–98. Charles Taylor makes a point similar to Wolterstorff's about how Habermas seems to “reserve a special status for nonreligiously informed Reason (let's call this ‘reason alone’)” in his essay “Why We Need a Radical Redefinition of Secularism,” in *The Power of Religion in the Public Sphere*, ed. Eduardo Mendieta et al. (New York: Columbia University Press, 2011), 34–59, and at 53.
- 15 Jürgen Habermas, *Between Naturalism and Religion: Philosophical Essays*, trans. Ciaran Cronin (Cambridge: Polity Press, 2005), 140. 16 Jürgen Habermas, “Religion in the Public Square,” *European Journal of Philosophy* 14, no. 1 (2006): 1–25, and at 16.
- 17 Philosophy must overcome “a narrow secularist mindset” (Habermas, *Between Naturalism and Religion*, 140). Habermas explains: “As long as secular citizens are convinced that religious traditions and religious communities are, as it were, archaic relics of premodern societies persisting into the present, they can understand freedom of religion only as the cultural equivalent of the conservation of species threatened with extinction. Religion no longer has any intrinsic justification in their eyes. . . . Clearly, citizens who adopt such an epistemic stance toward religion can no longer be expected to take religious contributions to contentious political issues seriously or to participate in a cooperative search for truth to determine whether they may contain elements that can be expressed in a secular language and be justified by rational arguments” (139).
- 18 Jürgen Habermas, “An Awareness of What is Missing,” in *Faith and Reason in a Post-Secular Age*, trans. Ciaran Cronin (Cambridge: Polity Press, 2010), 15–23, and at 22: “Given the spread of a naturalism based on a naive faith in science, this presupposition [treating religious expressions as simply irrational] cannot be taken for granted. The rejection of secularism is anything but a trivial matter. It touches in turn on our initial question of how modern reason, which has turned its back on metaphysics should understand its relation to religion.”
- 19 *Ibid.*, 16.
- 20 Habermas, “On the Relations between the Secular Liberal State and Religion,” 252.
- 21 Jürgen Habermas, “A Conversation about God and the World,” interview with Eduardo Mendieta in *Religion and Rationality, Essays on Reason, God, and Modernity* (Cambridge, MA: The MIT Press, 2002), 147–67, and at 160.
- 22 Habermas, “An Awareness of What is Missing,” 17. See also “Religion in the Public Square,” 17: “Philosophy circles the opaque core of religious experience when reflecting on the intrinsic meaning of faith. This core must remain . . . abysmally alien to discursive thought.”
- 23 Jürgen Habermas, *Between Naturalism and Religion: Philosophical Essays*, 242–43.
- 24 Wolterstorff, “An Engagement with Jürgen Habermas,” 98. See Habermas “An Awareness of What is Missing,” 16: “We should not try to dodge the alternative between an anthropocentric orientation and the view from afar of theocentric or cosmocentric thinking.”
- 25 Ratzinger, “Faith, Philosophy and Theology,” 17.
- 26 Habermas, “An Awareness of What is Missing,” 18.
- 27 Habermas, *Between Naturalism and Religion*, 245. Habermas, “An Awareness of What is Missing,” 42: “It differs from Kant and Hegel in that this act of drawing the grammatical borders [between faith and reason] does not make a philosophical claim to determine what (apart from that knowledge of the world which in institutionalized in human society) may be true or false in the contents of religious traditions.”
- 28 Habermas, “An Awareness of What is Missing,” 18.
- 29 Habermas, *Between Naturalism and Religion*, 245.
- 30 Ratzinger, “Faith, Philosophy and Theology,” 23; italics added.
- 31 Wolterstorff, “An Engagement with Jürgen Habermas,” 102.
- 32 *Ibid.*, 100.
- 33 I discuss Vatican II's Lérinian legacy at length in *Berkouwer and Catholicism: Disputed Questions* (Boston: Brill, 2013), 20–109. For my account of Pope Francis's relationship to the Lérinian legacy of Vatican II, see my book, *Pope Francis. The Legacy of Vatican II* (Hobe Sound, FL: Lectio Publishing, 2015), 1–44.
- 34 Habermas, “An Awareness of What is Missing,” 22.
- 35 Jürgen Habermas, “‘The Political’ The Rational Meaning of a Questionable Inheritance of Political Theology,” 14–33, and at 32 n. 22.
- 36 Habermas, “On the Relations between the Secular Liberal State and Religion,” 258. See also, *Essays on Faith and Knowledge*, 1.41, cited in Wolterstorff, “An Engagement with Jürgen Habermas,” 99–100; and Habermas, “A Conversation about God and the World,” 157.

- 37 Habermas, “‘The Political’ The Rational Meaning of a Questionable Inheritance of Political Theology,” 27.
- 38 Habermas, “An Awareness of What is Missing,” 21.
- 39 Habermas, “On the Relations between the Secular Liberal State and Religion,” 259.
- 40 Habermas, “Religion in the Public Square,” 15.
- 41 Ibid., 14.
- 42 Ibid., 15–16.
- 43 Pope Benedict XVI, *A Reason Open to God*, 238, and also 29–32, and 61.
- 44 Ratzinger, “Faith, Philosophy and Theology,” 21.
- 45 John Paul II, *Fides et Ratio*, §76.
- 46 Ratzinger, “Faith, Philosophy and Theology,” 17–18.
- 47 Pope Benedict XVI, *A Reason Open to God*, 31. Joseph Cardinal Ratzinger, *Introduction to Christianity*, trans. J. R. Foster (San Francisco: Ignatius Press, 2004 [1968]), chapter 3. See also Jaroslav Pelikan, *Christianity and Classical Culture, The Metamorphosis of Natural Theology in the Christian Encounter with Hellenism*, Gifford Lectures, 1992–1993 (New Haven: Yale University Press, 1993), for extensive support to Ratzinger’s thesis about the swing from mythos to logos.
- 48 Ratzinger, “Faith, Philosophy and Theology,” 24–25.
- 49 Ratzinger, “Theology and Church Politics,” 148.
- 50 Ibid.
- 51 Ibid., 149.
- 52 Pope Benedict XVI, “The Harmony of Faith and Knowledge,” in *The Garden of God, Toward a Human Ecology* (Washington, DC: The Catholic University of America Press, 2014), 91–94, and at 92.
- 53 Pope Benedict XVI, “The Objective Structure of the Universe and the Intellectual Structure of the Human Being Coincide,” in *A Reason Open to God*, 268–71, and at 270: “The objective structure of the universe and the intellectual structure of the human being coincide: the subjective reason and the objectified reason in nature are identical. In the end it is ‘one’ reason that links both and invites us to look to a unique creative Intelligence.” This is the view of Thomas Aquinas and Herman Bavink.
- 54 Ratzinger, “Theology and Church Politics,” 149.
- 55 Roger Trigg, *Religion in Public Life* (Oxford: Oxford University Press, 2007), 43.
- 56 Pope Benedict XVI, “The Harmony of Faith and Knowledge,” 93. See also, in *The Garden of God, Toward a Human Ecology*, the Easter Vigil Homily, April 23, 2011, “The World is a Product of Creative Reason,” 65–71, and at 68. Elsewhere Ratzinger writes, “Is the world to be understood as originating from a creative intellect or as arising out of a combination of probabilities in the realm of the absurd” (“Faith, Philosophy and Theology,” 25).
- 57 Pope Benedict XVI, “The Question of God is the *Crucial Question*,” in *A Reason Open to God*, 244–48, and at 245. Josef Schmidt, S.J., “A Dialogue in Which There Can Only Be Winners,” in *Faith and Reason in a Post-Secular Age*, 59–71, and at 70. “The question concerning the metaphysical constitution of this ... reality cannot be rejected, however, and faith can recognize in this the point of departure for the enduring discussion-worthiness of the idea of God.”
- 58 Pope Benedict XVI, “Crises of Law,” in *The Essential Pope Benedict XVI, His Central Writings & Speeches*, ed. John F. Thornton and Susan B. Varenne (New York: HarperSanFrancisco, 2007), 376–80, and at 376–77.
- 59 Habermas, “On the Relations between the Secular Liberal State and Religion,” 252.
- 60 Ibid., 253.
- 61 Ibid., 252–53.
- 62 Ibid., 25–26.
- 63 Ibid., 27.
- 64 Ibid., 28.
- 65 Pope Benedict XVI, Meeting with the Members of the General Assembly of the United Nations Organization, New York, Friday, April 18, 2008.
- 66 Pope Benedict XVI, “Religion: Vital Contributor to the National Conversation,” in *A Reason Open to God*, 211–16, and at 212–13.
- 67 Ratzinger, “The Prepolitical Moral Foundations of a Free Republic,” 262–63.
- 68 Ratzinger, “What is Truth? The Significance of Religious and Ethical Values in a Pluralistic Society,” in *Values in a Time of Upheaval*, trans. Brian McNeil (San Francisco: Ignatius Press, 2006), 53–72, and at 55.
- 69 Ratzinger, “The Prepolitical Moral Foundations of a Free Republic,” 263.
- 70 Ibid., 266.
- 71 John Paul II, “Address to the United Nations General Assembly,” October 5, 1995, in *Make Room for the Mystery of God: Visit of John Paul II to the USA 1995* (Boston: St. Paul Books & Media, 1995), 20–21.
- 72 Ibid., 21.
- 73 Ratzinger, “The Prepolitical Moral Foundations of a Free Republic,” 266.
- 74 Ibid.
- 75 Ratzinger, “Europe’s Identity,” in *Values in a Time of Upheaval*, 129–50, and at 146–47.
- 76 Pope Benedict XVI, “The Listening Heart: reflections on the Foundations of Law,” in *A Reason Open to God*, 216–24, and at 223.
- 77 Ratzinger, “Freedom, Law, and the Good, Moral Principles in Democratic Societies,” in *Values in a Time of Upheaval*, 45–52, and at 50.
- 78 Ratzinger, “What is Truth? The Significance of Religious and Ethical Values in a Pluralistic Society” 64.
- 79 Pope Benedict XVI, “Religion: Vital Contributor to the National Conversation,” 213–14, and 219.
- 80 Pope Benedict XVI, “Christian Faith Forms Reason to be Itself,” in *A Reason Open to God*, 29.
- 81 John Paul II, *Centesimus Annus*, §46.
- 82 Habermas, “‘The Political’ The Rational Meaning of a Questionable Inheritance of Political Theology,” 26.
- 83 Ratzinger, “The Prepolitical Moral Foundations of a Free Republic,” 267.
- 84 Ratzinger, “A Christian Orientation in a Pluralistic Democracy,” 207.
- 85 On Jacques Maritain’s public philosophy, see my article, “Nature and Grace: The Theological Foundations of Jacques Maritain’s Public Philosophy,” in the *Journal of Markets & Morality* 4, no. 2 (Fall 2001): 240–68, available at: <http://www.marketsandmorality.com/index.php/mandm/article/viewFile/577/568>.
- 86 This is how Os Guinness describes Maritain’s public philosophy whose influence, along with that of John Courtney Murray, S.J., he acknowledges on his own views. On this, see *The American Hour: A Time of Reckoning and the Once and Future Role of Faith* (New York: Free Press, 1993), 239–57, at 251 and 254. See also Murray’s important and influential study *We Hold These Truths: Catholic Reflections on the American Proposition* (Kansas City: Sheed and Ward, 1960), 49; Jacques Maritain, *Man and the State* (Chicago: The University of Chicago Press, 1951), 110.
- 87 Maritain, *Man and the State*, 109.
- 88 International Theological Commission, “In Search of a Universal Ethics: A New Look at the Natural Law,” §35.
- 89 Pope Benedict XVI, “*Lex Naturalis*,” in *A Reason Open to God*, 207–11, and at 209.
- 90 International Theological Commission, “In Search of a Universal Ethics,” §35.
- 91 Ibid., §10.
- 92 John Paul II, *Centesimus Annus*, §89.
- 93 Ratzinger, “A Christian Orientation in a Pluralistic Democracy,” 208.
- 94 *Dignitatis Humanae*, §1.
- 95 *Gaudium et Spes*, §22.

Keeping Men Open to the Divine: James V. Schall on Modernity and Catholic Social and Political Thought

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The assessment of modern social and political thought requires a consideration of the dynamic interplay of politics, philosophy, and theology. There is need to consider it from the viewpoint of revelation as well as from the categories of reason. In this essay I want to use the lens of intellectual history and political philosophy, and I will rely upon the thought of James V. Schall, S.J., as my guide. After a brief analysis of Schall’s perspective on “autonomy” in modernity and its implications for contemporary political and social thought, I will examine the manner in which modern political philosophy has informed—and fundamentally distorted—how we tend to view revelation, and religion more generally. The essay will conclude with a focus on the corrective that Schall’s work offers for modern political philosophy and current Catholic social and political thinking.

In his classic 1963 work *The Structure of Political Thought*, Charles N. R. McCoy made the following observation about the beginning of modernity. It is an observation that is central to Schall’s own approach to modern political thought:

The structure of political thought in the Greek-medieval tradition was built on the subordination of practical science to theoretic science and, within the sphere of practical science, on the subordination of art to prudence. The very essence of constitutional liberty was held to depend on the maintenance of these relations. The modern theory of politics begins by reversing the order between art and prudence.¹

McCoy’s insight has two distinct but interrelated features. First, what characterizes the modern period is the loss of metaphysics and theoretical science as the basis for understanding reality. Instead of the primacy of the contemplative order, modernity elevates the practical order to be supreme. With this abandonment of “being,” it is action that becomes man’s fundamental earthly

endeavor. As later explicated in the work of Karl Marx, action must be for the sake of “transforming the world.”

McCoy’s second insight concerns the modern reversal of the order between art and prudence. For Aristotle as for St. Thomas, the object of prudence concerns an intellectual judgment about the right means for achieving the proper ends as fixed by nature. Prudence presupposes and accepts what man is and the ends of his nature, particularly as related to his life as a social and political animal. In similar fashion, art was understood within the context of a presupposed order of nature, something independent of both human making and willing. In his *Physics* Aristotle remarked that “art imitates nature.” By this he meant that, among other things, the artist is free only when he is willing to receive nature as his standard for making and producing. With the modern reversal of the subordination of art to prudence, however, art is now seen in a new light. The artist no longer presupposes any order or ends other than those that he creates himself. An artist is considered good precisely because there is no ordering principle or standard beyond what he eventually produces.

This notion of “creative autonomy” is central for Schall, precisely because it provides a twofold lens through which we can grasp what modern autonomy is about. First, we must consider what it is from which modernity wants to be “autonomous.” Essentially, the aim or “project” is that of seeking to remove any natural or revelational “law” that does not, in principle, stem from the human will. When the logic of this idea is drawn out, the consequences reveal an utter incoherence and disorder. This goal defines an understanding of the human will as a powerful creator. Mirroring the divine, the human will is one that is thought to create truth, thus legislating its own moral law unto itself. For Schall, a contradiction arises: while there is an apparent bolstering of the human will, we nonetheless place the blame for our troubles outside of our wills. As Fr. Schall puts it:

The real possibility of false happiness is the great tragedy of our lot precisely because it can be ultimately

traced to a decision to achieve something we did not want. Modern spiritual and social thought is largely a search to escape this consequence and rather to assign happiness to be unattainable because of some defect or fault not located in the human will.²

As a culture, we have become accustomed simply to looking at symptoms instead of at causes. An analysis of the true causes of cultural and personal disintegration not only requires serious thought, but it ultimately entails recognizing that we are here because of our own free choices. Perhaps we have not taken the time to consider intellectually where our principles will lead us, but this too is a choice. In fact, as the history of political philosophy shows, ideas do have consequences.³

Secondly we need to consider the “why” of autonomy and modernity. In Aristotelian terms, we can ask ourselves what the *telos* or final cause of the “modern age” is. The answer to the question seems to be this: to create a perfect felicity for mankind in this life by human and political means alone.

A few brief reflections are in order here. First, the very nature and being of the human person is such that perfect happiness in this life is not only impossible but *should not be something that we desire*. This insight is already in Aristotle, who states that what is best in us is that which resembles the divine. From a Christian perspective, the influx of grace can make things better in our culture, and it is something for which we should strive. At the same time, the wisdom of revelation “frees politics to be politics,” and thus protects the truth that salvation is not a political or inner-worldly project.⁴ In this light we could say that the “why” of autonomy clearly leads us back to the “what”: the goal is self-creation of a worldly happiness by means of man alone.

The idea of creating such a manmade world is also pertinent to the way modern political philosophy has informed our understanding of the aim or purpose of divine revelation. Yet much of Catholic social and political thought has been incapable of responding to the intellectual and political difficulties present within modernity. In Schall’s estimation, contemporary Catholic thought has lost its uniqueness. It has become very similar to almost every other way of thinking and ideology that is current. The same critique has been voiced by Portland’s Bishop Alexander Sample:

Part of the reason I think that we are in danger of losing the essential and primary message of salvation of souls is based on how I see many people defining what it means to be a good Catholic. Many people have reduced being a good and faithful Catholic to

being nice, tolerant and doing good works. They think if we do service projects for the poor and needy, and don’t make any judgments about human behavior and sin, then we are fulfilling the Gospel mandate.⁵

One should ask how it is that Catholic thought has adopted this same “spirit of modernity.” The loss of who we are as creatures and what our purpose is in this life is a profoundly spiritual and intellectual disorder. Schall comments on this point when he writes:

While it is quite true, then, that we can be good without being particularly bright, the fact is that a disordered understanding of certain fundamental issues in human existence will serve to confuse us or even lead us into error if we do not attend to their implications. More often than we care to admit, innocence and naivete can cause more damage than evil itself because they leave the mind open to erroneous explanations with the effort or intelligence to see things rightly.⁶

For Schall, certain fundamental issues and those perplexing questions about life in this world are a catalyst leading us back to philosophy, intelligence, and reason. It is ultimately why Pope Benedict XVI’s Regensburg Address and the three stages of the de-Hellenization of Christianity are central here for understanding where we are, particularly in regard to Catholicism and modernity, and how we got here. For Benedict as for Schall, the destruction of reason cripples the integrity of the faith and its connection to the ultimate questions of human living. When Luther sees metaphysics as an alien system of thought to the Gospel, he severs intelligence (*logos*) from the locus of biblical revelation, thereby initiating the reduction of the faith to being merely about what is practical.

This is significant for understanding the temptation that some modern Christians suffer in thinking that efforts to transform the world are the sole or essential meaning of the faith. Such an understanding of the faith has almost little to no relationship to the actual history of Christianity. In becoming excessively practical, faith has become devoid of any intellectual content.⁷ For this view, faith is solely about how we morally deal with reality, and reality is something that is the concern of science.⁸ Thus, even when some Christians talk about the importance of their faith, they seldom see the world very differently from anybody else. I do not wish to judge the motives or intentions of the individuals but simply to take note of the way their ideas have developed. For Schall, it is not simply that we must renounce the conclusions of the “modern project,” but

that we must call into questions its principles. What we need is a restoration of thinking about politics that is open-ended, one that recognizes the truths that are fundamental to the flourishing of communities and local cultures that are not ultimately political. This does not mean that we should become apolitical Stoics or Epicureans. The Catholic faith is transpolitical. It needs the wisdom of an additional source of political thought to help us understand those things that are properly political. To say that the faith is transpolitical, in the thought of Augustine and Aquinas, does not mean that salvation is not a political project.

These thoughts call to mind a fairly recent essay by Notre Dame professor of architecture Philip Bess. In discussing the beautiful architecture and healthy urban design of the town of Seaside, Florida, Bess noted that Seaside is not only aesthetically beautiful but also organized in such a way that it really does seem to help cultivate flourishing in a more local and humane way. Bess sees this as contrary to the destructive layout of the “sprawl” urban design of post-World War II American architecture. For Bess, if the planners of the town are truly interested in human flourishing and the stability and preservation of local culture, they should consider inviting the Benedictines to come and establish a monastery there. The order’s focus on work, moral and intellectual preservation, and education not only helps a culture to persevere and stabilize over time, but it also helps the community to recognize that culture (*skole*) is ordered toward something more than the political. Bess notes:

What would bringing Benedictines to Seaside accomplish? The main achievement would be a permanent worshiping community in Seaside, the effect of which would be to animate Seaside’s currently understated acknowledgment of the sacred order within which Seaside exists. This is because the most appropriate human acknowledgment of and response to the sacred is to worship, especially to offer as gifts things in and by which we ask the sacred to be present among us.⁹

It is for this reason that Aristotle says at the end of the *Politics* that a healthy culture is one in which citizens can drink in communion with others and listen to the stories of the bard. The bard will tell us what is most important about ourselves, namely, what Schall calls “the highest things.” This is what Catholic modernity must recover in its social and political thought. There is a relevant point in the writings of Thomas Aquinas:

The whole of political life seems to be ordered with a

view to attaining the happiness of contemplation. For peace, which is established and preserved by virtue of political activity, places man in a position to devote himself to contemplation of the truth.¹⁰

Let me conclude by commenting on one further passage from Fr. Schall: “*The spiritual meaning of our era* is the empirical, public testing of the proposed alternatives which somehow seem inevitably to end up deforming man.”¹¹ This is the *telos* of “autonomy” and “modern political philosophy.” It is the conclusion of the overturning of the practical and contemplative orders, whereby men are no longer receptive to *what is*. Instead, we have been “educated” and engineered to believe that we are to make the world full of justice, remaking it “better than it was.” What is needed is a political and cultural renewal that is first grounded in being, in *what is*. Such a truth not only includes recognizing that there truly are things that belong to Caesar, but even more so entails an openness to those things that belong to God. This is why we must avoid imitating Linus in the *Peanuts* story, who, after vigorously working hard to remember his lines for the upcoming Christmas pageant, leaves the house only to despairingly confess: “I forgot where the Church is.”¹² In this way we could do something that modern autonomy never could, namely, “*keep men open to a divine beyond their expectations.*” ✠

ENDNOTES

- 1 *The Structure of Political Thought: A Study in the History of Political Ideas* (New York: McGraw Hill, 1963), 157. My initial remarks here, with certain modifications, are taken from the author’s essay “Politics and the Dilemmas of Liberal Democracy,” *Catholic World Report* (September 23, 2016).
- 2 *Christianity and Politics* (Boston: St. Paul Editions, 1981), 297.
- 3 These thoughts coincide with the following assessment of Wendell Berry on our contemporary social disintegration: “Mostly, we do not speak of our society as disintegrating. We would prefer not to call what we are experiencing social disintegration. But we are endlessly preoccupied with the symptoms: divorce, venereal disease, murder, rape, debt, bankruptcy, pornography, teenage pregnancy, fatherless children, motherless children, child suicide, public childcare, retirement homes, nursing homes, toxic waste, soil loss, soil and water and air pollution, government secrecy, government lying, government crime, civil abuse, drug abuse, sexual promiscuity, abortion as ‘birth control,’ the explosion of garbage, hopeless poverty, unemployment, unearned wealth. We know the symptoms well enough. All the plagues of our time are symptoms of a general disintegration. . . . That we prefer to deal piecemeal with the problems of disintegration keeps them ‘newsworthy’ and profitable to the sellers of cures. To see them as merely the symptoms of a greater problem would require hard thought, a change of heart, and a search for the fundamental causes.” *The Hidden Wound* (New York: North Point Press, 1989), 131–32.
- 4 This insight is connected with the recent observation provided by Michael Hanby. In his assessment on politics in modernity, Hanby says the following: “There are many ways to characterize modernity, but perhaps one of the most succinct and insightful comes from the late Italian philosopher Augusto Del Noce. I paraphrase, but for Del Noce

modernity (and especially late modernity) is predicated upon the attempted elimination of every form of transcendence: the transcendence of truth over pragmatic function, the transcendence of the orders of being and nature over the order of historical construction, the transcendence of the *civitas dei* over the *civitas terrena*, the transcendence of eternity over time, the transcendence of God over creation. Every form of transcendence save one, that is. For once real transcendence is eliminated or suppressed, political order itself becomes the transcendental horizon, assuming sovereignty over nature, truth, and morality—over anything that would precede, exceed, and limit it. Politics then becomes ‘the matter of ultimate concern,’ even for those who strive to prevent the ultimacy of politics. The political order becomes that to which all meaningful (i.e. public) arguments are referred, while religion becomes a domesticated amalgam of congregationalism, pietism, moralism, and pragmatism.” See Michael Hanby, “After the Fall,” *First Things* (October 20, 2016).

5 Archbishop Alexander Sample, “The Supreme Law of the Church,” *Catholic Sentinel* (July 13, 2016), available at: <http://www.catholic sentinel.org/main.asp?SectionID=4&SubSectionID=253&ArticleID=31758>.

6 James V. Schall, *Does Catholicism Still Exist?* (Staten Island, N.Y.: Alba House, 1994), 210. In a similar vein, Etienne Gilson’s *Unity of Philosophical*

Experience is a masterpiece that centers on the loss of *being* as the architectionic error of all modern philosophers, for they take some part of reality and make it the whole.

7 Schall has expressed a certain concern that some of Pope Francis’s speeches make him more amenable to Joachim of Fiore rather than Augustine of Hippo. On this point, see Schall’s “Apocalyptic and Utopian: On Pope Francis’ Bolivian Manifesto,” *Catholic World Report* (July 24, 2015), as well as “Liberating Theology from Politics,” *Crisis* (September 8, 2008). For Schall’s analysis of Joachim of Fiore and his influence upon the modern understanding of religion, see “Revelation, Reason, and Politics: Catholic Reflections on Strauss,” *Gregorianum*, part 1, no. 2 (1981): 349–53.

8 See the author’s “On the Relationship Between Catholicism and Science,” *Crisis* (June 15, 2016), available at: <http://www.crisismagazine.com/2016/relationship-catholicism-science>.

9 Philip Bess, “The Rich You Will Always Have with You,” *First Things* (November 13, 2012).

10 Thomas Aquinas, *Commentary on the Ethics*, n. 2102.

11 *Christianity and Politics*, 304.

12 James V. Schall, “The Role of Christian Philosophy in Politics,” *American Catholic Philosophical Quarterly* 69, no. 1 (1995): 9.

Remodernism: A Revival of Realism

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Contemporary Catholic philosophy, especially in its Thomistic forms, has long attempted to defend philosophical realism. Against the powerful currents of idealism, subjectivism, relativism, and deconstructionism, it has affirmed the existence of the external world and attempted to demonstrate the existence of God independently of the human mind. In this perspective, to be is something more than to be perceived. Unexpected support for the realist conception of the world has recently arisen in an artistic quarter. A controversial movement in contemporary British visual art, Remodernism¹ has resurrected theses central to the realist metaphysics and epistemology long championed by Thomist philosophers. Remodernist artists have emerged as critics of postmodernism, which they condemn as a materialist formalism capable of generating little more than irony in its artistic productions. And they have resurrected the vocation of the visual artist as one who uses the pre-existent external world, especially the landscape and the human face, as the privileged locus for the object of artistic production.

Remodernist Movement

Spearheaded by the British painters Billy Childish² and Charles Thomson,³ Remodernism began in the late 1990s as a protest against the contemporary artworld’s taste for visual art that was nonfigurative and heavily conceptual. The Remodernists (often in clown costumes) picketed against such bastions of postmodern art as the Tate Gallery, which provided lavish awards to such controversial artists as Chris Ofili, author of the celebrated dung-stained portrait of the Madonna. In response to this allegedly sterile art, the Remodernists (attempting to “renew” an exhausted modernity) championed figurative art. Still life, landscapes, and portraits emerged from the group’s members. Portraiture of the human face, manifesting the uniqueness of the human soul, has become a centerpiece of Remodernist exhibitions.⁴

In 2000 the Remodernist movement took a more philosophical turn when it published the manifesto *Remodernism*, authored by Childish and Thomson (RM, no.7).⁵ Many of its fourteen theses tacitly defend a realist metaphysics.

First, the manifesto insists on attention to the truth,

construed as the real nature of the self, of others, and of God. “[The] first principle is a declaration of intent to face the truth. Truth is what is, regardless of what we want it to be. Being a spiritual artist means addressing unflinchingly our projections, good and bad, the attractive and the grotesque, our strengths as well as our delusions, in order to know ourselves and thereby our true relationship with others and our connection to the divine.”⁶

This plank of the manifesto not only calls artists to return to a more realist practice of art through careful attention to what exists independently of the imagination. It also provides a realist metaphysical affirmation of the independent existence of the social other and the divine other who cannot be reduced to a projection of the self’s imagination or of social construction. The self-knowledge that Childish and Thomas consider essential for mature artistic practice can emerge only through a critical effort to distinguish actual other persons, human and divine, from the projections and even more forcefully from the “delusions” fabricated by the undisciplined play of the will and the imagination. A practice of art honed by attention to external reality presupposes the independent existence of a reality that includes such spiritual substances as human and divine persons as well as material substances discovered through observation rather than created through imagination.

Second, the realism defended by the manifesto is teleological in nature. The artist’s critical vision of the real includes a grasp of the purposes of the beings perceived and a recognition of the hierarchical nature of those purposes. “It is about addressing the shadow and making friends with wild dogs. Spirituality is the awareness that everything in life is for a higher purpose (RM no. 8).”⁷

For the Remodernist, the disciplined perception of external reality entails an accurate perception of the purpose for which a being exists and the purposes for which a being acts. The “wild dogs” mentioned in this thesis of the manifesto is a recurrent reference in Remodernist artworks and essays.⁸ Untamed and unprogrammed by human beings, the wild dog pursues purposes foreign to the will and imagination of the human artist. Accurate depiction of such a nonhuman being requires careful observation of the goods pursued by this animal in its habitual course of activity and speculation on the more general purposes that the existence of such a being might serve. The attention to external reality championed by the Remodernists

is clearly a teleological attention to the various ends represented through and by the external existent that has fallen under the artist’s gaze.

Even more controversial is the hierarchical nature of the teleology endorsed by the manifesto. For the Remodernists, the external world is not a cacophony of purposes pursued by an irreducible plurality of agents. Rather, the various purposes and existents pursuing or manifesting these purposes reflect a spiritual hierarchy embedded in the real. In six of its fourteen theses, the Remodernist Manifesto insists that the primary function of a reformed practice of contemporary art is to promote a renewed spiritual vision. In the hierarchical perspective of the manifesto, the human person—specifically the rational soul of the human person—trumps in value other nonrational existents. In artistic practice, the portrait of the human face thus trumps in worth landscape or still life. It is God, pure Spirit, who represents the summit of existents due to the perfection of God’s nature and the incomparable depth of God’s spirituality. The highest practice of art thus becomes an unveiling of God’s spirit that would reawaken or intensify the relationship of the human viewer to God. The teleological realism defended by the Remodernists is a teleological realism that places God—a sovereign God who exists independently of human construction—at the summit of the hierarchy of ends and agents pursuing ends.

Third, the soul of the artist is central in the genesis of authentic art. Self-expression of the soul is championed over against the postmodernist death of the author. “A true art is the visible manifestation, evidence and facilitator of the soul’s journey (RM no. 13).”⁹

The external reality glimpsed and expressed by the artist is always a reality perceived through the agency of a rational soul. The artistic expression of this perception of the real invariably bears the traces of the soul’s spiritual faculties and operations, especially those related to intellect and will. Moreover, the artistic product bears evidence of the distinctive spiritual pilgrimage of the artist who creates a particular expression of the real. The historicity of the soul shapes the specific content and form of the artistic icon.

Not only does the artwork express the human soul. It also serves as a tutor to the soul in its journey toward God. As “facilitator,” authentic art guides the soul toward a more penetrating grasp of the real, especially the social dimension of the real where the individual must interact with other persons. Acquiring quasi-sacramental status, authentic art awakens the viewer to

the reality of God as the source of these spiritual relationships and purifies the soul in its perception of and abandonment to the divine person disclosed through the artistic symbol. In both its expressive and pedagogical functions, art meeting Remodernist criteria evokes a reality in which the rational soul constitutes the central actor in what is ultimately a spiritual drama of recognition and purification.

This emphasis on the reality of the human soul illuminates the primacy accorded authorial voice in the art criticism generated by the Remodernist movement. In his essay for the catalogue accompanying the “Magnifico: Re Mo” exhibition of visual art at the University of New Mexico in 2002, the Berkeley art critic Kevin Radley celebrates the return of the singular author’s voice as central to artistic creation and interpretation. “There seems to be a re-emergence of confidence in the artist’s singular voice—a renewal of the belief that an artist can explore their [sic] own natures without the restraints of the ironic, the cynical, or the didactic. To re-contact the notions of presence, re-invent their sense of beauty, and renew our need for intimacy. Is this a return to earnest individualism? ... I suggest we let the artist decide.”¹⁰ In explicit reaction against the postmodernist tendency to emphasize the disparate cultural factors that inform the genesis and content of a particular artwork, Radley insists on the centrality of the unique artist who has fashioned the work and whose distinctive style reflects the unique soul of the artist. Respect for the self-expression of the artist’s idiosyncratic interpretation of the real replaces ironic deconstruction of the artwork as the fulcrum of aesthetic analysis.

Fourth, the Remodernists emphasize a new connection to God in the reemergence of art rooted in the spirituality of the human soul. “The Remodernist’s job is to bring God back into art but not as God was before (RM no.12).”¹¹ The purpose of art is to rekindle awe and ecstasy in the viewer, but not in a sectarian subterfuge to a particular set of dogmas.

Like a jejune PBS special, the Remodernist Manifesto draws strict lines between the spiritual and the religious. An earlier thesis in the manifesto insists that “[s]piritual art is not religion (RM no.9).”¹² A later thesis argues that “spiritual art does not mean the painting of Madonnas or Buddhas (RM no.13).”¹³ For Childish and Thomas, art appears to offer a path toward union with God much as an earlier Romantic

generation of artists conceived it. For a cultivated public no longer discovering God through scripture and sacrament, the artistic symbol can provide a new avenue toward transcendence. The authentic artist functions like a priest who permits the viewer to enter into communion with God through the artwork. In this perspective, art is neither an ally of nor complement to religion; it has become an alternative to religion for those skeptical of an institutionalized faith.

The link with the earlier Romantic sacramental conception of art indicates one of the ways in which the Remodernists remain faithful to modernity and hostile to any retrieval of the medieval. If God remains central to the Remodernist vision of art, it is a God who is no longer accessible through participation in a church grounded on God’s self-revelation represented through scripture, sacrament, and clergy. The manifesto’s realist affirmation of the existence of a God who exists independently of the human mind and who transcends the material representations that point toward God remains addressed to a modern post-Christian public still clearly the grandchildren of the Enlightenment.

Conclusion

Both the practice and theory of Remodernism in the artworld suggest directions, indeed moral imperatives, for the retrieval of realist perspectives in a more philosophical metaphysics. Attention to the real rather than to the desires of the will underscores the pre-existence and independent existence of the external world glimpsed and analyzed by the human mind. The affirmation of purpose within the natural and interpersonal spheres contests the reduction of *telos* to a projection of the psyche. It also insists that judgments of natural or artistic worth are tied to the intrinsic perfection of the object or act falling under normative judgment. The affirmation of the human soul’s spiritual personality underscores the subjectivity of the human agent as a difference in kind from nonrational agents and as a hermeneutical key in interpreting the very phenomenon of art. The affirmation of a God beyond human projection points to a spiritual reality that precedes and that stands in judgment on the play of social construction. Such theses constitute a substantial neorealist agenda. ✠

ENDNOTES

- 1 For a study of the emergence of Remodernism from the earlier movement of Stuckism, see Katherine Evans, *The Stuckists: The First Remodernist Art Group* (London:Victoria Press, 2000).
- 2 Billy Childish (born 1959) is an English artist who specializes in photography, music, and poetry. He has published forty poetry collections and four novels. Musically he is best known for his work with the rock band Medway Poets, which he founded in 1979. He cofounded the Stuckist artist group in 1999.
- 3 Charles Thomson (born 1953) is an English artist who specializes in painting, photography, and poetry. He cofounded the Stuckist artist group in 1999. An activist against government support of postmodern art, he has led campaigns against the Tate Gallery’s awards and grants.
- 4 The Deatrick Gallery in Louisville, Kentucky, has become the central gallery for the exhibition of Remodernist artworks.

- 5 See Billy Childish and Charles Thomson, *Remodernism*, <http://www.stuckism.com/remod.html> (accessed October 16, 2016); cited hereafter as R. The manifesto of this movement is cited in the text as RM.
- 6 R 2.
- 7 R 2.
- 8 In 2005 the CBGBs 313 Gallery in New York City hosted a Remodernist exhibition entitled *Addressing the Shadow and Making Friends With Wild Dogs: Remodernism*.
- 9 R 2.
- 10 Kevin Radley, “Re Modernism: Trajectories towards the NU Modern,” http://magnifico.org/exh_pgm/2002/ReMo_essay.html (accessed October 4, 2016).
- 11 R 2.
- 12 R 2.
- 13 R 2.

Do Catholics Need Ecclesiastical Permission to Divorce?

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Canons 1151–1155 of the Code of Canon Law state that Roman Catholics wishing to separate from their spouses must obtain ecclesiastical permission for the cessation of conjugal life. Canons 1692–1696 set forth the procedure for obtaining that authorization. Yet, of the tens of thousands of Catholics who separate or divorce each year in the United States, virtually none of them makes any effort to comply with these norms. “As a matter of fact, cases of separation are rarely brought before ecclesiastical authorities. Many couples sue for a civil divorce only.”¹ In more than a decade of diocesan work, I never saw or heard of a spouse seeking ecclesiastical permission for separation or divorce.

This stark contrast between what appear to be plain provisions of law and this apparent widespread disregard for those norms prompts some to wonder whether a multitude of lay Catholics are in violation of several canons intended to direct their behavior toward the good; whether bishops are being negligent by not urging lay Catholics to comply with requirements set forth by a wise and loving Church; or whether noncompliance with these canons is weakening the Church’s witness to the permanence of marriage. Indeed some

intelligent (but not canonically trained) persons, interested in promoting Church teaching on marriage, have come across these canons and—withstanding the heavy logistical demands that adopting their proposals would place on bishops and their staff—assert that observance of these norms must forthwith be urged by bishops and pastors upon pain of pastoral dereliction. I think, however, that such calls, at least insofar as they claim to rest on canonical imperatives, are ill-founded. I will offer here several observations toward either abandoning such proposals or reformulating them in light of canonical arguments that could be raised against them.

Some preliminary points may be set out. Our focus is on Western canon law,² but even so, I would observe that, over time and across various ecclesiastical genres, terms such as “separation” and “divorce” have been used with significantly different shades of meaning by approved authors. Thus apparent similarities in usage do not always signify the same things, while differences in phrasing do not necessarily denote disagreement. Next, Canons 1151–1155 (stating the conditions under which spouses may separate or divorce) are almost identical to Canons 1128–1132 of the 1917 Code. This continuity allows us to invoke commentators on the old law for insights into the new.³ In contrast, Canons 1692–1696 (outlining the procedure for seeking Church permission to discontinue conjugal life) are new and thus lack

significant roots in canonical tradition. Finally, all translations herein are mine.

At the risk of beginning this analysis in the middle of the matter, I first observe that during the post-Conciliar canonical revision process, as the Church transitioned from the 1917 Code to the 1983 Code, there was opposition to retaining the older norms on spousal separation in the projected law and to introducing new norms for hearing such cases therein.

For example in 1978 advisors to the Coetus on Marriage “suggested that all the materials on separation while the bond endures [the future Canons 1151–1155] not be retained in the Code but rather should be left to episcopal conferences which, if they felt it necessary, could enact local norms in accord with the practices of their peoples.”⁴ The coetus replied that, because adultery (the traditional factor triggering separation) was discussed in Scripture, these proposed canons should be retained in the law. Of course, many things are discussed in Scripture that are not found in canon law, and canon law provides for many matters not found in Scripture, so the reasoning here is less than persuasive.

Likewise in 1979 advisors to the Coetus on Procedural Law argued that “this title on separation cases [the future Canons 1692–1696] should be suppressed because spouses never bring separation cases to ecclesiastical tribunals, or the whole matter should be left to local law.”⁵ The coetus replied, however, that these canons “cannot not be in the general law” and retained them despite concerns that they would remain essentially unused.

Some might look at the dates of these objections (the late 1970s) and attribute them to a wider post-Conciliar malaise regarding the defense of marriage or see in the apparent disregard of current spousal separation norms just one more example of the modern failure to respect canon law. Against such a view, though, stands the fact that the nonuse of spousal separation canons, which, as noted above, were present in the 1917 Code in terms nearly identical to the current law, was well known before Vatican II.

Consider this advice from the standard pre-Conciliar canon law textbook used in American seminaries during the twenty years leading up to Vatican II:

A party seeking separation should normally be referred to the Ordinary. However, since people usually hesitate to enter into direct communication with diocesan officials in these matters, it will usually be well not to insist on this obligation if the parties are unaware of it, especially if the separation is already in effect and there is no great scandal connected with it.⁶

Or again, “If the parties have already separated. . . without ecclesiastical authorization, the obligation [to seek such authorization] need not be insisted upon nor the parties disturbed.”⁷ This relaxed view toward observing canons on spousal separation was not limited to our side of the herring pond: “No spouse may bring a separation case before the civil court without the permission of the Ordinary; but in practice, he does not usually require this formality.”⁸

Clearly, then, even during a period of high regard for canon law, one free of the pastoral timidities experienced in later years, solid canonists, reading spousal separation canons nearly identical to ours, concluded that they were *not* to be enforced according to their plain terms. To understand how such a seemingly anomalous situation arose, I suggest turning now to the renowned Roman canonist Felix Cappello who, in his *Tractatus Canonico-Moralis de Sacramentis*,⁹ addresses this matter with respect for canonical principles and a sense for pastoral practicality.

Cappello, like Bouscaren and Ellis, Halligan, and Naz, advised priests against requiring Catholics unaware of the canonical separation requirements (which would have been most Catholics, then as now) to undertake a formal canonical process in regard to discontinuing conjugal life, but Cappello offered more analysis than did the others and his insights are illuminative for us.

Cappello began by noting that the Holy See had signed a concordat (treaty) with Italy recognizing, among other things, wide state authority over marriage and generally permitting Italian Catholics the option of approaching civil tribunals in these cases. In addition, Cappello noted that some nations, on their own, recognized marriage-related decrees from religious tribunals—in which situation Cappello expected Catholics to approach Church tribunals before turning to civil courts. But in either case, the idea that a state, by treaty with the Holy See or otherwise, might accept an ecclesiastical separation ruling (as opposed to, say, the state simply granting civil recognition to religious weddings) scarcely enters the mind of American Catholics, yet it is crucial, I shall suggest below, to understanding why canon law might contain norms on spousal separation and divorce issues (and not just on, say, wedding rites or sacramental validity).

In any event, Cappello considered, finally, the difficulties faced by Catholics living in countries without special, usually diplomatically achieved, provisions for separation and divorce matters (that is, the situation faced by, among others, American Catholics), and he identified three opinions:

Some say that the Church in no way allows spouses to approach civil courts and that any sentence issued by a civil court would be illicit and would not protect one’s conscience.

Others hold that spouses have the right to approach civil courts if there is a statement to that effect from the Holy See (such as was made for England in 1860 or France in 1885) but not in other nations.

Still others hold that in light of circumstances—such as pressing grave cause, while respecting Church doctrine about the exclusive authority of the Church over marriage cases, and with due regard for divine and canon law—the Church explicitly or at least implicitly tolerates spouses going directly to civil courts to seek separation.

This view is the more well-founded, is practically safe, and should be preferred. For, on the one hand, [direct recourse to civil courts] is not intrinsically evil, else the Holy See would not have, indeed could not have, issued permissions for it; on the other hand, Catholic doctrine [for example, on the ultimate authority of the Church over the marriages of the baptized, discussed below] stands, as do divine and canon law, and grave cause could exist, indeed most serious cause could exist, for turning to civil courts especially in regard to preserving property rights.

In short, notwithstanding spousal separation canons that, in terms virtually identical to those used in the 1983 Code, required all Catholics to obtain ecclesiastical permission to discontinue conjugal life, canonists of the prestige of Cappello held that Catholics who did not live in “concordat nations” could directly approach civil tribunals in most such cases, provided only that they did not regard a civil decree of divorce as settling *canonical* issues such as the validity of their marriage. Doubtless some impressive canonists could, as suggested by Cappello himself, be cited in disagreement with his view (I find Halligan, for example, uncharacteristically ambivalent in this area), but such disagreements among experts only reinforce my main point, namely, that canonists see, and have long seen, more than one appropriate way to read legal texts that amateurs might think are unequivocal.

This variety of options for Catholics seeking separation or divorce is reflected in the modern Canon 1692, which restates the priority of diocesan bishops or judges in hearing separation cases among Catholics but also underscores the authority of bishops to send

separation cases to civil courts, and even encourages such deferral in certain cases. Once again, though, canonists from English-speaking lands underscore the rarity of such petitions being made to our Church officials. “In practice (except perhaps in countries operating under a concordat with the Holy See), requests to have the matter dealt with by the civil courts are about as rare as canonical judicial separation cases, in effect almost non-existent.”¹⁰

Finally—and stepping away from purely canonical considerations for a moment—the basic moral liceity of Catholics turning directly to civil courts for separation and divorce issues seems reflected in the fact that, even among the most ardent hierarchical defenders of the permanence of marriage, Catholics who are merely civilly separated or divorced are eligible for holy Communion regardless of whether they utilized a canonical process for the cessation of conjugal life.¹¹ Is it plausible that prelates such as then-Cardinal Ratzinger or Archbishop Chaput would *not* have cautioned simply separated or divorced Catholics against approaching for holy Communion if their failure to seek ecclesiastical authorization for the cessation of conjugal life had itself been gravely at odds with Church doctrine or discipline?

One may yet ask why Canons 1151–1155 and 1692–1696 are in the 1983 Code. Two possible reasons suggest themselves.

First, as noted above, various countries have concordats with the Holy See whereby some canonical marriage decisions are given civil weight. In some other nations, including Islamic ones, civil law itself sometimes recognizes religious tribunal rulings.¹² For both scenarios, *canonical* norms for separation and divorce cases would be needed to guide parties and ecclesiastical officials whose actions and decisions could carry *civil* consequences. The Code might be considered a convenient place to locate such norms.

But again, to my knowledge no such marriage concordats or social observances exist in common law countries, leaving the canons on spousal separation with “no practical application in English-speaking countries as couples who wish to obtain a legal separation have recourse to the civil courts.”¹³ The drafters of the 1983 Code would have done better, in my view, not to include in universal law norms that are needed only in certain regions; but included they were, with the result that today, some people coming across these canons understandably, but wrongly, conclude that, like most other canons in the Code,

these norms must be applicable everywhere.

Second, the Church has, to be sure, fundamental jurisdiction over the marriages of all the baptized,¹⁴ even though she chooses not to exercise that jurisdiction over marriages involving only baptized non-Catholics or, as a rule, even to involve herself in the civil consequences of marriages between Catholics.¹⁵ Still, the retention of norms such as Canons 1151–1155 and 1692–1696 in universal law might help to preserve, at least in some “symbolic” way, the Church’s assertion of her radical baptismal jurisdiction over marriage. I find the cost of retaining in law “symbolic” norms, if that is what these canons amount to in many places, to be high (if only in terms of their potential to cause confusion among the faithful), but the Legislator apparently concluded otherwise. Nevertheless, even “symbolic” canons must be read in accord with their text *and context*,¹⁶ and the context of the canons on spousal separation strongly suggests that they are not to be applied in all countries the way they might be applied in some.

In conclusion, most Catholics today, and certainly most Catholics living in countries such as the United States, have no idea that any canons seem to require them to obtain ecclesiastical permission to cease conjugal life prior to filing for a civil separation or divorce; Bouscaren and Ellis would have advised against calling attention to the separation norms in such cases—assuming that such canons even apply in nonconcordat nations, which is itself, as we have seen, highly questionable. At the same time, most Catholics also recognize,

if not always in technically accurate terms, that the Church has something more to say about the permanence of their marriage than can be gleaned from a civil divorce decree, and specifically, that such a decree is not sufficient to allow them to enter a subsequent “marriage in the Church”; Cappello would have found that degree of awareness and acceptance of Catholic teaching on marriage to be a pastorally acceptable starting place for further catechesis.

And so, I suggest, may we. ✠

ENDNOTES

- 1 Örsy, *Marriage in Canon Law* (1986), 237.
- 2 Eastern law treats the same issues in CCEO 863–866 and 1378–1382.
- 3 1983 CIC 6, 17.
- 4 *Communicationes* 10:118.
- 5 *Communicationes* 11:272.
- 6 Bouscaren & Ellis, *Canon Law: A Text and Commentary* (1946), 572.
- 7 Halligan, *Administration of the Sacraments* (1963), 516.
- 8 Naz, *Traité de Droit Canonique II* (1954): 407.
- 9 V (1947), 828–29.
- 10 Kelly, in *Letter & Spirit* (1985), 944.
- 11 See, for example, Congregation for the Doctrine of the Faith, *Letter to Bishops* (1994), *passim*, and Archdiocese of Philadelphia, *Pastoral Guidelines* (2016), 3.
- 12 Pospishil, *Eastern Catholic Church Law* (1993), 520.
- 13 McAreavey, *Canon Law of Marriage* (1997), 202.
- 14 1983 CIC 1671.
- 15 1983 CIC 1, 22, 1059.
- 16 1983 CIC 17.



Religious Warfare

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The shift from a predominantly Protestant to a secular or humanist culture in North America may be dated to the mid-decades of the last century, to the period some are calling the “cultural revolution.” Clearly a shift took place sometime in the last century, with the result, one may say, that the religious mind is no longer faced with defining its vision of the contemporary meaning of Christianity or Judaism against other religious outlooks. Each is now called to defend itself in the face of major secular attacks, hostile to all religious belief and practice.

It may take considerable learning and analysis to recognize the full extent of the secular threat to religion, but little reflection is needed to recognize its social effects, namely, a general disintegration of religious commitment, manifesting itself in a startling rise in promiscuity, divorce, and abortion, in the widespread acceptance of pornography and homosexuality, and in a growing tolerance of deviant behavior in its many forms. The rejection of the biblical sources of morality has its social consequences. Appeals to a natural moral order fare no better.

On a more subtle level, the war against Christianity has affected the college curriculum, insofar as it has led to the neglect of classical learning, ancient and modern languages, history, theology and philosophy, disciplines all of which were pursued in part because they traditionally provided the materials through which revealed religion was received and developed.

As many have observed, a community cannot long exist without a core of common convictions. Some of the social tensions in North America are but a reflection of a deeper conflict between religious and secular outlooks. If the secular is not totally to eclipse the religious and become the measure of thought and conduct, representatives of the religious outlook will have to confront the challenge vigorously. The following reflections are an attempt to understand the causes that have led to the present impotence of the religious mind and its prospects for the future.

Skepticism with respect to Christian convictions has been forming among the occidental intelligentsia

for at least two centuries. Nietzsche already in the nineteenth century observed that the West no longer possessed the spiritual resources that had formerly infused its existence and without which it could not survive. In more ways than one, from the last half of the twentieth century to the present, the intellectual climate has been governed by the legacy of the French Enlightenment. Views entertained in nineteenth-century drawing rooms and in the academy of that day have become mainstream. Diderot set the tone in his famous *Encyclopédie* when he wrote, “Everything must be examined, everything must be shaken up, without exception and without circumspection.”

Voltaire urged the eradication of Christianity from the world of higher culture, but he was willing to have it remain in the stables and in the scullery, mainly as a moral force, lest a servant class emancipated from the traditional sources of morality might pilfer. Like Diderot, he was convinced that the critical spirit could do its constructive work only after it had liberated man from the shackles of traditional belief. There are times when one must destroy before one can rebuild, he said. Voltaire readily admitted his intolerance, declaring that his was an intolerance directed against intolerance.

Jeremy Bentham thought the state should actively work to stamp out religion. His disciple, John Stuart Mill, repudiated Christianity but not the religion of humanity, which he thought to be, from the standpoint of the state, a useful thing. August Comte was more benevolent in his attitude toward Christianity than either Voltaire or Mill. In spite of his denial of all metaphysical validity of religious belief, he was willing to accept as a civic good the moral and ritual traditions of at least Catholic Christianity.

Emile Durkheim, carrying the Enlightenment spirit into the early decades of the twentieth century, was not so positive. For him, a major task of the state is to free individuals from partial societies such as the family, religious organizations, and labor and professional groups. Modern individualism, Durkheim thought, depends on preventing the absorption of individuals into secondary and mediating groups.

Ludwig Feuerbach, whose materialism was to have a significant influence on Marx and Freud, assigned to reason the task of destroying the illusion of

religion, “an illusion, however, which is by no means insignificant, but whose effect on mankind, rather, is utterly pernicious.” Freud advanced this theme in his *Future of an Illusion*, in which he describes the struggle of the scientific spirit against the “enemy,” religion. “Criticism,” he writes, “has gnawed away the prohibitive power of religious documents; natural science has shown the errors they contain; comparative research has been struck by the fatal resemblance of the religious conceptions we revere to the mental products of primitive peoples and times.”

On this side of the Atlantic, many of these ideas were to find twentieth-century expression in the writings of John Dewey and his disciples, promulgated widely in the *Humanist Manifesto II* of 1973. Among dozens of well-known signatories were Isaac Asimov, Betty Friedan, Sidney Hook, B. F. Skinner, Francis Crick, Anthony Flew, and Julian Huxley. Science was equated by Dewey and his disciples with “critical intelligence.” Ernest Nagel, whose thought in the philosophy of science influenced generations of students, published a work entitled *Sovereign Reason*, a book that accurately defined the movement. In common the humanists advocated empirical criticism of everything heretofore considered sacrosanct. It took another generation or two before such criticism was to reach the textbooks used in primary and secondary schools. Today it is the prevailing attitude in the Western academic world, an attitude uncritically adopted by those ignorant of its genesis.

The religious mind is ill situated to defend itself in the halls of higher learning given that it has for the most part been excluded from its ranks. A few professorships of Catholic studies exist in prestigious

institutions, but these alone are not likely to reverse the secular tide even in the institutions where they reside. Sadly, members of the Church hierarchy seem to have bought into the higher criticism advanced by the *Redaktion Geschichte* movement of the last century. Fr. Arturo Sousa Abascal, the new head of the Jesuits, may be among the latest victims if press reports are reliable. In a comment on the teachings of Jesus on marriage, he is reported as saying, “Over the last century in the church there has been a great blossoming of studies that seek to understand what Jesus meant to say.” “Discernment” is required. What did Jesus really say? “What is known as the words of Jesus must be contextualized, given that they are expressed in a language in a specific setting, addressed to someone in particular. . . . [Doubt n]ot the word of Jesus, but the word of Jesus as we have interpreted it [in the past]. Discernment does not select among different hypotheses but listens to the Holy Spirit who, as Jesus has promised, helps us to understand the signs of God’s presence in human history.”

What the future portends is not easy to know. Demographers predict an overwhelming Muslim presence in Europe by 2050. Some foresee an Islamic Republic of France and a similar status for other nation states in Europe. The situation in the United States, in spite of its present immigration policy, is not as foreboding as that of Europe. Its future depends on a majority who recognize the value of their inherited culture and are willing to defend it at the ballot box. In any case, Catholic higher education remains a necessary counterweight to the dominant secular, anti-Christian attitude that prevails in the universities and other centers of influence. ✠



Monica Migliorino Miller. *The Authority of Women in the Catholic Church*. Foreword by Scott Hahn. Steubenville, OH: Emmaus Road Publishers, 2015. 189 pp. Paper, \$12.95.

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Timely indeed are the questions about whether there is a specifically “feminine authority” and what is implied by the perennial female metaphors of the Church as Bride of Christ and as Mother of the Faithful. These questions can lead to a fuller understanding of human nature, of created sexual difference, and of the relationship of God with his people. In recent decades, an egalitarian notion (rather than a sacramental concept) of ordination has been vaunted by those who want women to become deacons, priests, and bishops, and this trend makes clear the importance of the themes that Miller treats.

Miller’s spot-on critique of radical feminist theology and ecclesiology provides the best chapter of the book. Focusing mainly on Elisabeth Schüssler Fiorenza, Mary Daly, and Rosemary Radford Ruether, Miller shows how their view of the Church as an “egalitarian democracy” (35, 47-50) is complicated by feminism’s “horror of distinctions,” whether it be the distinction between God and nature (27), between the sexes (34, 46), or between Christ and the Church. The result of a failure to make the needed distinctions is that Christ dissolves into the community and the sacraments are devalued into merely “collective expressions” of spirituality (45). Insightfully and wittily, Miller points out the materialism of Ruether as it leads to an empty “Lion King theology” (52-53). Both the hope of human redemption and the affirmation of “the goodness of human sexuality” (55) are lost from a “radical feminist theology” that “has much more in common with Gnosticism than with the Judeo-Christian view of reality” (50).

Miller affirms the Church’s doctrine of the all-male priesthood and the reality and goodness of sexual difference. She praises sixteen women of faith and action, ranging from Judith in the Old Testament to St. Monica, St. Catherine of Siena, and such modern American pro-life activists as Adele Nathanson and Joan Andrews Bell. Autobiographical recollections of Miller’s own teaching, marriage, pregnancies, and pro-life work open several chapters. Aptly citing Church documents and Church Fathers, she offers much that is positive and useful. Accordingly, Scott Hahn’s foreword calls the book “a beautiful beginning to a true conversation.”

To set forth a “true theology of feminine authority, indeed a true Catholic feminism,” is Miller’s goal. It is important that she links authority with “true Catholic feminism.” This unexamined link pervades the book. But the word “authority” is used in odd ways. Certainly, Jesus’s actions led Christians to recognize as never before the spiritual equality of the sexes, with everyone capable of and responsible for personal moral choices. “Women are fully engaged, free moral agents, able to fulfill their God-given responsibilities for the faith” (93). But that capacity and responsibility is not ordinarily called “authority.” Perhaps one might strain and call it “authority over oneself,” but it is not obvious that authority of this sort can be called “authority in the Church.” Likewise, some persons have moral or spiritual or intellectual authority which can blessedly influence others. For instance, St. Monica influenced her son Augustine, and St. Catherine of Siena influenced various popes. Miller also shows well that the early Christians innovatively recognized that women were responsible for their marital choices (115-16). She adduces the teachings of St. Paul and St. Augustine to clarify that wives have authority over their husbands, just as husbands have a reciprocal authority over their wives (117-18). Yet all of these examples show us human capacities, not specifically feminine powers. And none

of these capacities would ordinarily be described as “authority in the Church.”

It is thus regrettable that in this book Miller asserts an idiosyncratic definition of authority at the outset, never defends it, and yet takes it as normative: “Authority is the power to give life and the responsibility to oversee the good for that life” (19; see also 60, 80, 156). This may seem like a subterfuge: if women want authority, let us just redefine the word and then we can say women have always had it. That strategy is evident when Miller defines “lead[ing] people to life” as “authority” and adds that without that move we would conclude that Mary “had little or no authority” (90-91). Likewise, she writes of the “authority” of Mary’s obedience at the Annunciation (95, 97). Mary is holy, maintained her sinlessness as the progenitors failed to do, and her “Yes” allowed the Incarnation to take place within her. Why is that not enough? Why must she personally have “authority in the Church”? Miller finds the biblical and traditional information about Mary insufficient and makes claims that go beyond the evidence, as when she writes that Mary “leads Christ to the Cross” (95, 97) and that, as a result, “the ministerial priesthood is under the rule of women’s responsibility for the faith” (95). Similarly, she writes that “[t]he sacramental system... is part of the *feminine responsibility* for the faith” (148-49, italics added).

Miller’s unusual definition of authority is treated as normative even for God, for she makes Christ’s authority depend upon his relationship to mankind. She says that he has authority “because” he is the “source of life” (91). Rather, he has authority because he is God. Miller’s argument introduces a new logical fallacy: *cum hoc, ergo propter hoc*. God has authority and he also gives life, therefore his authority must derive from his giving life. By linking authority with life-giving, Miller concludes that “authority has to do with the power to give life and the responsibilities of life.... [It] is based on the fundamental mystery of sexuality between men and

women” (156). This is associative thinking, however, not logical argument.

One may observe that the dualism and misplaced egalitarianism that Miller rightly faults in radical feminist theologians appear to influence her own writing at times. The very insistence that there must be a “feminine authority” as a complement to priestly sacramental authority comes across as an egalitarian drive. Dualism is evident when she uses “nature” and “creation” equivocally. She writes that the Creator God is “separate in nature from His people” and that a human father is “separated” from what he “creates” sexually. Therefore, she asserts, men are “removed from creation in a way that women are not,” and so “men image what is other than nature” such that only men can image “the transcendent” (73-76). But the capacity to image and in truth to be transformed by the transcendent is a human potential, not something specific to either sex. Both male and female are called to theosis. It is a false dichotomy to associate men with the transcendent and women with the “immanent” (72-73). That dichotomy, it seems to me, remains false even when the overt intention is to praise women. Miller holds that woman “is the locus of everything good about creation” (153). Surely it is human nature that is this locus; men share it equally with women.

Unfortunately, the book contains some elementary mistakes in Latin and Greek. In offering her personal definition of authority, Miller gives *autores* for *actor* and then treats it as an infinitive (17). She states that *patria* (not *pater*) means “father” (35). Her handling of Greek passages from the New Testament is problematic, as when she refers to “the passive voice of the word *plērōma*” (137; see also 35, 66-67, 101). Likewise, she claims that St. Paul’s metaphor of Christ as cornerstone (Eph. 2:19-22) is a marital image because a single word in the RSV (namely, “built”) “remind[s] us of Eve’s creation” (66-67). Her evidence is slight even in the English, but it evaporates when one consults the Greek. There one finds

not one word, but three cognates with quite different inflections: (*ἡκοδόμησεν* in Gen. 2:22, *ἐποικοδομηθέντες* and *συνοικοδομείσθε* in Eph. 2:20 and 22).

The mystery of the created complementarity of the sexes deserves contemplation and, with the grace of God, analysis. Mankind was made such that male and female are equally in the image and likeness of God. Jesus Christ is incarnate as male, and the abiding biblical metaphors of the community and of the soul as female are, clearly, somehow reciprocal with the Incarnation. It is no accident that Jesus elicited professions of faith from Peter, whom he made head of the Church, and from Martha, for whom he wrought a great miracle, the resurrection of Lazarus, as a type of Christ’s own resurrection and a reason for our own hope. Hints of the difference between male and female are evident here. Discussion of female nature and of authentic Catholic feminism is much needed. Miller’s book contributes to that work, primarily in her critique of radical feminist theology. May the conversation continue.

Andrew McClean Cummings. *The Servant and the Ladder: Cooperation with Evil in the Twenty-First Century*. Leominster Herefordshire, U.K.: Gracewing, 2014. 443 pp.

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What is cooperation with evil, looked at from the point of view of moral theology? Consider this situation: If someone knowingly and intentionally commits a crime, there is usually no great difficulty in finding him guilty for having done so. An objective wrong was perpetrated, and he was the perpetrator. But what if he did not act alone? What if he had an accomplice, someone who aided him, in one manner or another, in the commission of the crime? With the addition of an accomplice to the scene we now have a situation that introduces the question of the cooperation with evil, a question which, given all its ramifications, is commonly described as “the most vexing of all areas of moral theology” (142). Is the accomplice also guilty of the crime he is involved in, and, if so, in what way and to what extent? These are the pivotal questions that are pursued in a meticulously thorough and illuminating way in *The Servant and the Ladder*.

There are two main aspects of the book, one historical, the other argumentative, and the two are woven together artfully so as to make for the work’s overall unity. The historical aspect of the book begins with a treatment of issues that were current in the seventeenth century, and from there proceeds to give us an account of the various theologians who, since that time, have taken up the issue of cooperation with evil. In accomplishing this task, Fr. Cummings interweaves his detailed descriptions of the thought of this or that author with his own critiques and commentary. We are thus given history informed by pertinent and thoughtful interpretation. He calls attention to the strengths and weaknesses of the numerous arguments with which he deals, analyzing them, either explicitly or implicitly, from the point of view that gives governing direction to his study.

In the introduction to the book the author explains that his purpose in writing it is to engage with two problems apropos the issue of cooperation

with evil. First, there is the disagreement among trained theologians regarding the precise nature of the distinction, now routinely made in moral discourse, between formal and material cooperation. Second, there is the problem regarding the application of that distinction, a problem manifested by the fact that most cooperation is identified as material cooperation, and therefore acknowledged to be permissible for justifiable reasons. The result of this approach is that it either minimizes, if it does not entirely set aside, the category of formal cooperation, the signal mark of which is that it is always morally wrong. Addressing the first problem cited above, Fr. Cummings writes: “By distinguishing formal and material cooperation more precisely, we hope to make categorical statements about the impermissibility of some forms of cooperation more possible” (xiii). In other words, there is a need to correct a too loose manner of applying the distinction between formal and material cooperation, too loose in the sense that it simply does not adequately respond to the plain realities of certain situations. Further on the author adds: “It is the goal of this study to provide further guidance for determining what sorts of cooperative actions must be considered formal, by reason of their ‘intrinsic intentionality’ or moral object” (xvii). His specific purpose, then, which the line of argument which is sustained throughout the course of the book is ordered toward realizing, is to make the case for the legitimacy of the category of *implicit formal cooperation*, which he defines as cooperation which “will refer to acts which, in virtue of their aspect of cooperation itself, have a disordered *finis operis*, that is, a proximate or built-in intention such that the cooperator cannot choose them without willing some evil” (xvi).

There are certain acts that by their very nature, given the kinds of acts they are, are ordered toward bringing about certain ends (this is the idea conveyed by the term *finis operis*); we could say that their ends constitute the

very intelligibility of those acts, what essentially they are *about*. This being the case, if a person is cooperating in the commission of a crime in such a way that without his cooperating action the crime could not be successfully committed, then, even though he does not explicitly intend the end which is the crime itself, he cannot be regarded as an innocent party.

Fr. Cummings tells us that one of the aims of his study is to give response to the phenomenon of probabilism, which figures large in much moral reasoning being carried on today, and which he sees, quite correctly in my opinion, as too uncomfortably close to the consequentialism that finds much favor among secular moralists. The problem with probabilism, he explains, is its decided tendency to rely on a proportionalist mode of reasoning, which nourishes a propensity to fail to face up to the fact of intrinsic evil, a reluctance to admit that there are certain acts that are inherently disordered and therefore for which no justification can be found, and therefore never to be done in the vain hope that good might come of them.

The title of the book has its origins in Proposition 51, one of a list of condemned propositions promulgated by Pope Innocent XI in 1679. Proposition 51 had to do with cooperation with evil, a subject which at the time was receiving a good deal of attention by moral theologians. It describes a situation in which a servant holds a ladder while his master climbs it to reach a second-story window, through which he will gain access to a room where he intends to rape a young virgin. The proposition condemns the position which maintains that, because the servant is under duress, fearing that he will suffer some harm from his master for not assisting him in committing his evil deed, he does not sin mortally. By this judgment, cooperation with evil is clearly shown to be blameworthy; it entails guilt. Proposition 51 sets the scene, as it were, for the subsequent development of the book.

The promulgation of a variety of condemned propositions was intended to serve as a corrective measure in response to what the Holy See regarded as a growing laxism in the writings of moral theologians of the day, one of the characteristics of this laxism being “the reluctance ever to call something wrong absolutely” (43). Then there was the factor of probabilism, the ascendancy of which, at the time, may in good part be attributed to the influence of the thought of Cardinal Cajetan. A central tenet of probabilism, related to what has already been said about it, was the idea that “one acts safely in following a moral opinion provided it is probable” (8). This is a dangerous position to assume because mere opinion should not come into play if it is a question of intrinsic evil. The deficiency in this whole mode of moral reasoning is that probable opinions regarding particular moral questions come to take precedence over universal moral norms. What is particularly interesting, and not a little puzzling, about Cardinal Cajetan’s thinking, apropos moral questions, is the preference he gives to the practical intellect over the speculative intellect, as if practical reasoning and theoretical reasoning should be at odds with one another. Here, it seems, we have what is perhaps the first opening given to the specious notion, later to become a mainstay in the thinking of many moralists, that one cannot, in moral reasoning, move from *is* to *ought*, whereas in fact without the former the latter is not possible. One always begins with being.

The condemned propositions were also a response to a growing penchant for legalist thinking among moral theologians. Three of the propositions in Pope Innocent’s list refute the Ockhamite notion that “sins of lust are wrong only because God prohibits them” (17). The fault of legalism was to emphasize extrinsic factors while deemphasizing what was intrinsic to any given situation, and thus we had the attenuation of “the link between moral norms and the intrinsic truth of

man and his nature” (17). Also associated with legalism, perhaps as a cause of it, perhaps an effect, was a separation of moral theology from spiritual theology. By way of summing up the aim of the condemned propositions, it can be said that it was “the displacement of the locus of morality from the interior of the agent to external considerations [that] lay at the heart of the distorted moral vision that the Holy See opposed” (20). Fr. Cummings states the matter in very basic terms—which reflect his general assessment of many of the problems in moral reasoning, then as now—when he notes that what was taking place was “the separation of moral reasoning from reality” (21).

After establishing, in chapter 1, the general context within which the book’s expositions and arguments are to be developed, in the following chapter Fr. Cummings discusses the history of the issue of cooperation with evil before the promulgation of Pope Innocent’s Proposition 51. Here he reviews the work of several theologians, the guiding opinion of most of whom was that “cooperation is presumed to be always wrong” (34). But because of the absence of “specific talk of the intention of the cooperator and what exactly determines it,” the general result “contains substantial ambiguity and contradiction” (45).

Chapter 3 is devoted to an examination of the history of cooperation after the promulgation of Proposition 51. The most prominent of the theologians whose thought is analyzed in this chapter is the great moralist and Doctor of the Church St. Alphonsus Liguori (1696–1787), whose central contention, regarding cooperation with evil, was that “the act of the cooperator and that of the principal agent must be kept separate” (66). The distinction between formal and material cooperation, which had been introduced about a century earlier by the Jesuit theologian Paul Laymann, is given precise definition by the saint. He writes: “That [cooperation] is formal, which concurs in the evil will of the other [the principal agent] and cannot be without sin;

material [cooperation is] that which concurs only in the evil action of the other, beyond the intentions of the cooperator” (66).

The core of formal cooperation is the cooperator’s explicitly intending the end which is being pursued by the principal agent. With reference to the situation of the servant and the ladder, this would mean, in effect, that he wants the violation of the virgin just as does his master. Significantly, because St. Alphonsus interprets Proposition 51 as having to do with material cooperation, he argues that the action of the cooperator—the servant holding the ladder—is morally indifferent. This, for Fr. Cummings, is highly problematic. He argues that it does not follow that, because the cooperator does not influence the will of the principal agent, he does not share in his evil intent. “That is to reject the possibility of implicitly formal cooperation out of hand” (68). We cannot judge the action to be “indifferent” while failing to take into account the servant’s intention. In effect, though of course with no invidious intent on his part, the solution to the problems relative to cooperation with evil offered by St. Alphonsus did not represent a clear break from “the legalist climate of probabilism” (72).

In chapter 4 Fr. Cummings makes a survey of some aspects of British analytic philosophy for the purpose of discovering there some possible helpful insights or guidelines in pursuing the lines of reasoning proper to his own investigation. Here he finds a number of fertile ideas provided by Elizabeth Anscombe, particularly the idea that no purely external description of an act, ignoring the intention of the agent, will count as an adequate moral description. Stating his summary view of his study of its writings pertaining to moral questions, he writes: “It can certainly seem that among the welter of positions and arguments there is fairly little consensus. We believe, however, that the British analytic tradition provides strong reasons to look beyond the agent’s own goal to discover ‘what he is doing.’ Also, it leads

us to believe that an objective judgment on the nature of an agent’s action has some grounding other than the interests of the observer” (118).

Chapter 5 examines the views of the manualists—that is, the authors of textbooks in moral theology—of the nineteenth and twentieth centuries, in the course of which he finds a “fairly settled doctrine” (132) regarding cooperation with evil, involving a clear expression of the idea of implicit formal cooperation. Chapter 6, which is concerned with developments in fundamental concepts, notes that theologians gradually began to give attention to the objective order, specifically “to the objective nature of the cooperator’s act” (158). The notion of intrinsic evil is also given more attention, but with results that were not always entirely satisfactory, what with the “graduated version of intrinsic evil” (160) that was often adopted. The traditional sense of “intrinsic evil denotes a moral object which makes the agent’s will evil should he choose it, not vice-versa” (165). It is not the agent’s choice regarding it that makes a given act evil, as if it was his estimate of it that determined its moral quality; the evil of the act is inherent to it and is already established antecedent to anyone’s choosing to perform the act.

“The Rise of Proportionalism” is the title of chapter 7, and in it is discussed, among other things, the “increasing prominence of the principle of double effect,” (189) particularly in terms of how it relates to cooperation with evil. The movement within Catholic moral theology called proportionalism “can still claim,” Fr. Cummings writes, “the majority of theologians as adherents even if its promise of new life seems to have already wilted in the heat of ‘the Splendor of Truth’” (199), the reference there being to Pope John Paul II’s encyclical *Veritatis Splendor*. The two chapters that follow treat respectively of the thought of two Catholic authors who come after *Veritatis Splendor*. First, in chapter 8, is that of Germain Grisez, which, taken as a whole, is viewed in a

positive light, given that Professor Grisez was one of the staunch opponents to the probabilistic mode of thinking, but which nonetheless is discovered not to be without certain problematic aspects, a case in point being Grisez’s tendency to give more emphasis to the *finis operantis* while paying insufficient attention to all the factors relating to the *finis operis*. In sum, the subjective takes precedence over the objective. And then there is Grisez’s reluctance to allow room for the possibility of implicit formal cooperation. The analysis of the thought of Fr. Martin Rhonheimer, in chapter 9, focuses on the attention this theologian gives to the human act as seen from the “perspective of the acting person” (280). This perspective, though commendable in itself, can cause problems, for “if this intentional act can only be identified from the viewpoint of the acting person, in the sense that ‘what he is doing’ is a secret knowable only to himself, then the nexus between the physical process and intentionality is again severed” (282). Here one loses sight of the fact that behaviors, “in and of themselves, imply a certain intentionality for any agent that willingly chooses them” (283).

In chapter 10 Fr. Cummings discusses the thought of the moralist Steven Long, which he chooses to concentrate on because he regards Long as the chief representative of the “‘natural meanings’ theorists, writers who recall and emphasize the objective natural determinants of the moral object” (295). It is the stress that Long gives to natural teleology that he sees as especially noteworthy and important, calling attention as it does to the fact that human acts have certain effects that are proper to them, being so intimately bound up with the acts that we can say they are part of their very definition. A failure to recognize this “leads to a loss of the concept of absolute intrinsic evil” (305). Fr. Cummings sees the need to “evaluate the material element of cases of cooperation in light of natural teleology” (317), the idea that given acts have

by their very nature given ends. This involves, specifically, determining what kind of material cooperation “necessitates by its intrinsic ordination that an agent choosing it intends the evil of the principal agent” (317). This is so because the end of the act which the cooperator chooses to perform contributes directly to the realization of the end intended by the principal agent.

Chapters 11 and 12 constitute the culminating chapters of the book; in them Fr. Cummings gives us a clear and complete statement of the thesis the careful development of which the whole argumentative thrust of the book has been directed. In these chapters he expands on any number of matters that are related in one degree or another to his thesis.

Let us see if we can now give an accurate account of the nub of his argument, beginning with the question: What is the proper moral status of one who cooperates with evil? In the first place we say, if the cooperator intends precisely the same end as does the principal agent, if, that is, in reference to our governing example of the servant holding the ladder, the servant explicit intends the violation of a virgin, then his cooperation is clearly formal, and he shares in the guilt that accompanies the crime. But let us say that his intention is not one and the same with that of his master. Does that necessarily mean, without any further qualification, that his cooperation can be declared to be material, and therefore possibly does not bring with it any guilt at all? No. The servant’s actions can be seen as involving implicit formal cooperation, and therefore, as formal, albeit qualifiedly so, it entails guilt on his part. This is the case because, although the intention (*finis operantis*) of the servant is not perfectly one with that of his master, the very nature of the act which he freely chooses to perform (holding the ladder) is such that the end toward which it is ordered is effectively conjoined to the end intended by his master because it directly contributes to the accomplishment of that end.

The servant may abhor what his master intends to do (he does not explicitly intend what his master intends); but, his abhorrence notwithstanding, given the actual circumstance, in which he is holding a ladder, his action makes possible the realization of the end his master intends. The key factor in the determination of his guilt is not the nature of his intentions, but the nature of the act which he freely chooses to perform. His holding the ladder cannot be considered to be neutral or indifferent, for it cannot realistically be considered apart from the concrete circumstance in which he is doing so. The servant, in spite of himself, we might say, does evil because he does an act which, given its context, is evil. It is wrong freely to aid someone in doing evil, no matter what conflicting feelings one might have about doing so. In sum, the decisive factor here is not the subjective state of the servant, but the objective nature of the act he performs.

“Overemphasis on the agent’s intention *qua* proposal,” Fr. Cummings concludes, “to the exclusion of the actual behavior that is being chosen, can wreak havoc in moral analysis generally and in the understanding of cooperation in particular” (331). The basic idea behind implicitly formal cooperation, as explained and defended in this book, is simply that “in performing certain behaviors with awareness the agent *necessarily* intends and does certain things” (333). Fr. Cummings is calling for the adoption of what might be described as a comprehensive approach in the moral analysis of human behaviors, one which takes into account, besides of course intention, the hierarchy of goods, the natural teleology of actions, and objective causal relations among those actions. He finds confirmation, in section 74 of *Evangelium Vitae*, for his view of the nature and extent of formal cooperation, where Pope John Paul II writes that an act constitutes formal cooperation when “either by its very nature or by the form it takes in a concrete situation, [it] can be defined as a direct participation in an act against innocent

human life” (347).

Fr. Cummings argues that it behooves the contemporary moral theologian to be more concerned about being consistent than being benign, that is, he should show more care for “pointing the way to holiness however steep and narrow the path,” than for “trying to get people out of awkward positions” (369). Regarding the application of the principles he articulates in this book to the larger social realm, he makes an observation that deserves to be quoted in full. “We admit that one feels guilty of shameful temerity to suggest that such demands be made [that is, actively to oppose pervasive social evils and to eschew cooperating with them in any way], to claim—from the safety of one’s study—that the call to heroism should not be considered optional for those in difficult situations. It must, however, be recognized that there is no other way to prevent the coming to be of pernicious structures, evil empires, and corrupt cultures, nor is there any other means to destroy them. The need for witnesses to absolute moral truth is unavoidably necessary” (385–86).

In the general conclusion to his study, which Fr. Cummings presents in the book’s final chapter, he remarks on the tendency of moralists who have been influenced by probabilism to downplay the intrinsic moral value of human behavior, a reluctance to acknowledge that there are certain acts which in principle can never be justified. This attitude was born, he believes, out of the practice of identifying as material cooperation what in fact is formal cooperation. He summarizes the consequences of the position he advocates regarding the formal cooperation with evil in the following points, which I present here in abbreviated form.

To the classical distinction between formal and material cooperation, as defined by St. Alphonsus, there should be added the category of implicit formal cooperation.

“Implicit formal cooperation is

cooperation in which the *finis operis* of the cooperator will be wrong due to the direct participation in the evil activity of the principal agent” (398).

When the duress under which the cooperator may be acting does not wholly deprive him of responsibility, his action remains formal cooperation.

Participation in evil may be direct whether it is proximate or remote.

The author believes his “conclusions are the authentic expression of recent Magisterial statements. In this light, our conclusions can also be viewed as simply clarifying the sounder intuitions of traditional teaching” (400). The book contains an appendix in which fitting tribute is paid to two men, Blessed Michael Nakashima (1582–1628) and Blessed Franz Jägerstätter (1907–1943), who were martyrs for the truth in that they chose to die rather than to cooperate with evil.

The *Servant and the Ladder* is a distinguished work in moral theology, one that displays a degree of general erudition, of balanced judiciousness, and of meticulous scholarship which is very impressive. This review is able to give only a glimpse of the richness and variety of the book. The arguments it contains are uniformly engaging and compelling. The author is especially to be commended for the clarity and cogency of his writing style, which enabled him to handle with notable effectiveness a number of issues that, given their subject matter, were heavy with complexity. His running commentary on the issues with which he deals is consistently incisive and instructive. The book contains an ample bibliography, indices, and copious and informative notes following each chapter, a particularly valuable feature of which is that significant and nonskimpy quotations from the works of various authors are given in the language in which they were originally written. This book cannot fail to contribute in an important way to contemporary Catholic moral theology.

Lawrence M. Krauss. *A Universe from Nothing: Why There Is Something Rather than Nothing*. New York: Atria Paperback, 2013. 202 pp.

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I
Lawrence Krauss is a theoretical physicist and a cosmologist, which is to say, a theoretical physicist the principal subject of whose theorizing has to do with the nature and the origins of the universe. After receiving his Ph.D. in physics at M.I.T. he did postgraduate work at Harvard University as a member of the prestigious Society of Fellows. He began his teaching career at Yale University, moving from there to Case Western Reserve University, where he was the Ambrose Swasey Professor of Physics, and where for twelve years he served as chairman of the physics department. Currently he is Foundation Professor in the School of Earth and Space Exploration, and a member of the physics department, at Arizona State University; he is also codirector of the Cosmology Project and inaugural director of the Origins Project.

There are two principal aspects to Professor Krauss’s book. The first aspect has to do with providing the reader with a history of recent developments in cosmology, as well as with giving a summary account of the current state of theorizing in that field; this occupies a large portion of the book. The information the author offers us on these subjects is richly informative, uniformly interesting, and presented in a very engaging manner. The second aspect of the book relates to its centerpiece, which is a theory regarding the origin of the universe that Professor Krauss himself proposes, a theory he articulates in a spirited manner and defends with what might be described as measured confidence. It is on this aspect of the book that I will be concentrating my attention in this review, with Profes-

sor Krauss’s theory serving as the focal point of our discussion.

The book’s title, *A Universe from Nothing*, is not to be taken literally, but just how it is to be taken is something about which the author leaves us, in the final analysis, in a state vacillating between conviction and confusion. At the very outset we are confronted with the major problem of the book, the problem with “nothing.” Given the way that Professor Krauss goes back and forth on the subject of “nothing” over the course of the book, even the most sympathetic reader can be excused if, in the end, he is less than clear as to what larger purposes the author intends the notion to serve in the construction of his thought. A sampling of the various things he actually does say about the notion of nothing will at least help us to locate more precisely the nature of the problem with which the reader is faced. Professor Krauss states the main thesis of the book when he calls our attention to what he describes as “the precarious accident that allowed our existence to form from nothing” (xvii). He speaks, in the early pages of the book, in decisive and even emphatic terms about the nothing which, he claims, is to be taken as the source of everything. It seems evident that at this point he wants the reader to understand that, in speaking of nothing, he is not using figurative language, as is indicated by his employment of sturdy phrases such as “absolute nothingness” (xvi) and “precisely nothing” (xxvi). But as the argument of the book progresses we are informed that the “absolute” and “precise” nothingness upon which we were earlier invited to concentrate our attention should now be thought of as “the nothingness we normally call empty space” (50), later to be described more strongly as “truly empty space” (70). Some thirty-six pages deeper into the book—shortly after using the bold phrase, “essentially *nothing*” (98, emphasis his)—space is described as “*seemingly* empty space” (106, emphasis mine). So, thus far we apparently have absolute nothingness, which is really empty

space, which is only seemingly empty.

At this juncture it is explained that space cannot really be empty because it contains energy; this is a point that will play a critically important role in Professor Krauss’s whole argument. The stark and seemingly unequivocal statements made about nothingness at the beginning of the book remain vivid in the memory of the reader as he comes to learn, in chapter 9 (fetchingly entitled “Nothing Is Something”), that we live in “a universe that could have arisen from nothing, or at the very least, from *almost nothing*” (148, emphasis his). Nothing seems to be fast losing its integrity as honest to goodness nothing, as the reader puzzles over what might count as “almost” nothing. Are we being invited to think in terms of, perhaps, just a little bit of “something”? In the final three chapters of the book, where Professor Krauss presents what he deems to be the clearest exposition of his theory, we encounter a reference to the “kind of ‘nothing’ I am discussing” (149), which leads us to suppose that “nothing” is now to be taken as a genus, which contains various species. On the other hand, references to “the simplest version of nothing” (149) and “this version of nothing” (149) suggest to the reader that nothing might be compared to a musical theme which admits of many variations.

At this stage, given the consistent pattern of ambiguous, elusive, definition-dodging language of the sort the above citations have been intended to illustrate, a language which is pretty much characteristic of the text as a whole, the reader might be visited with the temptation to think he is simply being played with by an author who is more concerned with manner than with matter. But, virtuously overcoming that temptation, the reader forges on hopefully, and apparently not without good reason, for eventually he comes across the refreshingly frank admission on the part of Professor Krauss that “it would be disingenuous to suggest that empty space endowed with energy, which drives inflation,

is really *nothing*” (152, emphasis his). Later he writes: “there is something simply because if there were nothing we wouldn’t find ourselves living there!” (177) (Presumably he is referring here to a “something” which constitutes a “somewhere.”) The reader is gratified, and somewhat relieved, by these air-clearing admissions, but he is nonetheless prompted to wonder what then was the purpose for all the previous erratic word-play over “nothing.” How did that productively advance the book’s central argument? But all is not yet settled; further perplexing questions regarding “nothing” remain.

Twenty pages on, Professor Krauss refers to “what one should be tempted to consider as nothing” (172), which gives the reader pause. Is he being advised to resist that temptation, to simply accept that “nothing” is really something after all and dispense with the word play? It would appear not, for two pages later he makes reference to “a more fundamental nothingness” (174). The author’s seemingly definitive statements about the notion of nothing, a notion which obviously has completely captured his imagination, do not, after all, allow us to come to any perfectly clear conclusions about the matter (the non-matter?) around which the book’s central argument is built. In the epilogue Professor Krauss tells us that “[w]e have discovered that all signs suggest a universe that could and plausibly did arise from a deeper nothing—involving the absence of space itself” (183). If nothing is really something, a point he clearly conceded, then a deeper nothing apparently should be understood as somehow a deeper something, and the concomitant absence of space should be interpreted as a deeper space, containing deeper energy. But how “deeper” is to be taken here remains a mystery. Just a few lines above the statement just quoted, he tells us that “the very distinction between something and nothing has begun to disappear” (182–83). This admission, coming at the very end of the book, is not particularly reassuring. If, in the final analysis, there is no

real distinction to be recognized between something and nothing—a thesis to which common sense and logic would readily consent, for real distinctions can hold only among real existents—then all the references to “nothing” that play so central a part in this work turn out to be little more than uncalled for distractions, moves in an ongoing shell game of “now you see it, now you don’t.” Not only do they fail to advance the author’s argument, they seriously hamper it. In Plato’s *Sophist*, the Stranger makes the following pertinent observation: “It is also plain, that in speaking of something we speak of being, for to speak of an abstract something naked and isolated from all being is impossible.”

The multiple problems relating to Professor Krauss’s notion of nothing are but a specific instance, albeit the most prominent one, of a larger problem that besets this book, and that is a problem having to do with the nature and purpose of language itself. Just as there are rules and set conventions that govern physics and mathematics, so there are rules and set conventions that govern language, and to violate them is to undermine the very *raison d’être* of language, which is to serve as a stable, reliable means of communication, effecting the critical connection between mind and mind. Words have set meanings, and those meanings have to be honored. *Nihil* in Latin, *rien* in French, *nada* in Spanish, “nothing” in English, have a clear, common, univocal referent: nonbeing, an absence of real existents. Professor Krauss would seem to be of the mind that science, more specifically, the mode of thinking employed by those working in the empirical sciences, enjoys a kind of privileged position with regard to semantics, which allows for the arbitrary assignment of new meanings to words whose meanings have been long and firmly fixed, and doing so simply to suit theoretical purposes. According to Professor Krauss, the reassignment of meanings to common words is warranted, even necessitated, by the exi-

gencies of science, and, he cryptically notes, “as empirical knowledge shines a new light on otherwise dark corners of the imagination” (143). It is as if the empirical sciences are to be regarded as representing a new kind of gnosis, and thus we have the phenomenon of scientism, an attitude that regards scientific knowledge as the only truly authentic knowledge available to mankind. Scientism, in its extreme form, effectively makes of science an ersatz religion, and one suspects, given so many of the things Professor Krauss says in this book, that he is one of its more devout adherents.

Professor Krauss takes a dim view of philosophy, to the extent that he understands it, and is completely dismissive of theology. These are attitudes one encounters fairly frequently today in books written by scientists that do not stick to the subject of science, especially if their authors, like Professor Krauss, happen to be professed atheists and who incorporate into their books definitely nonscientific agendas. While many of these writers disparage philosophy, they nonetheless freely, and incongruously, engage in what, taking the term in a broad and generous sense, is essentially philosophical discourse; what they are doing in such instances is surely not science. We see this practice at work in *A Universe from Nothing*, wherein Professor Krauss proposes any number of hypotheses about the nature and origin of the universe which, as he himself is not reluctant to admit, are not, given the quality of the knowledge upon which he must rely, of the sort that would be able to meet the rigid tests of verification or falsification, and therefore can be called scientific only in an analogous sense. In the strict sense, they qualify not so much as scientific hypotheses as philosophical conjectures, some of them in some respects not so different from the kind of speculation engaged in by the Presocratic philosophers two and a half millennia ago. In any event, as philosophical conjectures, they can be met with on philosophical grounds.

II

In what follows I will comment on a number of more specific problems with *A Universe from Nothing*, relating to one or another of the modes of reasoning Professor Krauss employs in developing his argument. In the preface to the book, in discounting the need to appeal to God for the origin of the universe, he implies, not a little surprisingly, given the main thrust of his thought, that there may be no reason for positing an origin at all, for perhaps the idea of infinite regress might be worth subscribing to. But this logic serves to undermine his whole project. If he is serious about allowing for infinite regress, this would be tantamount to acknowledging, eventually, the universe to be eternal, but in doing so he renders his theory nugatory. Any talk of a universe that emerged from “nothing” would be but empty chatter, for there would be no emergence to talk about. He would have had no need to write his book. An appeal to infinite regress is not to offer an explanation, but to avoid all explanation; it is to abandon scientific inquiry.

So much of Professor Krauss’s argument is based upon the possible and the plausible, which he does not in the least bit disguise. The text is spiced with phrases like “once we allow for the possibility” (67), “there is always the possibility” (128), and “let’s consider even stranger possibilities” (163), which are then often followed by speculations that place demands on mere possibility that it cannot reasonably be expected to meet. There is little or nothing of the self-evident to go on. Professor Krauss openly acknowledges that his theory can only rate the status of the plausible, and concedes that “we may never achieve more than plausibility” (147). But then, those acknowledgments and concessions made, he goes on to proclaim, in oracular tones, “But plausibility itself, in my view, is a tremendous step forward as we continue to marshal the courage to live meaningful lives in a universe that likely came into existence, and may fade out of existence, without

purpose, and certainly without us as its center” (147–48). One would never have thought that there were so many potential ramifications of cosmic proportions packed into mere plausibility. A physical theory, based on the plausible, is offered as, besides an explanation for the origin of the universe, a fitting foundation for existential meaningfulness. Professor Krauss regularly makes the possible or the plausible the launching pad from which he seeks to arrive at the actual, but in doing so he violates one of logic’s more basic principles: *a posse ad esse non valet illatio*, one cannot validly conclude the actual from the possible. The utter precariousness of this mode of reasoning is given vivid expression in the following assertion: “So we have to make some guesses, based on plausibility” (163). This is in effect saying that we must found pure speculation upon pure speculation—not a promising blueprint for a stable cognitive architecture.

In his determination to disallow any appeals to the supernatural, as he endeavors to explain the nature and origin of the universe, he informs us that a key element of his whole approach is to focus on the “how” question, while systematically ignoring the “why” question. The latter is peremptorily ruled out of court, for pursuing it would inevitably entail a confrontation with purpose, and, for him, any discussion of purpose regarding the universe is irrelevant, not to say, we would add, dangerously distracting for him, for the serious pursuance of the notion of purpose would eventually lead to God. Apart from that, the approach he intends to follow in this regard is frustrated right at the outset, for the two questions, “why” and “how,” are inseparable. If one endeavors to explain, for example, how a particular machine works, one must first of all know the purpose of the machine. What is it *for*, what is it intended to do? It is only with that knowledge that one is able to make any sense of the particulars of the operating aspects of the machine. The intelligibility of how the machine

functions is founded upon the end or ends toward which those functions are directed. Regarding the issue in more general terms, the approach Professor Krauss takes here represents an attempt to deny the pervasive presence of final causality in nature, but any attempt to deny final causality, while allowing only for the operations of efficient causality, which for a long time now has been part of the stock in trade of the empirical sciences, turns out to be a futile effort of denying what is part of the very intelligibility of what you are affirming. For efficient causality simply is incomprehensible if divorced from final causality. The core of efficient causality is act, and act is bereft of meaning, indeed it simply is not act, without finality. An act cannot be identified as such without reference to the end to which it is ordered, which end is incorporated into the very description of the act.

The elementary principle being appealed to here (*omne agens agit propter finem*) has cosmic application. Professor Krauss wants to deny that there is purpose in the universe itself, and maintains that it came into being haphazardly, inexplicably, but he fatally weakens his argument when he recognizes that there is in the universe “a profoundly simple underlying order” (142). Therein lies the rub. Once you acknowledge order you perforce must acknowledge finality, or purpose, for that which is ordered is such because it is under the governance of a directing principle. But this is something of which he is either unaware or of which he deliberately chooses to be unmindful. Order, as he sees it, is, like so much else in his earnestly imagined universe—virtual particles, space itself (which at one point he describes as “forced into existence” 161), deep matter, multiple universes—accommodatingly appear on the scene, so as to provide the context without which the theory he advances would make no sense. The very concept of order implies directedness. His effort is to explain how the physical universe came into being, beginning with the Big Bang and the inflation

that followed hard upon it. Granting the historical reality of those two events, if there were not finality which was part and parcel of the scenario in the beginning, that is, if there were no directedness to the multitudinous motions of cosmic matter that have taken place over the supposed 13.72 billion years that have transpired since the Big Bang, then the ordered universe we now observe would not exist. We could suppose that there would have been motion subsequent to that event, but it would have been directionless, aimless, and hence disorderly. But Professor Krauss acknowledges that we live in an orderly universe.

Whence the order that is everywhere to be observed in the universe? Professor Krauss would say it is to be attributed to the laws of nature, to which he seems to assign almost a divine-like status, and thus they serve as substitutes, as does Nature (“Nature quickly came to the rescue,” he writes at one point, 61), and quantum fluctuations, for the God he will not acknowledge. But the next question that naturally suggests itself is: Whence the laws of nature? Here the answers we receive are not especially helpful. Early in the book he tells us that the laws of physics “can arise haphazardly” (xvi). Later he tells us these laws may be eternal, and thus predate the universe itself, and, what is more, “require our universe to come into existence” (142). Later he suggests the laws of nature are “stochastic and random,” and then goes on to assert, “No mechanism and no entity is required to fix the laws of nature to be what they are. They could be almost anything” (176). Do we not have in these statements, which do not admit of coherent integration, something suggesting a kind of intellectual desperation? To clear the head of these fanciful musings, it would be well to recall what William Paley had to say in his *Natural Theology*, in response to those who talk about the laws of nature as if they were autonomous and self-explanatory, when they are, in fact, as the case with any law, intelligible only in terms of a

law-giver. Our very notion of the laws of nature rests upon an analogy with civil law. We know that civil laws do not simply come into being; they are laid down by a legislator, either an individual, like Hammurabi, or a body, like the U.S. Congress. The same holds true for the laws of nature, the law-giver in this case being the Creator.

It has more than once been observed that the mode of reasoning typical of the empirical sciences can easily lapse into the fallacy of affirming the consequent, if careful qualifications are not made. We will remind ourselves what is involved here by first putting the possibly offending argument in symbolic form:

$P \rightarrow Q$
 Q
 P

The gist of a valid conditional argument is this: There is a necessary connection that obtains between P and Q, such that, if P is true, Q necessarily follows. So, if P stands for George, whom we know to be actually running, then Q (George is moving) necessarily follows. But you cannot legitimately argue backward, as the argument above does. You cannot say that because George is moving he is necessarily running; he *may* be running, but that is not something about which we can be certain if all we know of George is that he is moving.

Scientific reasoning succumbs to this fallacy if it attempts to argue that because certain effects would be observed if such a theory or hypothesis were true, then that theory or hypothesis is proven to be true if in fact those effects are observed. That does not necessarily follow, for although the effects may have their explanation in the proposed theory or hypothesis, there may be other explanations for them as well, the existence and nature of which are not now known to us. However, given the soundness of the data one has gathered, one may legitimately make a case for the acceptableness of a positive conclusion one wants to draw regarding a particular theory or hypothesis, by showing it to be, if not necessarily true,

at least showing a high degree of probability of being true. And that is the modus operandi of any careful scientist. One evades the fallacy by not insisting on an unwarranted necessary conclusion.

Professor Krauss is certainly conscious of these matters, but nonetheless on occasion he succumbs to the fallacy of affirming the consequent. For example, he argues that “using Dirac’s equation, and the predicted existence of virtual particles, we can calculate the value of atomic parameters and compare them with observations and have remarkable agreement at the level of about 1 part in a billion or better!” Those consequences, taking them at face value, are impressive in their way, but they do not warrant the boldly stated conclusion, ending with an exclamation mark, to be accepted as a necessary truth: “Virtual particles therefore exist!” (69) Also, this argument seems a bit suspicious in that it suggests a kind of scientific reasoning where a theory is proposed which has incorporated within it certain predictions, and then the predictions are supposedly borne out on the basis of entirely mathematical “evidence.” Here, in the final analysis, the virtual particles remain virtual, that is, the actual form is still missing.

In another instance, Professor Krauss maintains that we can conclude that empty space contains energy by “observing the rate of speed-up of our expanding universe” (108). But here again the truth of the consequent (the observations cited) does not offer evidence for a definitive conclusion. To cite a third instance, in the process of making a case for the factualness of the Big Bang phenomenon, he argues that certain observations which have been made are what one would expect if the Big Bang happened. This is not an unreasonable argument, but again it is not conclusive. The observations could have an explanation other than the one being favored. In another instance he argues for the possibility of our one day arriving at a Grand Unified Theory, bringing together at least three

of the four forces of nature. He writes: “Should such a theory make a host of predictions that are subsequently verified in our experiments, we would have good reason to suspect that it contains a germ of truth” (137). Here he is exercising commendable caution with regard to the conclusion he is entertaining, implicitly acknowledging the chanciness of the reasoning on which the argument is based. A given theory could be quite capable of making a host of predictions, perhaps even of great accuracy, as was the Ptolemaic theory, but not many astronomers today would be willing to say that on that account we have sufficient evidence to conclude that geocentricism is the correct model for the solar system. Finally, I cite the following argument: “I would stress that a multiverse is inevitable if inflation is eternal” (130). Here he skates on the thinnest of ice. First of all, the structure of the argument, in which the consequent is affirmed, invalidates his conclusion; the form of the argument is defective. Secondly, with regard to the argument’s matter, both the antecedent and the consequent express simple impossibilities. In that respect, then, the argument is entirely fanciful.

Professor Krauss assumes a particularly interesting position in articulating the following argument: “Our universe is so vast that, as I have emphasized, something that is not impossible is virtually guaranteed to occur somewhere within it” (126). The conclusion does not follow, and therefore the guarantee, virtual or otherwise, which he offers is empty. The gist of the argument is that what is not impossible is inevitable, or to put it in positive terms, because something *can* happen it *will* happen. This represents another case, it will be noticed, of moving illicitly from the possible to the actual, but now the movement is of a much bolder kind: the actualization of the possible is claimed to be a foregone conclusion; it *must* come about. To cite the vastness of the universe as the governing premises of the argument, as if in that vastness itself there is somehow to be

found permission for the impermissible, is to attach undue significance to what is really no more than an irrelevancy. A more explicit statement of this fallacious mode of reasoning is found later in the book when we read: “anything that is not proscribed by the laws of physics must actually happen” (163). That statement composes part of an argument that is doubly enfeebled because in it Professor Krauss also flirts with the fallacy called the appeal to ignorance, the fallacy by which one claims that if nothing counts against a theory, it is therefore acceptable; in sum, no negation warrants affirmation. In arguing for the possibility that “small, compact spaces” can “pop in and out of existence,” he reasons as follows: “unless one can come up with a good reason for excluding such configurations . . . and to date no such good reason exists that I know of, then . . . it seems more reasonable to consider these possibilities” (163). There is no justification for accepting the possibility of small, compact spaces (we will pass on attempting to explain what they might be) popping in and out of existence simply because there is no evidence *against* such a possibility. If one were to rely on this kind of reasoning there would be no limit to what one could propose and expect to be taken seriously. Here one is simply relieving oneself of the burden of proof, and is conveniently placing it upon anyone who takes exception to the position that one is advocating.

There are many aspects of Professor Krauss’s theory that are, as he himself admits, “strikingly nonintuitive” (98). To call something nonintuitive may be taken as a way of saying that it is very difficult to accept at face value. At times it is almost as if he is inviting his readers to acquiesce to credulity. At one point he candidly confesses that “inventing a whole new set of particles in empty space that you cannot measure sounds a lot like proposing a large number of angels sitting on the edge of a pin” (65). It does. The “inventing” he refers to here plays a significant role in this theorizing. He defends the exercise

because, apropos this particular case, it “turns out” that these proposed particles, which are not directly observable, have “indirect effects” (65, emphasis his) that produce most of what we find in the universe today. So, we have a purely theoretical entity, not observable, that indirectly effects what we directly observe. We are not told what it means to effect something indirectly. It is interesting to note how frequently things just “turn out” in such a way to prop us a theory the overall compelling quality of which is far from commanding. If angels do not figure in the theory, there is nonetheless the presence of any number of *dii ex machina*, who appear on the scene just when needed and accommodatingly serve as “gods of the gaps,” supplying what nature uncooperatively refuses explicitly to provide. One is reminded of the criticism Professor Stephen Jay Gould leveled against what he called “just so” stories, that is, vain attempts to correct embarrassing discrepancies in evolutionary theory—to which he himself was of course thoroughly committed—by introducing what were little more than fictional devices. Professor Krauss makes fairly frequent appeals to the infinite, about which two remarks are to be made. It is not at all clear to what, in using that term or its variants, he is appealing. Doubtless he has in mind how the concept of the infinite can have functional use within mathematics, but the mathematical infinite can be nothing else than the indefinite; there is no actual infinite in mathematics, nor in nature. Is Professor Krauss supposing the case to be otherwise? The second remark is that, because of the vagueness that surrounds his use of the term, it seems that at times his appeal to the infinite amounts to calling in a *deus ex machina*.

Many references are made to dark matter, a notion that has been knocking about for some time now. Professor Krauss tells us that “we have no idea what it is” (116), nor therefore do we have any idea of its origins, and this for the very good reason that the existence of dark matter is an inference, for it has

never been observed. Now, this mode of reasoning is perfectly legitimate, and the history of science gives us interesting examples of situations where entities, particles or planets, whose existence was initially inferred, on the basis of relevant observations, were then eventually proved actually to exist. Possible existence was confirmed as actual existence through observation. So, it is conceivable that the existence of dark matter, not as a theoretical construct but as a real existent, might one day be established. In the meantime, we should keep in mind that we are employing conditional reasoning here, and in the process affirming the consequent. It does not necessarily follow that the patterns of certain astronomical observations are only to be explained by this mysterious phenomenon called dark matter. There may be other explanations for them which the present state of our knowledge does not allow us even to speculate about. It is important to be cautious about making confident calculations based on mere inferences, such as assuming the existence of dark matter to estimate the age of the universe.

Imagination, if kept under the strict control of reason, plays an important role in the advancement of scientific inquiry, as the history of science shows. But if imagination gains the ascendancy, the results are never happy. Professor Krauss, in his speculations, relies a great deal on imagination. In chapter 9 of his book he remarks that “we can imagine an infinite number of universes stacked up on a single point in our space, invisible to us, but each of which could exhibit remarkably different properties” (135). Indeed we can imagine this: there are no bounds to be put on the human imagination. But in this instance we would be imagining the impossible. At this point science is abandoned and fantasy takes over. It is pure fantasy that allows us to aver that we live in a universe “that arises naturally, and even inevitably, from nothing” (143).

No scientist could be expected to keep up with what is going on in

scientific disciplines other than the one in which he specializes, and on that account Professor Krauss may be excused for the unqualified confidence he puts in evolutionary theory, a confidence not shared by many of its most devout advocates (see p. 147), and what he has to say about the prevailing attitudes of biochemists and molecular biologists today is highly questionable (see p. 160). Interestingly, many practicing scientists seem to have but a tenuous knowledge of the history of their own discipline. A case in point: Professor Krauss contends that once Newton had discovered the workings of gravitational forces and how they govern planetary motion, he saw no need for supernatural intervention to maintain the regularities of the solar system. As a matter of fact, Newton cited the need for direct divine intervention to perform precisely that task; he thought it necessary that God himself should intervene on occasion and make timely adjustments to planetary motion to ensure that the orderliness of the system be preserved.

Space, like certain other terms Professor Krauss uses in his book, takes on a protean quality, as has been shown in previous quotations. At one point, well into his argument, he adopts, or one could say reverts to, what is indistinguishable from the Newtonian understanding of space. He writes: "I will assume that space exists, with nothing at all in it" (149). Newton advocated what has come to be called absolute space, that is, he believed space to be a completely independent, free-standing, substance-like reality, and eternal to boot. He argued that even if God had never created the physical universe, there would nonetheless be space, just as there would be time, which he also saw as an eternal reality. In the end, he came to see both space and time, because eternal, as what amounted to be attributes of God. (Incidentally, Einstein professed to find Newton's understanding of space as altogether incomprehensible. For Einstein, space was not possible without matter, nor was time possible without matter in motion, and

in this respect he was simply reasserting two mainstays of Aristotelian physics.) Professor Krauss's assumption that space has real existence, though it is empty ("with nothing at all in it"), is apparently what he takes to be the status before the existence of the universe. Space then could be imagined as a huge empty container, waiting to be filled. To this point he would be in agreement with Newton, and perhaps he would also agree with him that space was eternal. However, an eternal empty space would collide with his willingness to accept infinite regress, which, as has been suggested, is tantamount to accepting, not an eternal empty space, but an eternal universe. In any event, from this point their views diverge radically. For Newton, empty space was "filled" by God's creative action. The universe, as we now know it, would be unintelligible if we were to attempt to explain it in purely naturalistic terms. For Professor Krauss, on the other hand, one need not and cannot go beyond nature to explain nature, for nature is all there is. Nature is in effect self-explanatory. Newton's eternal and utterly empty space somehow—at some point in Newton's eternal cosmic time?—finds itself having somehow become pregnant with energy. Voila! And the rest is history.

Taking it at face value, as presented, a scientific theory, what is to be made of Professor Krauss's cosmological argument explaining the origin of the universe? It is, to be sure, highly speculative, which is in good part to be explained, no doubt, by the scientific discipline that engendered it, which thrives on speculation, and not always of a properly controlled kind. Cosmology, as it is being practiced today, is a discipline that, one might suggest, could benefit by more discipline, giving less play to imagination and more to sober logical reasoning. Speculation and theorizing are invaluable and indeed necessary, but they lose their force to the degree to which they distance themselves from the realm of the empirical. This is especially true, needless to say,

if the object of one's theorizing is the physical world. Physics, even theoretical physics, is, after all, about the physical, that which can be observed and measured. Sooner or later a physical theory, to prove its salt, must submit itself to the rigorous demands of verification and/or falsification. It must be founded on concrete data which is directly accessible to sound human judgment. It cannot be founded on abstractions, or mere hypothetical entities, or, much less, on purely fanciful conjectures that by their very nature remain forever beyond the reach of reasonable affirmation or denial. And here we have the fundamental and fatal weakness of Professor Krauss's theory, looked at only from a scientific point of view: it is a theory founded upon theory. It does not break out of the realm of speculation, nor can it, given the quality of so much of the speculation upon which it rides. Its principal conclusion, that the universe can be explained in purely naturalistic terms, rests upon premises that are anything but self-evident, and that of course undermines them as premises.

III

A Universe from Nothing is more than a book propounding a scientific theory about the origin of the universe. That is its principal purpose, but it has a secondary purpose as well, which has more to do with the realms of philosophy and theology than that of science, which is to make a case, albeit somewhat obliquely, for atheism. In this respect the book, as a type, is not unique. It belongs to a tradition of sorts that has roughly a 200-year history behind it, flourishing in the nineteenth century especially. In that century the empirical sciences were brimming with self-confidence, a self-confidence which in some cases was given aberrant expression in the phenomenon that came to be called scientism, which I called attention to earlier. Books reflecting this phenomenon began to appear, written by scientists or ardent devotees of science, who coupled

their usually extravagant propagandizing for science with the disparaging of philosophy, or theology, or religion in general. The governing inspiration behind these works was the idea that, with the advent of modern science, supposedly representing the apotheosis of human rationality, mankind has at last reached full maturity, its childhood and adolescence now behind it, along with philosophy and its "metaphysics," theology and its mythology, as well as religion and its superstition. Books in this general mold, though on the whole less brazen, continue to be published today. Besides the book here under review—a good example of the type—one might cite Richard Dawkins's *The Blind Watchmaker* (1986) and *The Grand Design* (2012) by Stephen Hawking and Leonard Mledinow. I believe it is on the very first page of the latter work where the authors cavalierly announce the death of philosophy, and then, amusingly, themselves go on to philosophize freely on any number of subjects, and quite unimpressively.

Professor Krauss's attitude toward philosophy is not as sweepingly dismissive as that of Hawking and Mledinow, but he takes a generally disapproving attitude toward the discipline. He chastises philosophy for its unwillingness, or inability, to see the justification for his erratic notions of "nothing," and he is exasperated by "these abstract and useless debates about the nature of nothingness" (xxv), apparently unwilling to admit that it was his ideas on the subject that provided the occasion for the debates. The gadfly philosophers bothersomely call attention to the seminal distinction between being and nonbeing, which Professor Krauss, oddly, seems to regard as irrelevant to the question. "I discount this aspect of philosophy here because I think it bypasses the really interesting and answerable physical questions associated with the origin and evolution of our universe" (xvii). The bypassing problem is his, however, for he fails to see that the questions he endeavors to answer are not, as he describes them, "physical

questions." He is neglecting the only science, metaphysics, that is capable of addressing in a coherent manner the kinds of ontological questions with which he chooses to wrestle. He is simply making demands of physics that it is incapable of meeting. Though he obviously is not prepared to admit as much, metaphysics is the foundational science, on which physics and all other sciences depend. His scientism has convinced him that physics is the foundational science, and that conviction prompts him to want to reduce philosophy to empirical science, which is made clear by the dogmatic declaration: "If we wish to draw philosophical conclusions about our own existence, our significance, and the significance of the universe itself, our conclusions must be based on empirical knowledge" (139). Later on the same page he avers that if we are to have a truly open mind we must conform ourselves to "the evidence of reality." To this we readily assent, just so long as "reality" is taken in its totality. However, this is precisely what Professor Krauss does not do; for him, reality is limited to the physical. If, as he insists, all our conclusions must be based on empirical knowledge, the science of mathematics would be ruled out of court.

The atheistic agenda of *A Universe from Nothing* is not disguised. In a Q & A section at the end of the book, in which Professor Krauss poses a number of questions to himself, he asks: "Are you an atheist?" He responds by saying that he cannot definitely prove that there is no God, or that there is no purpose in the universe, though he believes both to be true. He continues: "But what I can claim definitely is that I wouldn't want to live in a universe with a God—that makes me an anti-theist, as my friend Christopher Hitchens was." The militant atheist Christopher Hitchens had agreed to write a foreword to the original edition of the book, but his death prevented him from doing so. The book's afterword is written by the militant atheist Richard Dawkins. There are a number of "puffs"

for the book printed in its initial pages. The one contributed by *cbcnews.ca* describes it as "a song of secular celebration," and A. C. Grayling writes: "Here is the triumph of physics over metaphysics, reason and enquiry over obfuscation and myth." In his afterword Richard Dawkins waxes exuberant. The book looks to him to be "the knockout blow" to religion, and he is prepared to compare it to his bible, *On the Origin of Species* (191). But he also offers us some comic relief when he tells us that theology "lacks decimal places" (190), thereby revealing one of the basic beliefs of hardcore scientism, that the only reality is that which can be quantified.

While Lawrence Krauss, by his own choice, does not qualify as a philosopher, as much as he would dabble in the discipline, his role as a would-be theologian would empty the house before the first act was half over. Even so, his performance is not inhibited by stage fright. It is a token of his scientism that he permits himself to suppose that his knowledge of physics, which no one would begrudge him, effectively confers upon him, if not universal expertise, at least expertise sufficient to hold forth confidently regarding matters pertaining to light-weight disciplines like philosophy and theology. If physics is to be taken as foundational with regard to what it has to say about reality, then the physicist possesses, ex officio as it were, something like chief justice status. (This is not to suggest that a scientist cannot also be a genuine philosopher; witness, just to cite three examples, the molecular biologist Michael Behe, the physicist Anthony Rizzi, and the mathematician and physicists Wolfgang Smith.)

Professor Krauss is burdened by a confused understanding of the metaphysical distinction between actual and potential being. He does not see that the reality of potential being is founded in the reality of actual being. These confusions affect his ideas regarding creation, about which he has much to say. "After all," he writes, "if there were no potentiality for creation, then God couldn't have created anything" (xxv).

Creation does not involve change, given that antecedent to it there is no being that is in act and therefore no potentiality. God's creative action does not have to wait upon anything that is external to the divine essence. Professor Krauss's frequent references to creation abound in difficulties, not to say outright incoherencies, such as his admitted sympathy to the idea that creation does not require a creator (xxi), which is like saying a pot does not require a potter. Bizarre attitudes of this sort are consonant with his predilection for favoring things that simply pop in and out of existence to accommodate theory. In referring to the Creator as the First Cause he makes the following comment: "Nevertheless, the declaration of a First Cause still leaves open the question, 'Who created the creator?'" (xxii) I have lost count of the number of atheist philosophers or scientists who, in their critiques of metaphysical arguments for the existence of God, pose just that question (or variants thereof; for example: Who caused the First Cause? Who designed the designer?) in the giddy conviction that in doing so they have laid down the ultimate show-stopper. Thus it is that an ignorance of metaphysics will lead one to take all kinds of positions which for sheer silliness deserve the gold medal. To ask who caused the First Cause is tantamount to asking, with regard to number theory, what comes before one, the unit. The answer is nothing. One, the unit, is where it all begins; it is the source of all numerical multiplicity. In a related issue, Professor Krauss raises the question of what or who "determined God's rules" (172), once again showing himself to be perfectly innocent of the idea that God is absolutely free of any external determination whatsoever. Professor Krauss is against "passing the buck to a vague creative force" (139), and wants us to accept his theory of the origin of the universe, which, apparently, he sees as being entirely lacking in vagaries. Despite his stated position in that respect, he later tells us that his theory of a universe from nothing

provides a properly scientific explanation for "the original act of creation" (146), which is not a little puzzling because presumably the whole purpose of his theory was to abolish the very idea of creation, for that idea, if thought about seriously for only a moment, immediately reveals itself as necessarily implying a creator. He seems to realize this, for in the end, he makes the candid and quite apposite admission that his understanding of the origin of the universe "has some of the same features of an external creator" (175). Indeed it does, and this, we might say, is inevitable, given the logic of creation. While excluding God the Creator, he must then introduce any number of agents—Nature, the laws of nature, the energy of empty space, quantum fluctuations, virtual particles, the multiverse—and attribute to them divine-like creative powers. In spite of the rhetoric upon which his book is so heavily dependent, he knows that things don't just happen; they have to be made to happen. The creative force, ostentatiously ejected by the front door, is then surreptitiously reintroduced by the back door.

What he has to say about Plato and Aristotle's views on matters relating to the explanation of cosmic reality is either muddled or plainly inaccurate. There is nothing in Plato to indicate that he thought of the Good as incorporating the idea of first cause, as it was later understood by St. Thomas Aquinas. If Aristotle thought of his prime mover in terms of causality, it would be final causality, not efficient causality, which was at issue. Not only did Aristotle not think that equating the prime mover with God was less than satisfactory, that is precisely the term he uses in naming it. Thus things become quite convoluted when Professor Krauss later treats of God and the prime mover as if they were separate, telling us that God "motivated the prime mover to move" (172), inviting us to make sense of "moving the *prime mover*" (172), which, by definition, is unmoved. Aristotle would be hard pressed to recognize his thought in these confident declarations.

On at least three occasions Professor Krauss has something to say about the thought of St. Thomas Aquinas, and on each occasion what he has to say needs either correction or a balanced and informed interpretation. He attributes to St. Thomas the trivial "theological musing" of "whether several angels could occupy the same place" (139). This is scarcely a trivial theological musing for anyone who is prepared to give serious consideration to the question as to how purely spiritual creatures such as angels, which have no physical extension, are to be related to place, one of the defining aspects of which is extension. Professor Krauss conjectures, without having anything concrete to point to in doing so, that when Plato and St. Thomas thought of "nothing" what they had in mind was empty space. Certainly this would not apply to St. Thomas, who, unlike Professor Krauss, was accustomed to think about such matters in rigorously metaphysical terms. "Neither Aristotle or Aquinas knew about the existence of our galaxy [that demands qualification], much less the Big Bang or quantum mechanics" (173). Grant as much, but what they did know was the place and importance of metaphysics.

It is in the final chapter of the book where Professor Krauss effectively puts science aside and gives pretty much his full attention to matters theological. The chapter begins with this sentence: "The central problem with the notion of creation is that it appears to require some externality, something outside the system itself, to *preexist*, in order to create the conditions necessary for the system to come into being" (171). Here we have what can serve as a summary statement of the many confusions the author labors under, all of which are rooted in his well-nigh total incomprehension of the meaning of creation, specifically, *creatio ex nihilo*. It is not a "problem" with the notion of creation that it "appears to require some externality"; it absolutely demands such "externality," in the form of a creating agent. To state the obvious bluntly: the

notion of creation is utterly unintelligible without a creator. Creation is that which is created; it is being which is brought into being by an external agent, God. God is the necessary cause of being. Being is not self-explanatory; it cannot be the cause of itself, otherwise you would have the absurdity that it would have to preexist itself in order to bring itself into existence. Professor Krauss speaks as a complete naturalist when he refers to "something outside the system itself," as if the "system" were somehow self-explanatory. Before creation there simply is no "system." Creation requires literally nothing in the created order to preexist. There are no preconditions for creation, no specifications, external to Himself, that God has to meet before he can exercise his creative act.

There are so many puerile things Professor Krauss has to say about God, such as referring to Him as "a rather facile semantic solution to the deep question of creation" (171), that it would be tedious to recount all of them here. The solemn pronouncements of the professional atheist, which in the West date at least as far back as Epicurus, all have pretty much the same tired ring to them. For Professor Krauss, God is a facile semantic solution; for Laplace, he was an unnecessary hypothesis. (Actually, the French astronomer and mathematician expressed an unintended truth: God may be regarded as an "unnecessary" hypothesis because He is not a hypothesis at all.) Professor Krauss speaks of reason as if it were something exterior to God, to which He has to appeal in proscribing the moral law (172). Professor Krauss goes on to write: "To simply argue that God can do what nature cannot is to argue that *supernatural* potential for existence is somehow different from regular natural potential for existence" (174-75). Well, yes, but of course this is just the argument that he rejects. His solution to the "problem" of a God who exists apart from the universe is ... the multiverse, in the description and explanation of which he succumbs to

unregulated invention. After proclaiming that, apparently thanks to the rather fantastical theories he has proposed to the reader, religious belief "becomes less and less necessary, and also less and less relevant," he ends his book by telling us something he finds "oddly satisfying," namely, the possibility that "even a seemingly omnipotent God would have no freedom in the creation of our universe. No doubt because it further suggests that God is unnecessary—or at best redundant" (185). The incoherence of that dictum speaks for itself. Sincere devotee of scientism that he is, the only God Professor Krauss is condescendingly willing to allow is a God who is subject to the laws of physics. As to what might count as his own religious proclivities, perhaps he could be described as a pantheist, à la Spinoza, whose watchword, we recall, was *Deus sive Natura*.

Professor Krauss tells us he has engaged in public debates with theologians, which indicates that he is prepared to take the discipline of theology with at least some degree of seriousness. In these debates he often challenges the theologians to offer him some evidence that would count against his contention "that theology has made no contribution to knowledge in the last five hundred years at least." The response he commonly receives to this challenge is: "What do you mean by knowledge?" (144) He dismisses this retort as a dodge, but in fact it is right on the mark, and the fact that he cannot see it as such is yet another indication of his deeply entrenched scientism, which restricts him to a rigidly narrow idea of what counts as knowledge. To limit knowledge to that which is the result of empirical investigation is to restrict reality itself to almost suffocating confines. It seems that his real complaint against theology, the underlying reason for his faulting it, is that it has made no contributions over the past 500 years of the kind contributed by the empirical sciences. But this would be on par with faulting physics for contributing nothing, as physics, to literary theory, or

to ethics, or to jurisprudence over the same period.

Why There Is Something Rather than Nothing is the subtitle to Professor Krauss's book. It identifies what is perhaps the most foundational ontological question which philosophers have been engaging with since time immemorial, and which has seen revitalized interest given to it in recent times because of the prominence accorded it by Martin Heidegger, who begins his *An Introduction to Metaphysics* (1935) with the question, "Why are there existents rather than nothing?" Notice the difference here. Heidegger asks a question, Professor Krauss makes a statement. The philosopher launches an inquiry into the reality and nature of being, of existents, of things that actually are. The physicist, for his part, would seem prepared to offer us a comprehensive account of the universe.

In the arguments I have developed in the preceding paragraphs I hope I have succeeded in showing that the theory relating to the origin of the universe proposed by Professor Krauss is decisively unconvincing. And as to the secondary purpose of this book, to make a case for a worldview that could serve as an adequate alternative to theism, it fails in rather spectacular fashion.

Professor Krauss avows an attraction to the myth of Sisyphus, according to the interpretation given it by Albert Camus. One does not quite know what to make of this. The punishment inflicted upon Sisyphus by the gods, to push a huge boulder up a steep hill only to have it immediately roll back down to the base of the hill, and to have to repeat this utterly futile task for all eternity, was, for Camus, the perfect image of what he regarded to be the inescapable absurdity of the human condition. Life is meaningless, man's incessant and back-breaking labors are without issue. And yet, Camus argues, one should push on in spite of it all, not that by doing so one somehow cancels the absurdity, for that is permanent, but to push on in the very face of the absurdity, and to defy the gods.

Sisyphus, Camus insists, is happy, but his happiness would have to be of a most strange, upside-down kind. We normally think of happiness as having to do with human fulfillment. Sisyphus's happiness, such as it is, would seem to consist in nothing more than perpetual human frustration—the perfect picture of purposelessness. Professor Krauss sees himself as living in a “universe without purpose or guidance,” something he professes to find positively invigorating, for it moves him (and apparently should move anyone who shares his worldview) “to draw meaning from our own actions” (181). If that can be taken to accurately identify the keystone of Professor Krauss's ethics, it bears comparison to his cosmology, for both are totally naturalistic, both make no appeal to, nor even recognize, the transcendent, the supernatural. Given what he seemingly sees as the sole source of life's meaning, “our own actions,” we thus have a meaning which is tied to an intense subjectivity. That subjectivity, in turn, is carried over into, and infects, one's scientific investigations, with results that can only radically distort the picture of reality one is attempting to portray. It is not that one is ignoring the objective data; but, ironically, one approaches that data from a viewpoint that is itself less than completely objective. One trains oneself to look at the universe from the perspective of a carefully selected set of narrow and rigidly exclusive presuppositions, so as to get, in the end, the only universe one is willing to accept, a universe without God. Theory is ordered to finding only those results allowed by the theory. Agenda-driven science of this sort, a science ruled by an ideology so many of whose tenets are clearly unscientific, would seem indeed to have troubling similarities to the tragic toils of Sisyphus.

George E. Demacopoulos and Aristotle Papanikolaou, editors. *Christianity, Democracy, and the Shadow of Constantine*. New York: Fordham University Press, 2017. viii + 290 pp.

Reviewed by Jude P. Dougherty
The Catholic University of America

This is a collection of fourteen studies by distinguished scholars who participated in a conference that took place under the sponsorship of the Orthodox Christian Studies Center at Fordham University in 2013. Its focus is the relation of religion to state, to society, and to culture, particularly in Eastern Europe, where Orthodox Christianity prevails in a variety of national identities.

The essays address such topics as the relation of religion to human rights, the 1948 Universal Declaration of Human Rights, the forced secularization of society under Communism, the secularization of Western Europe, the European Court of Human Rights ruling against the Italian government in a case known as *Lautsi v. Italy*, and, as the title of the volume indicates, the historic implications of Constantine's establishment of Christianity as a state religion.

In an essay entitled “Emperors and Bishops of Constantinople (324–431),” Timothy Barnes argues that Constantine's relations with the Church were shaped by the existing framework of attitudes and beliefs found in the pagan Roman Empire. Christianity was first formally recognized as a religion in 260, but Christian worship was not decriminalized until the Edict of Milan in 313. In 380 Theodosius established Christianity as the state church of the Roman Empire.

From the time of the apostles onward, Christians generally accepted the common belief that Roman emperors not only had a God-given right to rule but also were charged with the spiritual health of their subjects. Once the emperors became Christian, they had the duty to maintain religious orthodoxy and the power to adjudicate religious

disputes among their subjects. Even before his actual baptism, Constantine summoned the Council of Nicaea, which settled the Christological dispute between the Arians and the orthodox Christians who upheld the divinity of Christ and his eternal oneness with the Father. In the eighth century, Charlemagne did not shirk the duty to increase the educational level of many, especially the clergy, and he worked vigorously to ensure uniformity in the liturgy.

In “An Orthodox Encounter with Liberal Democracy” Emmanuel Clapis explains that Constantine's understanding of the relationship between church and state has largely prevailed in Eastern Orthodox communities to this day, as can be seen when they resist the secularism that is connected to the doctrine of state neutrality with respect to religion. He also notes that the radical secularism that prevailed in Communist countries through much of the twentieth century was grounded in an atheistic philosophy that regarded religion as oppressive and superstitious. In those countries communists labored to cleanse society of religion, which included the eradication of Christian symbols. Churches were destroyed or given a new purpose, whether as museums or housing projects. Many Marxists even taught that the state had a duty to remove the appearance of any influence of the Church on the nation's history. In pursuing these objectives, such a state in effect imposes a secular norm as a matter of doctrine. From the Orthodox perspective the presuppositions of the modern liberal political philosophy are antithetical to those inherent in Christianity.

On the relationship between religion and human rights, Clapis finds that Orthodox Christianity tends to be suspicious of claims about human rights, for it believes that it has no need for that idea. Religion speaks rather of the good, the common good, and of duties, not of individual rights. “Human rights,” by contrast, is a political idea, and in fact one that gives priority to

personal freedom over social cohesion, even to the point of sanctioning immoral activity as a right.

On this theme we might note in passing a comment by Gerard Baker, editor-in-chief of *The Wall Street Journal*, when reporting from Davos, Switzerland during the recent World Economic Conference (*WSJ*, 1/17/17). Davos, he says, is not merely a place, nor just an assembly of a group of people. It is an idea — in fact, the dominant idea of the twenty-five years since the end of the Cold War. “Its essence,” he writes, “is that the world is one great market, opportunity and polity. That barriers to global economic activity should be removed—that national barriers and national sentiment and national sovereignty need to be subordinate to global and supranational institutions, that in the face of challenges such as climate change and global poverty and disease, the nation state is not only powerless but actually a dangerous impediment to progress.” This is not the view of Orthodoxy.

Professor Kristina Stoeckl of the University of Innsbruck contributes an essay under the title “Moral Arguments in the Human Rights Debate of the Russian Orthodox Church.” Following the lead of Patriarch Krill of Moscow, the Primate of Russia, she points out that while the Russian Orthodox Church supports human rights, its understanding of rights is different from that which prevails in the West. Eastern Orthodox communities, she notes, never passed through the long historical process from Luther to the French Revolution that reduced religion to a private affair. By contrast, religion and politics are deeply intertwined in Orthodox countries.

From the Orthodox perspective, the presuppositions of modern liberal politics are simply antithetical to those inherent in Christianity. The idea of pluralism or inclusion by which the state is compelled to confessional neutrality ironically results in the impossibility of plurality by virtue of its need to impose the secularism on which it

is based. On the other hand, the Orthodox have sometimes found it appropriate to use the power of the state to advance Christian objectives. They find no fault with the state when it makes use of the institutional Church and Christian symbols to advance state interest.

In 2009, in a decision known as *Lautsi v. Italy*, the European Court of Human Rights ruled that the Italian government was in violation of the European Convention on Human Rights (ECHR) by permitting crucifixes to be displayed in public school classrooms. The decisive argument was that such action broke the principle of the confessional neutrality of the state. Fr. Capodistrias Hammerli's essay shows that this decision reveals a legal and political conflict in Europe concerning the way in which states should deal with the religious dimension of their national identities. The issue of religious neutrality divides Western and Eastern Europe, and this essay examines the conflicting interpretations of human rights that results.

The decision of the Court was not well received. Twenty-four of the forty-seven member states that comprise the Council of Europe intervened in the case, supporting the appeal of the Italian government against the ECHR. The majority of those countries were post-Communist and traditionally Orthodox countries. The Vatican condemned the decision, as did the Patriarch of Moscow. The issue in question was whether the Italian government has the right to give visibility to the religious dimension of its national identity. Must the state renounce its national identity in order to respect human rights? In its appeal the Italian government said that it could not accept the Court's ruling without showing contempt for the majority of its population and for its historical and cultural traditions. The decision was eventually reversed by a higher court within the ECHR.

Each of the essays included in this volume is worthy of examination, but

not all can be covered within a short review. Although most of the contributors are European, two American-based scholars stand out, Stanley Hauerwas of Duke and J. Bryan Hehir of Harvard's J. F. Kennedy School of Government, both of whom make valuable contributions to the volume.

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John Horvat II. *Return to Order: From a Frenzied Economy to an Organic Christian Order—Where We've Been, How We Got Here, and Where We Need to Go*. York, PA: York Press, 2013. xvi + 383 pp.

Reviewed by Christopher H. Owen
Northeastern State University

This work offers a challenging analysis of U.S. society and suggestions for solving its problems. Its author, John Horvat, works for the American Society for the Defense of Tradition, Family, and Property (FTP). As described in the introduction, the FTP “is a group of Catholic countrymen concerned about the state of the nation ... [m]otivated by love of God and country” who want to use this book “to show where we as a nation went wrong” (3). *Return to Order* is intended to serve as a report of the FTP American Studies Commission headed by Horvat. Its chief contention is that a spirit of “frenetic intemperance” has pushed the United States “into the throes of an unprecedented crisis” (4). Intriguingly, Horvat applies the ideas of twentieth-century Brazilian scholar Plinio Corrêa de Oliveira to the political, social, and economic situation of the United States. With this approach, *Return to Order* suggests some paths, mostly untrod by Americans, that conservatives might explore in responding to massive and rapid social change.

Not writing as a traditional scholar, Horvat makes fairly sweeping claims about American society. He asserts in chapter 1, for example, that the American economic model “always” produced

prosperity and “upheld the idea that everyone must have the maximum amount of freedom to pursue their economic dreams so long as it does not interfere with another’s dream.” There is a “great universal consensus” in which “everyone agrees to get along” (11–12). One suspects here that when Horvat uses words such as “always,” “universal,” and “everyone,” he does not really intend them in their literal, absolute sense, but such constructions appear with some frequency in the book.

The gist of part 1 appears to be that the United States and the world are in trouble because of “frenetic intemperance” promoted by the contemporary global economic system (15). Yet Horvat wants to maintain the material abundance produced by the modern economy while reining in its excesses. He clearly states what to avoid in his quest for change. Would-be reformers shall shun “ecological alternatives” linked to adoration of nature, “simplified lifestyles devoid of adornment,” socialism of any sort, populism, libertarianism, and “third way” solutions attempting to span socialism and capitalism (110–11). Then Horvat proposes principles by which reformers ought to abide. They should “have no illusions,” “resist the temptation to isolate,” “defend what is good in America,” and “look beyond the status quo” (113–15).

In part 2, “The Road Ahead: A Return to Order,” the author offers solutions, suggesting that the United States restructure its economy, government, and society to be just, “organic,” and Christian. The “organic society” he defines as “a social order oriented to the common good that naturally and spontaneously develops under the guidance of the principles of natural law and of the Gospel” (141). The author devotes lots of attention to defending medieval society, including the “feudal bond” and the “Christian state.” Church and state are to be mutually supporting, each working in its own sphere. For Americans unaware of the virtues of medieval civilization, these ideas may be useful to hear. However, Horvat’s ideas about

returning to such an “organic” society as a solution for problems in the contemporary United States appear, at least to this reviewer, to be unworkable. For instance, the book champions establishment of a Christian state which Horvat means to be a Catholic one wherein “the Church serves as a moral guide” (219). One wonders how this result might come to be given that only about 20 percent of Americans are Catholic.

Next Horvat champions the idea of “heroes,” “representative characters,” or “bourdon souls” who will find willing groups of followers and guide the United States out of its present social crisis. Such persons are to help “draw and fuse society together” (198–200). Although an intriguing notion, this prescription for the country’s social ills seems more akin to the ideas of Peninsular conservatism than to ideas from the American political tradition, whether liberal or conservative. Similarly, Horvat’s economic ideas are interesting but unconventional. He suggests that the global economy should promote high quality, locally specialized crafts, maintain strong international trade (276–82), and create a universal monetary standard (259). Horvat seeks to conjoin the economic dynamism and material prosperity of capitalist democracy, the sovereignty of the nation-state, and medieval-style localism and social stability.

Ideas of a feudal-style, Christian social order, led by self-sacrificing heroes and embracing some aspects of economic modernity, may be worthy of consideration by conservatives dismayed by contemporary problems. However, in the context of the United States, such ideas do not appear to be organic; that is, they do not arise naturally and spontaneously from the nation’s own experience. Rather, Horvat has attempted to import ideas that, whatever their value, are unusual within the American social, political, and intellectual context. *Return to Order* shows potential to expand the political debate in the United States. The suggestion that Americans are unhappy because of

“frenetic intemperance,” for example, may have merit and so deserve further examination. Achieving a more balanced and harmonious social order seems an attractive goal, as does boosting handicraft production. However, to this reviewer, Horvat appears to have attempted to do too much in this one volume. To get their message across in the United States, Horvat and associates need more carefully to explicate Corrêa de Oliveira’s theories and show how they connect to prevalent American thought patterns.

Robert Cardinal Sarah with Nicholas Diat. *God or Nothing: A Conversation on Faith*. Translated by Michael J. Miller. San Francisco: Ignatius Press, 2015. 284 pp. Paper, \$17.95.

Reviewed by Steven C. Abell
University of Detroit Mercy

The soundbites of contemporary mass media can often create considerable confusion for the Catholic faithful, particularly when secular news outlets attempt to cover controversial moral issues or theological discussions in brief articles for either popular print or internet outlets. This situation can be especially challenging for prelates like Robert Cardinal Sarah, the prefect of the Congregation for Divine Worship and the Discipline of the Sacraments. Cardinal Sarah’s ideas about hot-button topics such as liturgical practice, gender ideology, and the persecution of Christians have been given significant coverage by English-language journalists in both the secular and Catholic press. These sources may well leave the reader with only a superficial grasp of a complex thinker, a man who brings both a profound appreciation of the Catholic faith as well as a powerful international perspective to his leadership role in the Church.

Readers who seek a deeper appreciation of the life and thinking of Robert Cardinal Sarah will be well served

by *God or Nothing*. The book is written in the style of an interview conducted by the French journalist Nicholas Diat, with whom Cardinal Sarah recently collaborated on another book, *La Force du Silence*. An English-language edition of that work has yet to be published. Skeptics who are concerned that an interview-style book will be heavy on self-promotion or political posturing may be pleasantly surprised by *God or Nothing*. The dialogue created by Diat and Cardinal Sarah provides a fruitful synthesis of a rich personal history and reads like an extended homily or meditation. The questions asked by Diat are short and direct, and they manage to cover a myriad of controversial topics without sensationalism or disrespect to anyone who may disagree with Church teaching. Diat’s questions organize the book in a logical fashion that will be easy even for readers with a limited knowledge of theology or catechesis to follow.

Perhaps the greatest strength of the book has to do not with the book’s format but with the life story of Cardinal Sarah. His biography offers a foundation for later sections that deal with life in the postmodern world. At age thirty-four, Cardinal Sarah was appointed Archbishop of Conakry, Guinea. At the time that made him the youngest bishop in the world. Since then he has gained prominence as a leading spokesperson for the Church in Africa, and he has held numerous high-level positions in the Vatican. These are great accomplishments for someone born in a one-room hut in rural French Guinea, some 300 miles from Conakry, the capital and cultural seat of power in Guinea. Cardinal Sarah recounts many touching stories about the loving nature of his early family life, and he describes at length the cultural heritage of the Coniaguais, the small ethnic group to which his family belongs.

In one particularly moving story he recalls how one of the Holy Ghost Fathers who had evangelized his village and supported the conversion of his parents to Christianity sensed a

nascent vocation in him at age eleven. This priest encouraged Sarah to discuss with his parents the possibility of entering a minor seminary in the Ivory Coast. Despite his parents’ considerable piety and profound life of faith, they informed young Robert that he must have misunderstood: “To my mother and the inhabitants of the village, all priests were necessarily white. . . . In fact, it seemed impossible for her that a black man could become a priest! Hence it was clear that I had misunderstood Father Marcel Bracquemond’s words. So she advised me to talk to my father about it, convinced that I had just said something extremely foolish and unrealistic” (27). In turn, Sarah’s father also tried to help his young son realize that a vocation to the priesthood was impossible. Only when Sarah was absolutely insistent did his parents go to speak with Fr. Bracquemond, who explained that their young son could in fact become a Roman Catholic priest. Remarkably, Cardinal Sarah tells this story with no bitterness about the world at that time.

Cardinal Sarah describes his life in the Church not as a rags-to-riches story of increasing success or influence but as a life in which the familial love and the sense of community that have been with him since his youth have remained with him throughout his career. Understood in the context of his life story, the countercultural nature of his steadfast support for Church teaching on such issues as human sexuality and the sanctity of marriage can be clearly seen as based on his deep sense of Christian identity. Likewise, his sensitivity to the persecution of Christians has a personal dimension, for he was serving as archbishop of Conakry, the Geinean dictator Sékou Touré planned to have him assassinated. Much as John Paul II had a direct understanding of the dangers of communism, Robert Cardinal Sarah understands the reality of threats to religious liberty by virtue of his own life experience.

William P. Welty. *Mary—Ten Test Questions for the World’s Finest Woman: A Protestant Theologian Studies the Life of Mary, the Mother of Jesus*. Coeur d’Alene, ID: Koinonia House, 2016. xvii + 239 pages. Paper, \$14.95.

Reviewed by Msgr. Charles M. Mangan
Sioux Falls, South Dakota

If the catchy title of this work does not allure, then the subtitle (*A Protestant Theologian Studies the Life of Mary, the Mother of Jesus*) is apt to intrigue. William P. Welty, a Protestant scholar, takes a look at Mary, using cleverly designed “test questions.”

In this volume Welty gives serious consideration to the woman whom Catholics venerate as “Our Lady.” No Catholic could counter our author’s touching salute: “the World’s Finest Woman.” Admittedly, Welty analyzes Mary of Nazareth differently than a Catholic might, but there is a fundamental agreement of approach by the way in which he hews closely to Sacred Scripture and generously provides a host of data from the disciplines of theology and etymology.

There are, however, important differences. Welty seems to identify the Apostolic or Sacred Tradition with “a number of supplemental statements handed down over the centuries in order to systematize its [the Church’s] views about her [Mary] and her life” (7). The Catholic Church’s definition of the Apostolic Tradition emphasizes the proclamation of truths that have been revealed and carefully handed down rather than a process of systematization of theological views. As the *Catechism of the Catholic Church* explains (§81): “Tradition transmits in its entirety the Word of God which has been entrusted to the apostles by Christ the Lord and the Holy Spirit. It transmits it to the successors of the apostles so that, enlightened by the Spirit of truth, they may faithfully preserve, expound and spread it abroad by their preaching.”

While keenly perceiving the forceful

connection between the dogmas of the Immaculate Conception and the Assumption, Welty reaches this judgment about the latter: "There is no biblical support for this teaching. It came to be promulgated because human death springs from human beings having a sinful nature, and therefore Mary could not have died if she had been born without possessing such a nature" (8). The Catholic perspective is that Luke 1:28 provides strong evidence for the related doctrines of the Immaculate Conception and the Assumption. Here it is important to note that the Assumption is about the entrance of Mary body and soul into heavenly glory and not *per se* about her death. With respect to the comment just cited from Welty, we should also be reminded that Jesus, too, did not possess our sinful nature but accepted death in obedience to his beloved Father.

Some of Welty's comments seem speculative and beyond the evidence. For instance, at one point he contends: "It's possible that one of the reasons Jesus waited until the age of thirty to begin his ministry was because he was waiting for the youngest of Mary's children to grow up and move out on his own" (68). Given the dogma of the Perpetual Virginity of Mary, formulated in the classical phrase *ante partum, in partu et post partum*, the Catholic Church does not accept the notion that Mary had other children but positively teaches against it. The *Protoevangelium of James* (c. 145 A.D.) had for its focus, according to the acclaimed patrologist Fr. Johannes Quasten, "to prove the perpetual and inviolate virginity of Mary before, in and after the birth of Christ" (*Patrology* 1:120-21). We revere the Mother of Jesus as the Ever-Virgin (*semper virgo, aei parthenos*).

Despite such disagreements, we should recognize the many trenchant observations that Welty makes. The "test questions" he has devised to penetrate

the mystery of Mary also offer profound matter for our own reflection on how God works in us. Here is his list: "Test #1: Are you willing to trust God with your whole life? Test #2: Are you willing to give God your expectations about your life? Test #3: Are you willing to walk with God into heartbreak? Test #4: Will you give God your illusion of personal security? Test #5: Will you give your most important possessions to God? Test #6: How will you bear the loss of your spouse? Test #7: Will you remember who Jesus really is? Test #8: Will you believe what God has said about the Messiah? Test #9: Will you give your dreams about your child to God? Test #10: Are you willing to wait on God to fulfill his promises for your life?" (165-66).

Our author argues that Mary "passed nine out of the ten tests splendidly. She stumbled in her faith only once, but ultimately prevailed, obtaining an astonishing 95% on her series of spiritual tests of her faith and obedience to God's plans and purposes for her life" (2). Welty holds that Mary did not pass Test #8, but admits that neither did she fail it: "Will you believe what God has said about the Messiah?" (147-53). The pertinent passage here is Mark 3:20-22, notably verse 21: "When his family heard about it, they went to restrain him, because they kept saying, 'He's out of his mind.'" (This citation is from the *Holy Bible: International Standard Version*, which Welty uses throughout his book.)

Catholic commentaries on scripture offer various thoughts on this passage, including questions about the meaning of "family," whether Mary was present, and whether "they" refers to the subject or to another group. In light of such differences of opinion, we can certainly hold that Mary, given her unparalleled and consistent commitment to the salvific mission of Jesus her Son, did not waver even momentarily but actually passed this question on Welty's test.

Welty's comments on the references to Mary in the *Qur'an* and on the hostile treatment afforded the Mother of Jesus in the *Talmud* opens up his discussion to certain Islamic and Jewish views. His presentation of the Matthean and Lucan genealogies (8-12) is helpful. And he gives his readers a glance at the fascinating debate about the meaning of the terms *alma* and *betulah* in Isaiah 7:14 (22-23). He minces no words in dispatching with the preposterous—really, blasphemous—and totally un scholarly theory that Almighty God sexually violated Mary of Nazareth (47-49) to effect the conception of Jesus. On this topic he writes: "She was chosen by divine will and the young lady considered herself having been singled out by God as the highest of human privileges. So she obediently acquiesced to the announcement with full cooperation" (49). Such *cooperation* in no way implies unthinkable sexual violation.

Welty finishes his volume with this comment: "both Roman Catholic and Protestant believers in the Lord Jesus the Messiah may say with one voice that Mary's magnificent poem of praise to God has been abundantly fulfilled throughout the centuries since generations all over the earth have called her blessed" (166). Along with the Christological hymns found in scripture, the *Magnificat* is the gold standard of New Testament paeans to our Creator.

Given the importance of its subject matter and the wealth of information it contains, Welty's book is most welcome. As its cover, it uses a modern forensic projection of the Mother of Jesus painted by Dean Packwood that is based on the Shroud of Turin. It also contains two helpful appendices, one by Timothy W. Dunkin ("Does Isaiah 7:14 Prophecy that a *Virgin* Would Conceive?") and another by Charles W. Missler ("A Commentary on 2 John").

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