

Happy Birthday!

Gerard V. Bradley

This may surprise some of you who have attended the Fellowship's meetings, but we are just now reaching the legal age for drinking. The Fellowship of Catholic Scholars is twenty years young this year. Happy birthday to us.

A fitting tribute to the brave and faithful men and women who founded the Fellowship at Saint Louis University in August 1977 is, I freely admit, beyond me. Yes, in a rash moment, FCS authorities (OK, it was probably Msgr. Kelly) put me in a position to preside over the group. But I say with all my heart and with no false modesty that I stand, as it were, on the shoulders of giants. I hope history recognizes all of them—and their names appear below—as such. I am confident the Lord will.

I reprint here the words of the first President of the FCS, Father Ronald Lawler, OFM, Cap., from Volume 1, number 1 of this publication. In the beginning...

How the Fellowship Began

In January 1977 in seven different parts of the United States—seven different priests from different background were discussing with their local peers what could be done to redirect the Catholic scholarly community towards a more friendly approach to the teaching authority of the Church. In each case the priests independently found their working peers isolated and frustrated. Almost by accident of correspondence and informal conversations, Fr. Joseph Mangan, S.J. of Loyola University in Chicago, Fr. Robert Levis of Gannon College in Erie, Pennsylvania, Fr. John Miller, C.S.C., provincial of the Holy Cross Fathers in New Orleans, Msgr. George A. Kelly of New York, Professor James Hitchcock of Saint Louis University, Fr. Ronald Lawler, OFM, Cap. of the Catholic University of America, decided to meet in St. Louis—first on May 7 - 8, then on August 23-24, 1977 for a discussion of the Catholic academic situation. At the August meeting in Jesuit Hall at St. Louis University they were joined by Professor Germaine Grisez, Fr. Paul Quay, S.J., Fr. Henry Sattler, C.S.S.R., Fr. James Turro, Fr. William Smith, Fr. Louis Barth, S.J., Sr. Janet Fitzgerald, OP, Sr. Miriam Paul Klaus, S.C.M.M., Dr. William Lynch, Sr. Catherine McMahon, Fr. Earl Weis, S.J., Sr. Mary Christopher, S.N.D., Fr. Paul Marx, O.S.B., Fr. Fred Jelly, OP, Fr. John Hardon, S.J., Fr. Donald Keefe, S.J., Fr. Robert Brungs, S.J., Fr. Edward Duff, S.J., Fr. Denis Meade, O.S.B., Sr. Theresa Catherine Shea, OP, Dr. William Parente, Dr. Joseph Graham and double the number more, the

(continued on next page)

O Timothee, depositum custodi, devitans profanas vocum novitates et oppositiones falsi nominis scientiae, quam quidam profitentes circa fidem aberraverunt. Gratia vobiscum. 1 ad Timotheum 6

Fellowship of Catholic Scholars Quarterly

VOLUME 20, NUMBER 4

FALL 1997

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ISSN 1084-3035

decision was made to create the Fellowship of Catholic Scholars.

The name was suggested by an Australian layman who happened on the scene by chance.

The first Statement of Purpose was drafted chiefly by

Dr. Germain Grisez and Fr. Ronald Lawler. The constitution was drafted by Fr. Henry Sattler—these were finally approved at the first meeting of the Board of Directors in Washington, D.C., November 12, 1977.

Statement of Bishop John J. Myers on The CTSA Study “Tradition and the Ordination of Women”

This past week the Catholic Theological Society of America voted to “receive!” a study commissioned by them on “Tradition and the Ordination of Women.” Sadly, this report and its reception by the CTSA will likely cause further pastoral confusion and thus harm the faith of many people. It further saddens me that a scholarly society such as the CTSA would receive a report that departs so fundamentally in both spirit and form from authentic Catholic theological method.

This report is permeated with the implication that it is the role of theologians to sit in judgment on the teachings of the Pope and the Magisterium. On the contrary, according to the Second Vatican Council, the theologian like all the faithful is bound in conscience to give “religious submission of mind and will” to the teachings of the Magisterium. This is especially expected when the teaching is “definitively taught” as is the case with the question of the ordination of women. The report is not characterized by the respect and trust which should mark any Catholic’s attitude toward those who teach in the

Church in the role entrusted to them by Jesus himself.

In an effort to help avert further misunderstandings in our diocese I would like to underscore the faith of the Church in this matter. **It is the definitive teaching of the Church that She has no authority whatsoever to ordain women to the priesthood. This teaching is founded on the written Word of God and has from the beginning been constantly preserved and applied in the tradition of the Church. It has been set forth infallibly by the ordinary and universal Magisterium. Thus, it requires “definitive assent” by the faithful.**

This teaching may cause pain to some whose hopes were unfairly raised by theologians who had no right to raise them. It would be tragic if these same people took the next logical step and denied that the Holy Spirit does in fact guide the Magisterium to truth in a privileged manner (not given to the faithful or to the theologian) when teaching on matters of faith and morals. Knowingly to deny this basic tenet of the Faith would be one step by which they would objectively limit their communion with the Catholic Church. I ask those whose faith is troubled by the teaching on women’s ordination to join all of us in the prayer found in Holy Scripture: “Lord, I do believe, help my unbelief.” ☩

Statement of Bishop Fabian Bruskewitz, Bishop of Lincoln, on the Recent Undertakings of the Catholic Theological Society of America

It is regrettable to notice that the Catholic Theological Society of America has once again disgraced itself by opposition to the clear and infallible teaching of the Catholic Church in regard to the impossibility of

the Church being able to ordain women to the priesthood. I join with others in questioning whether this is not another indication of that organization outliving its usefulness. It would perhaps be better if it ceased to exist rather than continue to cause scandal, to support false doctrine, and to foment dissent and even schism. In attempting to contradict the Magisterium of the Bishop of Rome as expressed in *Ordinatio Sacerdotalis*, CTSA has, it seems, forgotten once again that God not only “dislikes” the proud, but He “resists” the proud. ☩

Is Catholicism Serious About Itself?

James V. Schall, S. J.

The question in the title of this essay obviously implies at least the possibility of a negative answer – that is, “No, Catholicism is not serious about itself.” The evidence for this negative answer would lie in the degree to which we find Catholics acting little differently from any one else. Granted that we are all sinners, including Catholics, perhaps especially Catholics, to be a Catholic should result in some marked difference of soul and action, in things to be done, in things not to be done, in things to be held, in things not to be held.

The negative answer implies, furthermore, that within institutions supported by the Church or in parishes, nothing occurs that would indicate any distinctiveness about Catholics. The dominant Catholic ethos at least since John Tracey Ellis’ “American Catholics and the Intellectual Life” in the 1950’s and 60’s, has been to strive to be pretty much like everyone else in all things of public and academic life. The divisions found within Catholicism come mainly from political, not religious, sources.

Tolerance, which still retains the notion that something tolerated is wrong even though it could be let alone, has passed into multi-culturalism, in which a multiplicity of different “right” positions is contemplated. As a result, little or no effort is made in the direction of conversion, both because it does not seem to make much difference and because it is unseemly to claim important some possession

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that others do not acknowledge. I have even seen Chesterton, Lewis, Kreeft, and Hahn criticized because they were making converts when Vatican II, so it was said, was about letting everyone alone. It was unseemly to disturb anyone’s subjective view.

Christian doctrines, detached from their balanced place *within an overall understanding that* includes both faith and reason, however, are found running riot through society. Take the notions, “judge not, lest thou shalt be judged,” or “let him who is without sin cast the first stone,” or “be merciful as your heavenly Father is merciful.” In context, these admonitions are proper, revolutionary guides to remind us that we are all sinners, though not all sinners in the same way. They recall that justice can be harsh and that judgment is the Lord’s.

On the other hand, such precepts, with some stretching, to be sure, can be taken to mean that, for all practical purposes, no criterion exists for judging anything to be right or wrong, or for indicating that anyone has done anything at all questionable, no matter what. Nobody can cast any stones at anything. There are no targets to be hit. The operative principle is not, “let him who is without sin cast the first stone,” but “since we are all sinners, it makes no difference what we do.” Everything is permitted because we really cannot know anything about another. No one can find any objective norms in reality — something for which most scholars thank Kant, though there are other candidates. In any case, sincerity, what I call “the most dangerous virtue,” covers every act with a pall of subjectivity that excuses any objective declination from what is good or right.

To be merciful, moreover, comes to mean to be “compassionate,” something rather different. To be compassionate today means not “to suffer with,” its literal meaning, but rather not to impute anything to anyone. It means to accept someone else’s

principles whatever they might be. We ask no questions; we silently "suffer with" whatever anyone does or holds. We suspend all judgment. To be compassionate means to accept someone else's liberty, no matter what it is. To be compassionate thus means that there are no distinctions within reality, or at least none that we can detect. Everything is accepted. The only sin conceivable is to imply that something is wrong, that someone did something worthy of objective blame. That insinuation of praise or blame we cannot tolerate. All definitions and judgments indicate "fanaticism," the only real sin. Fanaticism, in a morally disordered society, comes to be identified with orthodoxy, with the life of virtue.

Jennifer Roback Morse makes this point of how compassion is confused with charity in this ecclesiastical reflection:

Vatican II's call for the renewal of moral theology occurred at roughly the same time as the establishment of the Great Society programs in America. Are the two compatible?

Superficially, it might seem so, because the Great Society appears to be an increased social commitment to the care of the poor. But at a deeper level, the Great Society substitutes a legalistic, minimalist approach to the Christian precept of charity. For what could be a more minimalistic contribution to the poor than pulling the voting lever for a candidate whose speech writer sounds compassionate? What could be more legalistic than filling out a tax return, and believing we have (thereby) satisfied the Biblical injunction to charity (*Notre Dame Journal of Law, Ethics and public Policy*, 1997).

To what degree, in other words, can a religion that is serious about itself achieve its spiritual goals through its being aided and promoted by state institutions that operate on quite different principles?

The compassionate state that will take care of all our ills verges on the totalitarian state, itself usually a claim to care for the poor. Contrary to its initial good intentions, welfare destroys families and sanctions irresponsibility. Much of the criticism of Mother Teresa, I suspect, arises from the

fact that her charity cannot be identified with a political compassion that wants to meet by new laws the very problems she rather addresses with charity.

II.

When a religion becomes non-judgmental, hesitant about identifying anything as right or wrong, even against its own stated principles, when it becomes so compassionate that anyone can do anything simply because it is rooted in his own choices, it risks disappearance as an identifiable organization. Paul Johnson's exasperated words make the point in their own way: "Is the Church of England coming to the end of the road? It looks like it. The service for sodomites and lesbians at Southwark Cathedral last Saturday, blessed by Anglican bishops, has brought home to millions of people in this country who have not much thought about the matter before what kind of an institution our national Church has become" (*The Spectator*, 23 November, 1996).

The question of what kind of habits and institutions churches foster is a vital one for any civil society and cannot be presumed to make no difference. Average people who read the Bible are not so foolish as not to notice when something against its very foundations is presented in its name. Politically it is always difficult to deal with a religion that is what it professes to be. The question today seems to be rather, what to do with religions that are not doing what they profess?

The first words of the Gospel are "repent," which means that even before the Gospel came along, sensible people who never heard of Christianity recognized that they had something that needed repentance. If there is nothing that needs repentance, Christianity is certainly outmoded and quite unnecessary. Moreover, what needs repentance ought not to be some subjective guilt feeling, but the violation of a real and objective standard of human conduct, something that we can

know and know that we are violating. As Russell Gough, writing of Dennis Rodman, the basketball star's, inability to control his temper on a playing court, put it, in a very Aristotelian way, "our lives do not ultimately flourish or self-destruct because of our personality traits but because of our habits of character. Habit, not personality, is destiny" (*The Washington Post*, February 2, 1997). We are responsible for the formation of our habits, good or bad. The fact that we all sin does not mean that the effort to define sin or bad habits, or to provide a means of repentance or change of life, is an utterly useless effort.

Sin is often said to be merely some social maladjustment. Rousseau said that man is good; his institutions are wrong. Therefore, rearrange the institutions and, lo, individuals will be good again. Individuals are said to be victims, not agents of their own souls. The fact is, however, that bad institutions arise from bad choices and bad habits. Aristotle had it right. Constitutions follow on the character of the people who choose to foster and preserve their own definitions of right and wrong through how they construct their institutions of rule. If we want to change a republic, for better or for worse, we must first look to changing souls.

Is Catholicism serious about itself? In a lecture at St. Vincent's College, Brian Benestad had it right, "The dependence of justice in society on the order in the individual soul is surely one of the most neglected aspects of Catholic social teaching on the virtue of justice." Again we ought to know that preaching about social institutions and causes, however popular because of the incorporation of Rousseauian ideas into our culture, will never work. We also know that it is not enough to change our souls without our seeking to help those in need. But we should take care that the need to be addressed is not itself caused precisely by some sin or habit. Our charity or compassion ought not simply reinforce and smooth over what causes the problem in the first place. We look for technical solutions on a societal level — vaccines for AIDS, say — that "might" work instead of moral cures on a personal level — say, self-control

— that will work.

Christianity, moreover, is being rent by distortions of its own egalitarian premises. Equality is another good idea, like compassion, gone riot. At least one origin of the idea of human equality (the other is Stoicism) is the doctrine of the personal creation by God of each human being. "All men are created equal," as a famous document states. Notice, as Chesterton quipped, that the word "created" is operative here, "for they certainly did not evolve equal." For Christians, human equality is not an abstraction. As usual, John Paul II put it well: "Recognition of someone as a human being is never based on the awareness or experience we may have of him, but by the certitude that he has an infinite value from conception, which comes to him from his relationship with God. A human being has primacy over the ideas others have of him, and his existence is absolute and not relative" (December 7, 1996). *A human being has primacy over the ideas others have of him....* This is another way of saying that when the Word was made flesh to dwell amongst us, it included the word in which each of us is made to be what we are.

Another Christian source of equality lies in the fact that we are all sinners and in need of redemption, be we pauper or king, scholar or merchant, cleric or gambler. We have all been invited to share in the divine life, but only after the manner of its own definition about how this participation is to come about. We do not set the terms of our own redemption. Though the burden is light, the way is narrow. Thus, the very idea of equality before God implies the freedom and the duty to become, as it were, unequal. We become unequal by freely choosing not to sin, by freely choosing to act virtuously, by freely choosing to repent, even when these choices make us different, make us a minority, even when we may have to suffer for our choices in terms of adverse public opinion, if not by actual persecution which is in fact more widespread in the world today than we are willing to admit.

News is beginning to filter through, with the help of the latest Kennedy divorces, moreover,

about the rather astonishing numbers of annulments that are being granted in various diocesan chanceries. Even though the general divorce rate has somewhat abated, it looks very much as if there is little difference in statistics between Catholics and any one else when it comes to the de facto integrity of marriage bonds. We are tempted to conclude, in fact, that among us very few "indissoluble marriages" take place today. Death is not what does the parting.

Almost all actual marriages, in retrospect, appear to have some now easily defined and proved impediment of knowledge, intention, or psychological status that render them dubiously valid from the beginning. We have no divorces, but myriads of annulments. Maybe that is what we should expect from living in culture degraded in almost every aspect of its understanding and practice about sex and marriage. Marriage itself is no longer able to be defined in the public forum as what it is, the permanent union of a man and a woman that looks, in the heart of their own relationship, to the begetting and caring for their own children. Begetting is more and more turned over to science, while "unwanted" children, sooner or later, are turned over to the state or destroyed in the womb. Sex is left as a kind of insignificant plaything, only to be safely undertaken when it can engender no reproductive results, preferably no emotional ones either.

Somehow, I came across an essay in the Boston College *Observer* (January 31, 1996) by a student there, Adam DeMaro, who discussed the vapid homilies he had heard on campus. I believe the young man's school has no monopoly here. "Why are so many sticky issues avoided and why are so many priests not bolder and more enthusiastic about the Faith?" DeMaro wondered. Sermons evade doctrine as if to imply that there is little relation between what we do and what we think, certainly not a Catholic position, "Many sermons downplay the importance of infallible doctrine in cultivating a genuine personal faith." That the Church would deign to teach something as definitive is downright dangerous in an academic culture

where practically nothing is permitted to be definitive.

The sermons also dodge sin. The preachers do not want to *upset us*. The flock is presumed to be very delicate. "Thou shalt nots" succumb. In their place, we emphasize "the positive," as a priest told DeMaro when he asked him why no sin was mentioned. The lists of what not to do is rarely heard. Sin itself is also culturally relativized. Something is OK in Kansas City because it is OK in the South Seas, or at least because of what some anthropologist, mirroring his own life, says is OK in the South Seas.

Of virtue, it is said, no universal standards exist; we cannot "impose" our dogmas or practices even on believers who "dissent." "Fornication is a case in point," De Maro adds. "Not once have I heard a sermon preached warning us of the terrible consequences of this act. And a majority of students engage in it regularly." That is a pretty funny, frank observation, in fact. No one, particularly no preacher, wants to interfere with regular student practices, of course. No one mentions any such "terrible consequences" or even imagines out loud what they might be. Modern sex in fact is designed specifically to have no consequences. Emphasize the positive. At least some students, like DeMaro, in spite of all this positiveness, still wonder "what good (is) the good news, being saved by Christ, if there is nothing we need saving from?" This is, indeed, a very good question.

III.

We live in a world, however, in which every year many, many Catholics and Christians die, are murdered, for their faith. Estimates go as high as a hundred to a hundred and fifty thousand. We do not much want to hear about it or try to do anything about it. It implies judging other people about their quaint "customs." We do not want to analyze too closely laws that make Chris-

tians second-class citizens, if that. We certainly do not want our culture questioned, even by the Commandments, certainly not by those who kill and persecute fellow Christians. We'll say nothing of their sins if they say nothing of ours,

Fornication is, in fact, more likely to be a topic of sermons than martyrdom. I have been struck recently by the number of Jews who have wondered why Christians are so little concerned about the persecution of their own. Mona Charen (Washington Times, 11 December 1995) put it well: "But above all, American Christians are simply ill-informed. If one major TV magazine program aired a segment on what is actually happening to Christians in the late 20th century, the apathy would be gone in a flash. Child slavery, false imprisonment, torture, murder. It is all happening to Christians in Islamic and other countries. How long will the world's largest Christian community stay silent?" The answer to this last question seems to be "for a very long time." Even though the State Department itself belatedly produced a paper on the extent of the persecution of Christians throughout the world, Christians themselves appear to be little interested in the persecution of other Christians, no matter how widespread. If we can largely take abortion and infanticide in stride, surely we can adjust to persecution as some kind of statistical event that is bound to happen somewhere at any time among diverse cultures, all happily equal.

John Paul II, no doubt, has referred to contemporary martyrdom very often. Probably the best recent study of this very shocking situation is Paul Marshall's *Their Blood Cries Out*. The fact is that we live in a world in which the sufferings of brothers and sisters in the faith is little emphasized. We do hear of those who want to socialize the world to prevent poverty without ever hearing it mentioned that socialism will not prevent it. The

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governments and religions that are most often responsible for persecuting Christians are relatively immune from our criticism, often because we think we need them for economic reasons.

Again we wonder whether Catholics are serious about the communion of saints? We seem to have more sympathy for every suffering group in the world, including rain forests, than for our own, not that we should not concern ourselves with any sort of suffering. We even see a huge

decline in efforts of evangelization because it is considered impolite or impolitic to insist on legal freedom of religion where it does not in practice exist. "Interfering in the internal affairs of others," it is called. Many even want to maintain that it does not make any ultimate difference what faith or philosophy or lack thereof someone holds. God, it is said, if He exists at all, must be so compassionate that He saves everyone, no matter what he does or says. Again, no serious reading of Catholicism can justify that position.

Another reason for religious and cultural lethargy may well have to do with the relative population decline of once Christian peoples who seem to have lost confidence in begetting and fostering their own in stable families. Studies seem clearly to show that major causes of our familial and cultural crisis are divorce and the lack of a stable, two parent, male and female — it needs to be specified — home. Never let it be said that no observable relation exists between faith and children. Except from graphic studies of people like Allan Carlson, we do not hear much said about divorce either. Sermons on divorce are almost as rare as sermons on fornication. The late Allen Bloom, I believe, claimed that he could look at the faces in his college classes and tell which ones came from homes of divorced parents (*The Closing of the American Mind*). I sometimes believe it.

Professor Lewis Tombs, in a perceptive article

in *Policy Counsel* (Spring, 1997), has detailed the relative loss of population in European countries and in the United States. In both areas, needed population is being recruited or supplied from areas of the world that have large populations with quite different values.

The megatrends foreseen by futurologists envision a post-modern era in which the West is no longer the dominant culture, but one of many. For the West has been weakened by demographic decline.... Western civil wars (World Wars I and II, the Cold War) also accelerated transfer of modernity to other peoples, a trend of technological transfer hastened by multinationalism, globalism, and economic integration. These peoples of the Third World, moreover, fight in different, non-conventional ways. So called "fourth generation warfare" of post-modern conflict is waged through immigration, tribalism, trade wars, terrorism, and opiates.

The loss of spiritual confidence and certainty manifests itself in a refusal to give life to new generations.

Few Western countries reproduce themselves at rates sufficient to remain even. Italy, I believe, has become something of a model of how rapidly a people could decide not to replace themselves. The death of a people or civilization is the result of a choice against life. A civilization of death is being rapidly formed. The choosing against life in practice is the result of something deeper, some rejection of objective order both in the soul and in the polity in favor of our own self-imposed and self-defined order.

IV.

The trouble, as Tom Bethell has recently remarked (*The American Spectator*, February, 1997), is that there is a war on that Catholics and Christians choose not even to no-

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tice. They do not appreciate that the very foundations of their faith or even its possibility, are being aggressively denied legally, culturally, and philosophically. Our intellectual classes in the Church have thought it their glory in the past half century to accommodate themselves smoothly to the prevailing culture without noticing how the same culture has

changed. It is radically undermining the possibility of living a Christian life. In many cases, almost irreparable corruption takes place in children before the age of reason, certainly before the age of driving.

Tom Bethell put the matter bluntly:

The judiciary's assault on religious traditions has coincided with a near vacuum in Christian leadership. For some time now the Christian churches have harbored virulent apostate movements squarely in the enemy camp. The mainline Protestant churches appear to be near collapse The American Catholic hierarchy has been preoccupied with leftist causes for a generation and has squandered much of its moral capital as a result. Heresy is met with diplomacy.

Political compassion has replaced charity and doctrine. We cannot point out traditional teachings because those that practice deviations from them would be offended. Civil rights almost have come to mean the justification of moral disorders. The intellectual effort of accurate moral analysis and conclusion is delegitimized.

Robert Reilly had it right about how this deligitimization works. "The culture of vice," as he called it, (*National Review*, November, 1996), does not stop until it declares the classical vices to be virtues. It insists further that in the public forum, including the religious sector, that they be called precisely virtuous. Even to cite the list of sins that a St. Paul said were both abnormal and heinous is to violate someone's civil rights to practice them with government aid and protection. "Judge not," under any circumstances.

Reilly rightly begins with Aristotle's observation that "men start revolutionary changes for reasons connected with their private lives," He adds:

For any individual, moral failure is hard to live with because of the rebuke of conscience. Habitual moral failure, what used to be called vice, can be lived with only by obliterating conscience through rationalization. When we rationalize, we convince ourselves that heretofore forbidden desires are permissible. We advance the reality of the desires over the reality of the moral order to which the desires should be subordinated. In our minds we replace the reality of moral order with something more congenial to the activity we are excusing. In short, we assert that bad is good.

This is very well said and explains the mood of the public moral order, or lack of it, that we witness today. Paul Johnson in *The Intellectuals* and E. Michael Jones in *Degenerate Moderns* have made a similar point about the relation between the relativism of modern philosophical positions and the moral character of their authors.

In an address he gave to the European Doctrinal Commission in 1989 in Vienna, Josef Ratzinger, in a slightly different manner, made the same point that Reilly stressed:

Key concepts present themselves in the words "conscience" and "freedom" which are supposed to confer the aura of morality upon changed forms of behavior which, at first glance, would be plainly labelled as a surrender of moral integrity, the simplification of a lax conscience. No longer is conscience understood as that knowledge which derives from a higher form of knowledge. It is instead the individuals self-determination which may not be directed by someone else, a determination by which each person decides for himself what is moral in a given situation.

The Supreme Court, in the Casey decision, pretty well espoused this view of absolute moral self-determination that Ratzinger indicated as the exact opposite of any classical or Christian idea of conscience or freedom.

We live in a strange time, no doubt. In academia today, we do not like to speak of "Roman" Catholicism; each school, even each department, not to mention each individual, under this same doctrine of self-deciding freedom has its own version of the content of faith, if indeed any is admitted. Yet, the Roman Catholic Church itself has never had at its head a more intellectual and decisive Pope, nor in the case of Josef Ratzinger, a more intellectual head of its doctrinal concerns. I sometimes suspect that there is an uneasy, but grudging realization of this fact not merely in Catholic intellectual circles but in the world at large. Great care is taken not to allow the force of the Catholic statement of itself to be presented accurately and clearly. Dissidents are always preferred when it comes to explaining in the media or academia what Catholicism might mean or intend. If Catholicism is not culturally stronger, it is not because it has not adequately accounted for itself at the highest level in almost every area.

V.

One can interpret the recent American conclusions over *Ex Corde Ecclesiae* university directives - themselves now turned back for revision by the Holy See — in several ways, I suppose. Probably James Hitchcock was not far from the mark when he wrote (*The Academy*, April, 1997) that from now on, in universities and colleges, Catholicism, what it is, will not be a matter of doctrine, practice, and authority, but of consensus. A different form of Catholicism will be found in each school. No one will be able to say what is or is not orthodox without being accused of violating the bishops' decision not to interfere. Except rarely, bishops will not be consulted nor will they say much of anything. Something like the *General Catechism* will not, in practice, serve as a common standard since any standard is subject to varying consensus. This consensus is not generally determined by the uni-

versity but will be turned over to certain faculties within it. Bishops, whatever the now very obscure confines of their legal standing, will not venture into this, to them, closed world. Students or faculty members who want religious ceremonies or teaching in conformity with the Holy See will be marginalized. They will have to look outside the system. There will be, however, no confrontations, no resolution in terms of a common standard of belief handed down or judged by a religious authority about what it is about. Self-professed Catholics will hold, in effect, opposite positions on everything from precepts of the moral law to the divinity of Christ or the place of Mary or the Eucharist. These will be merely differences of academic views.

All of this, I suggest, is happening while the formal statement of the basic doctrines and moral principles have never been clearer or more coherent. The International Theological Institute was opened in Gaming, Austria, on January 28, 1997, the Feast of Thomas Aquinas. The sermon was delivered by the Viennese Archbishop, Christoph von Schönbrun, himself appropriately a Dominican. In the course of his Sermon, von Schönbrun cited the famous line from the very first question of the *Summa Theologiae*, "The entire salvation of man depends upon the knowledge of the truth." We should not fail to realize just how revolutionary this single sentence from Aquinas is in our culture. Everything conspires to deny that there can be such a thing as a knowledge of the truth.

But what struck me most about von Schönbrun's sermon was his assessment of the place of Aquinas in the Church. Our culture is dominated by an activist streak that not only denies any standard of virtue or vice but acquires its own morality from what it chooses to enforce. We pass from prohibiting drinking to prohibiting smoking as if there is no irony in the thousands of references that morality cannot be legislated. Morality is identified with the law which itself is based on nothing but its own statement, on will. Law can change tomorrow and a new "morality" will then be in vogue. No appeal from positive law to

a natural or revealed law will be tolerated. Hence, whatever the law says is right, until it is changed. To whatever it is changed, this will then become right.

"In the Church there are all kinds of saints: holy housewives and holy kings, holy fools and holy artists. Among these saints there are also holy thinkers and theologians," von Schönbrun recalled.

Thomas Aquinas is considered the greatest of these. Thomas did not take care of the sick, he did not deliver great sermons. Like few others he only studied, searched, taught, and wrote. And for this he is revered as a saint.... Thomas is only a thinker, philosopher and theologian, so much so that his biography is of comparatively little interest. When one speaks of Thomas Aquinas, one means his work. He is holy in his work.

What struck me about this reflection is that those orders and centers that we have looked to for "thought," for "truth," are rarely places wherein it can be found. Thomas must largely be found on our own.

So how can Catholicism be serious about its truth? I knew a bishop once who told me that many of his college students went to a Catholic college in another diocese. When he found out that all the theological faculty of that college signed a document opposing one of the stated positions of the Church, he told me that he hoped at least some of his students would ask him about it. He said he was willing to write a letter to the university requesting exemption of all his students from any theology class on the grounds that it was a danger to their faith. Alas, he could find no student bright enough or with gumption enough to test it out.

But this story does bring up an issue that I think at least worth suggesting. Even though there is little or no formal relation now between universities and bishops — most Catholic students are in state or non-Catholic schools anyhow — still bishops remain responsible in some sense for the spiritual well-being of all their students. They cannot abdicate this responsibility. How might they exer-

cise this responsibility when in practice they can no longer satisfy their consciences that what is taught at the college level is what students need to know about their faith and its intelligence? In Italy, the Holy Father seems to have organized a series of "theological weeks" for students in Italian universities. His world youth days also have been enormously successful. Ralph McInerny has founded the International Catholic University, a virtual institution which will gather the crème de la crème as its faculty and disseminate truth by every electronic means.

I sometimes wonder if bishops should not require, as a matter of grave conscience, that each college student, no matter what college he attends, state, private, or Catholic, read at least the *General Catechism* and perhaps *Crossing the Threshold of Faith* during his college years, with a few other books recommended, say Augustine's *Confessions* and Chesterton's *Orthodoxy*. Perhaps some sort of video cassette might work also.

The atmosphere into which students are sent requires some positive effort on their part and on the bishops' part. Msgr. Robert Sokolowski put the matter properly:

The secular sciences and academic fields as they are now constituted claim to be independent of any authority external to their disciplines. They claim that their ways of thinking begin within each discipline itself, with principles, methods, and sources of that discipline, independent of an authority outside it. This claim rests on a conviction concerning the nature of human reason: reason is seen as self-authorizing and autonomous, as generating its own principles and not accepting anything on authority, as setting itself up as the beginning and the judge of thinking. In this perspective, accepting things on faith has a tinge of gullibility and uncritical submission, of what Kant called heteronomy, which he saw as the deepest betrayal of reason. ("Church Tradition and the Catholic University," in *The Nature of Catholic Higher Education*, 1996).

No doubt, this is a factual description of the kind of intellectual atmosphere that most students encounter.

The situation, in conclusion, is not altogether

hopeless. Looking at the failure of communism in his Guadalajara address in November, 1996, Josef Ratzinger observed, "The failure of the communist regimes is due precisely to the fact that they tried to change the world without knowing what is good and what is not good for the world, without knowing in what direction the world must be changed in order to make it better. Mere praxis is not light." The world cannot be changed without knowing what is good and what is not good.

Changing the world is first a matter of soulcraft.

But we are Christians and know that philosophy itself will not save us. John Paul II remarked precisely to youth preparing for his World Youth Day in Paris, 1997, "Christians are not the disciples of a system of philosophy: they are men and women who, in faith, have experienced the encounter with Christ" (15 August, 1996). This too is well said.

But this fact that Christianity is not a "system of philosophy" does not mean there is no place for philosophy. Josef Ratzinger, again in his remarkable Guadalajara address, had it right: "But Barth was wrong when ... he proposed the faith as a pure paradox that can only exist against reason and totally independent from it. It is not the lesser function of the faith to care for reason as such." The seriousness of Catholicism in the modern world should be precisely this, "to care for reason as such." The degree to which Catholicism is serious about itself, I think, is to be measured both by John Paul's we "are not the disciples of a system of philosophy," and by Josef Ratzinger's remark that "not the lesser function of faith is to care for reason." ✠

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The Rule Of Law

Jude P. Dougherty

In the fifth century BC Heraclitus of Ephesus wrote, "The people must fight for their law as for their walls." After two and a half millennia the dictum must still be taken seriously.

In the last half of the twentieth century, the people of the United States have seen the erosion of the rule of law as the Federal judiciary, particularly the Supreme Court, has struck down many of the legislatively enacted laws normally associated with the protection of life, property, and civility.

To fight for one's laws is first to understand the source and purpose of law; its feasibility for the promotion of the common good, and its limitation as well. Thus equipped, one has the intellectual tools to defend what one may judge to be a well-crafted and time-transcending constitution.

Natural Law

The most basic distinction to be drawn is that between natural law and positive law. Natural law is discovered or found as a result of our reflections on nature as studied by physics, chemistry, biology, astronomy, and the like and on human patterns of behavior as studied primarily by philosophy. Positive law is man-made law, generated by legislative, juridical, or other civic bodies, including federal and state regulative agencies. It is also helpful to distinguish between common law, constitutional law, statutory law, and civic ordinances. Other distinctions can be made as between criminal and civil codes, voluntary professional codes, and the statutes and bylaws of corporations and associations. The list could go on, but the above provide the rudiments of a vocabulary.

I address first the often misunderstood con-

nection between natural and positive law. Natural law is often identified with the philosophy of Thomas Aquinas and thought to be a peculiar Catholic doctrine. The concept, of course, is an ancient one. We find it in the Greek poets, in the Athenian philosophers Plato and Aristotle and in the Roman Stoics Cicero and Seneca. The notion is rather simple. There are laws of nature, some of which we have discovered and articulated for ourselves and others. A law of nature is simply a report on what is. It is a description of an activity or a process that under specified conditions remains invariant through time and place. It is a finding.

A law of nature is opposed to an accidental generality, which, though also a finding, is of a different sort. We can imagine a visitor to the Roman Forum noticing that all the senators from the southern provinces have deep brown eyes. That is an accidental generality. One blue-eyed Sicilian would destroy the generalization. Examples of natural laws known to antiquity might include: water runs downhill, silver is malleable, wine loosens the tongue, to be fruitful the vines must have at least eighty-five days of sun, copper combines with tin in a given ratio to form a useful alloy, credibility follows the habit of speaking the truth, a well-ordered household permits leisure, attention to detail pays dividends. Fidelity inspires confidence.

In addition to these homey, prescientific laws we can add the modern laws of physics, chemistry, and biology, and those laws that govern music, painting, architecture, corporate management, and personal fulfillment. They can be stated flatly as declarative sentences (i.e., bodily health depends on a proper diet) or they may take the form of admonitions: "One should observe a healthier diet"; desiring other peoples's property will make you miserable; or "Thou shall not covet thy neighbor's goods." Some of the laws that deal with self-fulfillment we call "moral laws," as distinct from rules that promote good manners. The Fulbright Scholars Program, for example, is promoting good manners when it suggests to American youths who are going abroad that they bring

flowers to the hostess when invited to dinner.

To be moral one must first be capable of correct judgment. But the virtues hang together. Experience teaches that not only the intellectual virtues but the cardinal virtues of prudence, temperance, justice, and fortitude must be cultivated early in life if one is to be capable of correct judgment, let alone lead a successful life.

If natural law is so innocuous, why does the concept meet so much resistance? The resistance is of relatively recent origin. It is due partly to the success of modern philosophy and its rejection of the inherited — namely, the classical and Christian — sources of Western culture. In the seventeenth and eighteenth centuries, Descartes, Hume, and Kant provided major critiques of classical philosophy that culminated in the movement we know in the English-speaking world as the “Enlightenment.” Having challenged the theistic basis of natural law, the movement taught that given the impossibility of demonstrating God’s existence and given the ability of modern scholarship to provide a purely secular interpretation of the miraculous events reported in the Bible. The inherited has to be reevaluated from the standpoint of reason alone. No longer may we speak of divine law, consider nature purposive, or refer to a transcendent end for man. For all its consolation, Christianity is one myth among many.

The Enlightenment did not set about repudiating all that was inherited. But it did insist that any values that were to be retained had to be justified on purely materialistic, as opposed to theistic, grounds. It took time for the views of the philosophers to reach the marketplace, but reach it they surely, did. Since the late eighteenth century the nihilistic currents within Western society have proceeded nonstop to the point where today the classical Christian underpinnings of both Western culture and Western common law are no longer examined, let alone remembered.

This is not to deny that a certain superficial appeal to traditional moral norms, often explicitly Christian, still pervades contemporary social discourse. No one proposes any program, or any

course of action, without invoking moral principles. Legislators openly create law in the light of moral principles. And judges are not hesitant to interpret or recast statutes to satisfy the demands of moral claims. This occurs even though prominent philosophers insist that there are no general norms to serve as guides, while others tell us that reason can determine means but not ends. Some philosophers merely admonish us to be scientific, insisting that an inherited, largely religious, morality is to be evaluated against the data provided by contemporary science; others recommend “morals by agreement.”

Divine Plan

If these Chagall-like impressions are correct, a further examination of natural law theory may be instructive. The concept of natural law, explicitly or implicitly, is invoked when we compare “the law that is” with “the law that ought to be.” The resistance to the concept may be in part the result of a misunderstanding. Natural law, is properly presented as a metaethic, not as a set of normative propositions that because of their universality and intrinsic necessity transcend periods and cultures.

Natural law, when considered as a metaethic, has more the character of advice with respect to procedure than it has as a set of conclusions. The advice amounts to this: Proceed with confidence that intelligence can determine in a general way what is good for human being — human beings taken individually or as members of a community designed to serve their common interest. This assertion presupposes the twin convictions that nature is intelligible and that the human intellect is powerful enough to ferret out the secrets of nature. Put another way, natural law encourages the observer to look beyond regularities in nature, human and other, for the intelligibility they display.

The confidence that nature is intelligible was a distinctive feature of the Greek mind that gave birth to the concept of natural law. Intelligibility,

for the Greek, owed itself to design, and it was explained variously by an ultimate final cause drawing all things to itself or by means of a demiurgos, a divine life artificer. The Christian Middle Ages took it for granted that nature is the handiwork of God and that things are as they are because of a divine plan. In both the Greek and Christian traditions there is the common affirmation that things have natures that disclose tendencies and that both are the product of an intelligence.

Aristotle, for example, maintained that by considering what a thing is in its tendential aspects, one can determine what is suitable for it. In other words, its good. By considering what man is, one can determine the ends he ought to pursue. For Aristotle, the supreme end of man is happiness, which consists primarily in intellectual activity, all other pursuits being subordinate or instrumental to that one. In practice, to use a contemporary example, this means that a person should not become a workaholic, spending all his time in the office, or conversely, all his leisure on the golf course; he needs to spend some time in the library as well. Aristotle considered the quest for knowledge to be a lifelong occupation.

Aquinas adds principally that ultimate fulfillment consists in an eternal beatitude, that is, in union with the divine, a union in which man's intellectual and appetitive faculties find complete satisfaction. For Aquinas, ultimate beatitude is possible even if temporal beatitude of the Aristotelian sort escapes one because of chance or because of the poverty of the human organism. Obviously Aquinas' insight is theological, based on revelation, and not subscribed to by all. But whereas theology divides, philosophy ideally is capable of providing unity to discourse. Philosophy need not close one to data provided by revelation. Philosophies of course, also divide, but in principle their divisions are reconcilable through rational exchange.

In these considerations, we observe the foundation of a natural law methodology. It consists of advice to look to man's nature to determine what is good for him. No conclusions are ready-made.

This is evident in both Aristotle and Aquinas, although they have different starting points and emphases. Aristotle's ethical quest begins with a man already in society with a given set of mores. The culture that has already formed him will play an important role as he, in a reflective mode, systematically works out a moral code. Aquinas doesn't reject that, but his starting point is slightly more remote—ultimate. You might say. He begins with the confidence that nature is the handiwork of the divine, with the conviction that the divine intellect is the root of an order that the human intellect is able to perceive. What this order is, as it was for Aristotle, remains to be discovered. Hence. Aquinas' emphasis on reason. In his "Treatise on Law," he tacitly identifies law, with reason: elsewhere, he develops a methodology that reason is to follow.

It is significant that Aquinas does not attempt to deduce the content of natural law from general principles. It is also significant that he draws no clearcut distinction between natural and civil law. His famous definition of law, summarized as "an ordinance of reason promulgated by him who has authority in the community," while formulated to be predicative of all law, is primarily a definition of civil law,

There is no hard and fast line where so-called natural law leaves off and civil law begins. True, there is this difference: Civil law is articulated in some fashion by the State, whereas natural law, is not. Yet the difference is not determinative. Natural law may be articulated by a church or by an academic community and subsequently be reflected in the ordinances of a community; by whom it is articulated is not significant. Nor is it significant that the State does not articulate all that is affirmed by the community of scholars, call them rabbis, bishops, or professors. The principal difference between natural law, and civil law is the difference between an intellectually articulated norm and a promulgated statute.

While natural law morality is grounded in the recognition that there are certain constants in man, and that these constants are the basis for those nor-

mative enunciations that remain the same from generation to generation, this is not to ignore the variables. The variables are cultural, economic, and topographical. The relation or proportion between the constant and the variable is not worked out, but Aquinas is not generous in mentioning constants. The assertion that the natural law, is immutable can easily misrepresent his position.

As Aquinas presents his views in the "Treatise on Law," most of the content of the natural law is variable. A few contemporary examples are instructive. In home construction, safety is promoted through building codes, but building codes vary from climate to climate. The enduring principles pertain to safety; the variables are topographical. Similarly, in any profession, accepted standards may change as matters become more intricate. In the field of accounting, for example, the enduring principle of fairness or justice will dictate changes in reporting as complexity increases. In the delivery of health care, extraordinary means may, through technological innovation, become normal instruments of care. Thus, a physician may be morally culpable for failing to use a readily available diagnostic device that only a decade earlier may have been a rare and prohibitively expensive procedure. The codes and procedures mentioned are not merely prudential applications of principles. They are principles or norms themselves, although they, fall under principles more general in scope.

It should be clear that not everything that is legislated by a lawmaking body is in fact to be treated as law. (No one ever believed that the 55 MPH speed limit on interstate highways in Wyoming was morally binding.) Aquinas will not give the force of law to those enactments that clearly fly in the face of reason and experience. One may assume, however, that when lawmaking bodies are interested in determining the equitable, and condi-

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tions are propitious, they will in a large measure, perhaps as far as humanly possible, succeed. This is not to ignore that much legislation involves compromise, often reflecting conflicting and contradictory insights and principles. Free intelligence and goodwill will produce good law, not inevitably, but for the most part. Good positive law is continuous with the dictates of nature, or natural law, if you will.

Having said all of that, let me enter a few caveats. One feature of lawmaking is that ideology and special interest often create bad law, with injurious consequences in the social order. But statutes created in a parliamentary context, even though they may be created in the light of special interest, may not be as destructive as lawmaking by judicial decree. Law hammered out in a legislative assembly is apt to be involve compromise, but judge-made law, by contrast, may be based on purely ideological considerations.

Positive Law

It goes without saying that positive law should be created in a dispassionate arena, where through extended inquiry and debate the common good is determined. By its nature, law is to be distinguished from the arbitrary or the ad hoc decision and from the prudential judgment. Given its universal character, law necessitates the prudential judgment. A judgment made in light of the relatively permanent given. It is not without reason that the Greeks considered prudence to be both an intellectual and moral virtue disposing the agent to a given line of action. Who has not encountered the wise, thoughtful, meticulously careful person whose judgment can be relied upon. By contrast, the rash the impetuous do not make good friends, neighbors, colleagues, or lawmakers. Law represents the "thought out," the considered, the long-range

viewpoint. In art we give it majestic overtones and frequently adjudicate and administer it in temple-like settings. *Palais de Justice* is the French term for what we plainly call the courthouse. Yet even in the dingiest of courtrooms. Commonly prescribed ritual reflects a certain solemnity associated with law.

De facto, the framing and administration of law is often less than majestic. Special interests vie for favorable legislation: political activity militates against or compromises the objective or common good. Yet concerning the broad objectives of positive law there may be little disagreement. It is agreed that law exists to promote public safety, from criminal law to home construction. Law mandates—with almost universal consent— safety standards with respect to the manufacture of drugs, food processing, and the production of home appliances and motor vehicles. We do not object to these and other laws, and we readily recognize that our lives depend on the promulgation and enforcement of traffic regulations. We are not willing to leave to voluntary restraint the normally self-serving tendencies of industry. We seek to penalize the ill-considered or dangerous activity of the brutish.

If anything, we legislate excessively. I am not thinking of special legislation that favors a particular group or industry. I have in mind the tendency to substitute law where good sense, good morals, or good manners, if possessed, would do the job. Many a foreign observer has noticed that in the United States we are quick to legislate. "There ought to be a law" is a common refrain in the wake of some mishap, and all too frequently a legislative body will pass a law without much reflection. Take this example: The U.S. House of Representatives on July 22, 1996, passed a bill forbidding a licensed pilot from turning over an airplane's controls to a child trying to set an aviation record. The bill passed the House 395-5.

One can see the effects of excessive legislation in many sectors: in the business sector certainly, in the educational arena. And in the trades. It is as though we wish to protect the public from every

possible evil by rewriting divine law— out of misplaced compassion. It is no secret that excessive regulation can stifle initiative for all but the extremely clever or the well-positioned, who by virtue of wealth or political connections can circumvent the law.

It needs to be said that the laws we write or condone flow out of the moral sense of the people. Law is not created in a vacuum but presupposes an intellectual and cultural history, including philosophical considerations. And there is the rub. The English Lord Patrick Devlin reminds us that if the morality of a people deteriorates, the laws based on that morality will themselves crumble. *Rule of Law Under Siege*, a newly published work, for instance, describes the assault on German law during the Nazi ascendancy.

Heraclitus' dictum that a people must fight for its laws as for its walls may be taken as an admonition to attend to the moral education of the populace. Cicero found the bases for civic leadership in a respect for the traditions of the people, Aquinas gives custom almost the force of law. If tradition is venerated, it may be because its lawlike character is the fruit of insight acquired and decisions made over a long period of time and in the light of changing circumstance. Much contemporary educational theory flies in the face of this homey insight. The American philosopher John Dewey taught recent generations that the function of education is not to perpetuate a tradition but to challenge it. In some ideal world this may be a benevolent exercise, but in practice it has meant the repudiation of two thousand years of Christianity in the West. By way of contrast, Werner Jaeger could write in 1939, "Our morality goes back to Christian religion, and our politics to the Greco-Roman conception of the State." When Mao Zedong consolidated his power in the early 1950s, he instituted a program of "thought reform" designed to replace the traditional family and filial piety with absolute allegiance to the State.

It is not without reason that the Enlightenment attacked both crown and miter, symbols of the Old Regime. Policy was to flow from a new

concept of human nature, the foundation of a social contract impervious to divine law. The tomb of Auguste Comte in the cemetery Pere la Chaise, in Paris, bears witness to the repudiation of the inherited. Comte would have us, henceforth, practice the religion of humanity. Man is the measure; freed from superstition about a divinely established order. Man could now claim that progress now inevitable. An imagined and distant future is given more reality than the historical record or an intransigent present.

The Enlightenment, both Anglo-French and German. Was not a movement that arose from people. True there was much to be corrected in the social order of that time; abuses of authority and wealth were abundant. Yet Enlightenment philosophy was largely an affair of the salons of Paris, London, and the Prussian university. Only in the present century implications did its implications for law and culture become fully apparent. Indeed, Christopher Dawson was forced to the judgment that "the secular state school is the instrument of the Enlightenment."

This is evident in the United States. We have laws that have driven religious instruction out of the classroom. Laws that even prohibit the posting of the Ten Commandments in the public school, and laws that prevent the placing of a creche in the public square. This did not happen as a result of a change in the public outlook but because within our constitutional system law can be made without national consensus or even legislative debate. The Supreme Court in recent decades has allocated to itself the role of moral arbiter for the nation. And in that activist role it has reflected not so much the traditions of the people as a whole but the perceptions of an intellectual elite.

Those who have studied the cultural decisions of the Court since 1947, particularly as they bear on religion and religious education, detect a pattern that has resulted in a reversal of the traditions that have served the nation well for a century and a half. The so-called principle of separation of church and state, though not found in the Constitution itself, has in effect been used to instantiate a

secular substitute for religion, not quite Comte's religion of humanity but something in the same spirit.

Compare now the constitutional form of our government with the British common law tradition. Under the U.S. Constitution, the American citizen is guaranteed constitutional protection of certain rights and freedoms. These are thought to be legal in character and enforceable in the courts against the executive and legislative branches. This is unlike the British system, in which the ultimate constitutional protection of the citizen's rights and freedoms is political. Lord Devlin's remarks, although they have the ring of universality, were made with the British system in mind. In Great Britain, Parliament is the guarantor of the rights and freedoms enjoyed by the citizen. British courts are bound to obey the legislative will of Parliament. The U.S. Constitution, by contrast, is based on the natural rights of man, rights that by their nature limit the powers of government.

The British Constitution, being unwritten, cannot be pinned down: It is not a matter of words encoded in a statute whose meaning is to be interpreted by the courts, but a way of life of a whole people. British common law is both a system of criminal justice and civil justice; it is the fruit of centuries of judicial decision. As determined by judges, common law remains the law of the land unless and until abrogated or modified by an act of Parliament. Although judges may interpret and apply, Parliament, reflecting popular opinion, remains sovereign; judges cannot question the validity of acts of Parliament. The executive itself survives only with the assent of Parliament. Which system, the American or the British, best preserves the rights of citizens may be open to debate. In many respects they are not very different. Natural law morality is at the root of both. The American Revolution may have rejected the rule of the English king, but it did not reject British common law. The Constitution of 1787 and the ten amendments of 1791 have to be regarded as common law documents. The main difference lies in the free rein given the judiciary.

That common law is bound to the morals of the people can be seen on both sides of the Atlantic. Few would deny that in recent decades there has been a widespread decline in the observance of traditional moral principles. This is seen particularly in the area of sexual morality, in the widespread use of drugs, in the absence of respect for authority, and in an often blatant disregard for truth on the part of the media and public officials. As the morals of the people have declined, statutory as well as judge-made law has become more permissive. The media, particularly television, have no doubt contributed to the degeneration, but the courts and the ascendant academic *Weltanschauung*, which tutors the courts, bear the greatest responsibility.

Under the influence of the reigning secular humanism the courts as arbiter of the nation's cultural wars have undermined an inherited way of life. How did it happen? Part of the answer may be because broad debates unresolvable in any other forum inevitably reach the Supreme Court as constitutional issues. Cases are not only framed but argued and judged by persons trained in the major universities. Often the issues presented for litigation are manufactured for the occasion as interest groups seek to remove yet one more vestige of a Christian heritage. The Court in an activist mood is likely to rule in the light of the same zeitgeist that created the issue.

The Constitution itself, the historical circumstances of its framing, and the traditions of the people count for nothing before such a Court, as it instantiates the programs of the reforming, secularly committed social activist. This is the circle: The academy influences the Court, and the Court advances the objectives of the secularist academy. The fallout is that the populace as a whole over a period of time tends to tolerate if not embrace the morality and practices condoned by the Court. If it is legal. It is permissible.

Law With Truth

When the Constitution is treated as a living document, the danger is that we may lose the Constitution itself. If the Constitution is what the majority, of Supreme Court justices at any one time declare it to be, quite apart from original intent and commonly accepted meaning, we may lose the rule of law. If the Court, for example, ignoring the natural inequality of mankind, pursues a course of interpretation designed to rectify social and other inequality, the result may be social disorder of a magnitude worse than the supposed ill to be rectified. Equal treatment before the law, cannot be equated with the pursuit of "social justice," an amorphous goal that cloaks a social philosophy often at variance with the legislative will of the people.

That the Supreme Court as well as other courts are particularly vulnerable to ideology is evident in its appointments process. Presidential appointments to the Supreme Court generate nationwide interest during the confirmation proceedings. The philosophy of the candidate — call it judicial temperament, if you will — is examined at length, sometimes with malice, depending on the party in power. Alasdair McIntyre reminds us in *Whose Justice, Which Rationality?* And again in *Three Rival Versions Of Moral Inquiry*, that rival intellectual traditions are not only incompatible but also give rise to different legal philosophies and even legal structures. The administration of justice based on Aristotelian principles, he maintains, is different from that based the principles of a David Hume or Auguste Comte.

It may be noted that the ideological split between strict constructionists and judicial activists is not one of cultural pluralism. It is not that we are confronted with a variety of cultures — for example, Islamic, Oriental, and Western — vying for allegiance. Rather the conflict is between two modes of Western thought, reducible, roughly, to

the Roman and common law tradition on the one hand and its modern repudiation on the other. At one level, the conflict is between two differing conceptions of law and different conceptions of the role of law in society. At a deep level, the conflict is between two views of human nature. Nineteenth-century materialism and contemporary social and psychological determinisms advance one view; the virtue ethics and the common good morality of the natural law tradition advance another.

It is well known that Karl Marx in his famous critique of bourgeois law set out to change our way of thinking about the law. Marx was convinced that the bourgeois law of his day was the product of a capitalist ruling class, a class that created the law to sustain its mode of economic organization. His blueprint for the establishment of a socialist order necessitated the overthrow of the status quo in favor of laws that would promote his egalitarian conception of society.

Marx recognized that before the revolution could occur, the groundwork had to be laid. First, he had to show that the prevailing belief structures were historically contingent. This he found easy, for they can be shown to not always have existed in their present form. Once contingency is recognized, the door is open to change; legal structures. Just and unjust, are thus considered alterable. It may take courage and cunning, Marx thought, to organize. With others. The struggle it against the received, but once the ideological structures in place, the practical objectives of the socialist agenda may be advanced.

Marx's socialist agenda is currently advanced in the United States under the banner of critical legal studies, although the movement has antecedents in certain nineteenth-century outlooks, sometimes known as legal realism, legal positivism. Or

But the Church's holiness was evident in three places — in the worship and sacramental life within her sanctuaries, in her canonized saints, and in daily life largely through the holiness of her religious communities.

legal activism. Like Marx, the "Crits," as they have been nicknamed, recognize that law legitimates, reflects, constitutes, and enforces commonly perceived notions of right and wrong and notions of excellence and decay. In the promotion of their own ends, the critical realists seek command posts in the courts and in the law schools and, when possible, do not hesitate to instantiate laws that reflect their social objectives. In their hands law becomes a political instrument.

A beneficent social order is undoubtedly the goal of those who aim to change our way of thinking about the objectives of law. Many of the social aims endorsed by the moderate faction of the critical realists are shared by others. A theoretical aim of law, which the critical realists regard as compatible with common law, is the correction of social imbalance and the righting of natural inequality. Fostering what they regard as a noble enterprise, they do not hesitate to use law to remove inequalities, to redistribute income, and to remove, as far as possible, the ill effects of natural handicaps. The question that needs to be addressed is whether this should be the aim of law at any level, let alone whether it is possible.

No one, not even those who view the activist movement with suspicion, will argue that social objectives cannot be established by law, or that law must always comport with the viewpoint shared by the majority. But one can challenge the notion that a court is the proper place to instantiate law that cannot be established by a representative assembly. In the obituary of Robert Wilentz, for seventeen years chief justice the New Jersey Supreme Court, the *New York Times* (July 24, 1996) praised him for streamlining the state courts "to promote his vision of social progress and equality, ... Under his leadership, the State

Supreme Court backed the rights of poor people to live in suburbs." How those rights were acquired, we leave to your imagination.

The judiciary is not the only branch of government that seems unaccountable to the will of the governed or should I say, to common perceptions of the good. Federal agencies are another. In France in the early 1940s. Bertrand de Jouvenal, reflecting on the alphabet soup of agencies brought into being by the Roosevelt administration, wrote that those agencies possessed legislative, executive, and judicial authority under one roof, and that such concentrated power might not bode well for the future of the United States. Anyone who has dealt with the Environmental Protection Agency, the Department of Housing and Urban Affairs, or the internal Revenue Service would readily understand de Jouvenal's fears.

Obviously, philosophy and law are inextricably bound. Werner Jaeger, in his massive study of Greek *paideia*, tells us that there was a close connection between Ionian philosophy and the birth of the constitutional city-state. Certain ideas had to be accepted first. For the Greek, earthly justice is rooted in the justice of heaven; the authority of law depends on its agreement with the divine order.

In our own day, if we venerate the Constitution, it is not because we recognize it as divinely ordained but because it is perceived to be a time-transcendent document rooted in a solid common law tradition. The Constitution is seen in that light by the vast majority, by the common man, if you will.

Between a common identification with the intention of the framers and contemporary judicial decision, however, stands an academic philosophy at war with tradition. Secular in tone, that philosophy eschews the notion of a divine order. Accepting the premise that the grave is the end of man, it holds that the highest ambition to which one can aspire is to make this a better place for future generations. Temporal goods are the only goods. Stopping short of an outright hedonism, it nevertheless regards an ascetic life of self-denial, as a misdirected life.

This form of humanistic philosophy is still full of compassion and still seeks justice by its own lights. But it places the emphasis on exterior determining conditions. And furthermore it denies that one is irresponsible for one's own choices. The individual is left with the notion that if society is responsible for his condition, then any remedy that may be warranted should fall on society itself. We are beginning to see the social and economic destructiveness of this view, not only in the United States but wherever the welfare state has been created.

Conclusion

What conclusions may be drawn from these considerations? Probably more than I am able to detect, but allow me to make these points. (1) Good positive law follows natural law. (2) Its aim is the promotion of the common good, the indispensable context for personal self-fulfillment. (3) The law must recognize its limitations. The law can teach, but it cannot make men moral. Law has to acknowledge human frailty and human inequality. (4) It must also acknowledge that men possess the freedom to mold themselves and are not wholly determined by social forces. Respect for freedom entails respect for differences in level of native talent. In the cultivation of intellectual and moral virtue. And in levels of achievement. Equality is not a proper social objective except in the sense of equality before the law. (5) If the law cannot change human nature or make men better than they choose to be, the courts must respect the law as created by legislative assemblies and not rule in the light of some principle that has not been commonly accepted. This is consistent with the principle that positive law must follow natural law.

In the jurisprudential order, the Supreme Court itself and those who attempt to influence the Court should understand that they are not the nation's moral conscience. The Court is not alone in its concern for minority interests. Those inter-

ests have been served well by legislative enactments and by a network of nonjudicial mechanisms that have safeguarded the abuse of an insensitive majority. If the rule of law is to prevail, the Court must respect the expressed language of the Constitution and the intent of the framers. These are the only legitimate guides to constitutional protection.

Furthermore, the principle of federalism needs to be revived. Lord Leslie Scarman. Commenting on the U.S. Constitution, wrote on the occasion of its bicentennial celebration, "By your own development of the federal concept you of the United States of America have taught a lesson to the civilized world." You have shown that "sovereign power can be diminished to serve the public good without losing its strength, and without destroying local or regional independence." It is worthy of Lord Scarman to have said that, but adherence to the principle of federalism has not been a strong point of the Court. Its tolerance of divergent policies among the fifty states is not pronounced as it strikes down state laws that do not conform to its social initiative.

Solid jurisprudence would also dictate that the primary obligation of the federal court system is to decide on concrete cases and not to gratuitously pronounce on the constitutionality of actions taken by Congress, the president, or the states-

As the effects of judge-made law and the consequences of decrees by federal agencies unaccountable to the electorate are felt throughout the nation, discussion of the nature and purpose of law cannot be avoided. If the rule of law- is to prevail, the law itself has to be judged against time-transcending standards, with due recognition being given to the possibilities and limitations of human nature itself. ✠

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Professor of Systematic Theology

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Natural Reason and Supernatural Revelation

Stanley L. Jaki

Revelation is supernatural, but given to man whose nature is to have reason. And what is reason? The answer must include man's ability to register plain evidence. Time and again Christ appealed to such a purely natural ability in his listeners. He asked them, for instance, and in an almost agonizing tone, whether they no longer remembered the seven loaves and the five fish. He berated them for their reluctance to recognize the Kingdom of God as being on hand because they contradicted thereby their ability to interpret the portents of the earth and the sky. In a sense, he appealed to their primitive natural science of meteorology as something that made them incur supernatural responsibility. He reminded them of their knowledge of the obvious, namely, that when the fig tree was sprouting leaves, the summer was near. In general, he appealed to their ability to register his deeds that showed his power over nature in order to make them sensitive about the supernatural portent of his words.

Of course, Christ knew, more than anyone else, the role which God's supernatural grace played in the process whereby man surrendered to him. Yet even that foremost champion of God's grace, Saint Augustine, loved to say that in the relation of faith and reason, reason, man's natural reason, is always a step, however small, ahead of faith, because one must know at least in substance what one is asked to believe.

To be sure, revelation can ask us to believe truths which the intellect cannot discover, such as that in one God there are three Persons, or that God did indeed become incarnate. But man was entitled to know in substance what these proposi-

tions meant, or rather what they did not mean, so that God reasonably might challenge him to believe in those propositions. Thus man could have rightly objected if the Trinity meant the proposition that there were three gods. Only insofar as it was clear that the dogma of the Trinity did not imply a contradiction in terms, say that three was equal to one, could man rationally believe the mystery of the Trinity. Only then could man proceed with the famous program — *fides quaerens intellectum* — that is, probe rationally as much as possible into that awesome mystery. But again this further probing could proceed only by proving at every step that none of those steps brought man closer to a contradiction in terms. In fact, the most strenuous efforts of the greatest Christian intellects were expended in eliminating even the slightest touch of suspicion that in believing in the Trinity the Christian submitted to a contradiction in terms. For regardless of his omnipotence even God cannot make one equal to three.

This statement implies nothing less than that natural human reason is the supreme arbiter in a sense even about things most supernatural. To be sure, this is so only insofar as that human reason is truly reason and not some counterfeit of it. Every issue of our daily papers provides countless examples of this trickery with reason. Politicians and the media have become past masters in counterfeiting truth. The history of philosophy is another example.

Here let us focus on that special case of counterfeiting which we find in biblical criticism. Of course, if criticism is genuine, if it implies the right use of right reason, nothing is more logical than to use our reason to the hilt in reading the Bible. But as we know, biblical criticism from almost its very start has been hijacked by a counterfeit reason. Ironically, it called itself Higher Criticism whereas in fact it demanded that reason abase itself to the lowlands of plain rationalism. There the basic guideline consists in declaring that the supernatural is impossible, that revelation never took place, that miracles are so many fables, and so forth. And to crown the comedy, science was called in to testify. Of the many examples let me recall Bultmann

who declared that the science of electromagnetics made it absolutely clear that the laws of nature cannot be broken. He should have recalled that James Clerk Maxwell, the chief architect of the science of electromagnetism, firmly believed in the supernatural. Such belief is based on miracles, so many special, supernatural interventions by God in the course of nature.

Higher Criticism has to deny such interventions for a simple reason which is never aired by its champions. The reason is not only very true but also should be obvious to anyone who reads with open eyes modern Western intellectual history. Higher Criticism, so different from the plain, honest critical use of one's reason, arose because the Bible, and especially the New Testament was found to be highly critical of modern man's resolve to obey only his own nature and nothing else. It is no accident that Higher Criticism is the child of that Enlightenment whose chief aim was to secure that absolute autonomy of natural man. To discredit the annoying criticism of the supernatural, of the New Testament, in particular, Higher Criticism had to rely on a patently uncritical exercise of reason. Its champions almost invariably took and still take Kant's *Critique of Pure Reason* and its theological sequel, *Religion Within the Limits of Reason* for their exercise book. No wonder that while quite a few of the particular findings of Higher Criticism proved to be very valuable, its basic assumptions and thrust guided it into more than one blind alley.

One of these is the claim that the four Gospels are an exceedingly complex compilation of a number of sources. I have no wish to rehash here the synoptic problem. Nor do I wish to cross swords with those eminent biblical scholars who ascribe the gospel of Saint John to John the presbyter, who allegedly wrote it to reconcile a pro-John and anti-John faction in the early Church. On my part I firmly hold that the Hebrew version of Matthew was ready by 50 AD, soon to be fol-

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lowed by an Aramaic and a Greek version, that Mark finished writing his Gospel by not later than 60, and that Luke was ready with his Gospel by 64 and with the Acts by 66. And if all this were not enough in the way of spitting on the flag of higher and lower criticisms, I also hold that John's Gospel was ready by 68, or two years before the destruction of Jerusalem.

I hold these daring propositions for at least one reason which I may illustrate with a modern analogy: Suppose a bookseller offers you a book, a lively history of Germany by a German. The book has no publication date, but the bookseller claims that it was written around 1975, by a German who lived not too far from Dresden and often visited there. Yet on reading the book, you would find that it comes to a close with a portrayal of some wild nationalistic trends in postWorld War I Germany and with some premonition about wholesale devastation in store for its big cities, in particular of Dresden where, as you know 200,000 people burned to death in a single night. Moreover you find that the book is full of accurate details that could very well be known to someone living in the Dresden area in the 1920s. Yet at the same time you do not find in the entire book a single line that would indicate that the author must have lived through or at least was in the proximity of that conflagration and seems to know nothing of the huge displacement of Germans from that area. Clearly, you would conclude that the bookseller is very wrong in making it appear that the book was written by such a German in 1975.

Now if we were to take the four gospels to have been compiled long after 70 AD, as Higher Criticism and some of its lowly Catholic camp followers would have it, those gospels would be the most fantastic compilations indeed. The reason? Although all of them are strongly anti-Jewish, all of them fail to refer to the destruction of Jerusalem, a fantastically monumental event, an

event most traumatic for Jews even today, and an event that was an ace card for early Christians in their polemics against the Jews.

Now if those four Gospels were in place so quickly, that is well before 70 AD, there remains no time for the most mythical of all mythical processes: I mean the claim of Higher Criticism that those four Gospels are a compilation from documents that had for authors not single individuals, but the community of believers.

My natural reason cannot be convinced that books are written by communities, not even by committees. As one who is heavily engaged in the criminal consumption of paper, that is, writing books, which is for the most part a most tedious business, I wish I could find such a community or committee for writing my books. Nothing of that sort of writer's help appears on the horizon, present or past. Even about that most remote past, the Homeric times, it is now clear that unless one ascribes the *Iliad* and the *Odyssey* to a single individual, Homer, it is not possible to explain its unitary structure and style. Nor would it be possible to explain its remarkable matching of archeological findings if any uninspired Onassis or Stephanopoulos in Greece of old would have been allowed to improve on good old Homer.

But let me come now to my real point for mentioning all this about the synoptics, the destruction of Jerusalem, and Homer as well. The real point relates to the fact that modern men, especially the intellectuals, find the New Testament highly critical of them. Indeed the New Testament is terribly critical of men and women of all ages. Nothing can be more critical of modern man than Jesus' uncompromising statement that anyone who looks at a woman other than his wife and desires her, has committed adultery. No wonder that newspaper editors, advertising moguls and countless customers of Channel TV and videos, do not take kindly to the Jesus of the Gospels. None of them can naturally tolerate the sense of moral responsibility evoked by his criticism, which, to recall the etymology of that word stands primarily for judgment.

Now what is the easiest way to deflect criti-

cism and the specter of a judgment which is the Last judgment? Shift the blame from individuals to the community, to the society. Strangely, in all that vast literature about Higher Criticism, about authors of Lives of Jesus written in terms of Higher Criticism, there is not yet one who would have submitted those higher critics to some moral criticism, or to use the modern label for it, to some psychoanalysis.

In preparing a new edition of my book, *And on This Rock*, enlarged with a long new chapter, I had to delve into those rationalist Lives of Jesus. I had time to study the life of only one of those authors, Albert Schweitzer, author of the book, *History of the life of Jesus Research*. Well, on reading a major biography of Albert Schweitzer, it is very clear that an honest psychoanalyst could but conclude: Schweitzer must have had a moral axe to grind.

Yet Schweitzer is played up, time and again, as a secular saint, as the great modern Saint Francis of Assisi. Such portraits of Albert Schweitzer are an example of what I have already described as the counterfeiting of reason. Only a Christian, aware of the fallen nature of man, can bear with some peace of mind this terrible counterfeiting of reason. Bear with it he must because he should know that it will last until the day the Last judgment dawns on us. Neither is the Kingdom of God, or the Church, an exception to this counterfeiting of reason. Our Lord himself warned that the enemy would continually sow bad seeds in the field and that weeds and wheat were to stay intermingled until that last Day. The full separation of the two was not entrusted to popes, to bishops, let alone to theologians and biblical exegetes, but to the angels of God, and even to them only after they had blown the trumpets of judgment Day.

This sad coexistence of evil and good, of truth and error, even in the Kingdom of God, which is the Church, is due not merely to the fact that the Evil One has a wide, though not unlimited power over man and mankind. Adam fell and ever since, even when we do not fall, we are fallible. Adam's sin or our sins are not fully responsible for the fallible nature of mind. For even if

man had not fallen in Adam, he would still have had to fall back all the time on the input of his senses to distill truth from the sensory data with the help of his reason. But the sensory input is very limited both in space and in time.

The entire human intellectual history is a proof that the inflow of sensory data has been slow and spotty. Until man built large ships with tall masts and ventured onto the high seas, it was not possible for him to observe a curious phenomenon. Whenever a large ship emerges on the horizon, the first thing which is seen, even with the naked eye, is the top of the mast. But this would not be so if the earth and the sea were flat.

Such is, however, the Bible's view of the earth and of the sea. In fact the biblical authors did not care to note, until the time of Job, or the 4th century BC, that the horizon was circular. The circular horizon did not, however, turn the flat earth of the Bible into a sphere. At most it was perceived that the flat earth was a flat disk.

It was not until a century later, 250 BC or so that Hebrew world began to come into contact with Hellenistic culture. It was not until two hundred years later, *during the first century AD that* Jews in Alexandria began to take note of Greek philosophy and science. However, even the writings of Philo, a younger contemporary of Jesus, do not show that he had felt it necessary to reinterpret the biblical flatness of the earth in light of what the Greeks had already proved scientifically, namely, that the earth was spherical and also of a size they could determine.

Strangely enough, the Church Fathers did not see either a problem or a great opportunity in this difference between the biblical flatness of the earth and its scientifically proved sphericity. In their exegesis of Genesis 1 they hardly ever refer to this difference. Why? They felt no pressing need. The Jews did not pressure the Church on this point which should have been a problem for them in the first place. The pagans pressured the Church on the worship of idols. AU educated people — Christians, Jews or pagans—Agreed that the earth was spherical and not flat. The pagans had more important issues with the Christians than to chal-

lenge, say Eusebius, who claimed nothing less than that the Greeks took all their learning from Moses. Luckily, Eusebius did not say explicitly that according to Moses the earth was spherical.

This shows that theology or exegesis is very much time-conditioned. The problems it perceives are largely limited by the truths recognized by natural reason at a particular time and by the extent to which such truths are entertained by society at large. With Augustine, we see some difference, because by then the pagans took a somewhat different tack. Their chief objection was not so much about idolatry as about culture in general. They blamed the Christian Church for the collapse of the culture of Antiquity. That culture included science, which no Christian was known to cultivate to any great extent. Indeed Christians could act like a mob. Otherwise the famed woman philosopher, Hypatia would not have died a terrible death in 417 in the streets of the Alexandria of St Cyril.

Only when we think about that pagan objection in this light can we understand why Augustine kept thinking and writing over three decades about the literal interpretation of Genesis 1, one of his greatest works. It is there that he speaks about pagans whose laughter reaches the sky when they hear a Christian speak of a flat earth. And he warns not the pagans but his fellow Christians, that whenever they allow something of this sort, they bring huge discredit to the faith. Then he lays down the rule: whenever a statement of the Bible about the natural world appears to contradict what man knows with certainty about that world, he must hold fast to that certain knowledge. He had the sphericity of the earth in mind.

It was one thing to lay down this wise precept, honoring the rights of natural reason. It was another to fathom its full bearing. The measure of that fathoming was time-conditioned. Greek science or Ptolemaic astronomy knew how to predict the position of planets, but offered only vague guesses about the physical nature of the heavenly bodies. Still enough was known about the very wide expanses of cosmic space to make it appear that it did not contain the kind of firmament

which in the Hebrew Bible is denoted as “rakia” or a very hard bowl indeed. The Latin word, firmamentum, perfectly renders the hardness of that bowl.

Still Augustine was so much impressed by the unequivocal references of the Bible to that firmament that he felt it must exist regardless of the indications of astronomy. Finally he located the firmament in the orbit of Saturn as a vapory layer produced by that planet. Today, we are prompted to raise our laughter to the sky on recalling Augustine’s search for the firmament about which he should have at least suspended judgment. Let us wait for more natural science, he should have said, because the firmament was something purely natural even according to the Bible. But who could at that time imagine that much more, immensely much more natural science was to come eventually? So much to illustrate the point that even the greatest Christian minds are time-conditioned. More of this later.

Nothing at that time was suspected about the motion of the earth. The educated guesses made by Aristarchus of Samos were laughed off by the Greeks themselves, including Ptolemy. So Augustine and the Church Fathers could not even dream that there would eventually be huge problems posed for biblical exegesis by the motion of the earth.

As you know it took another thousand years before the motion of the earth began to be perceived. The story of Copernicus is well known, and so is the Galileo case. To be sure, Galileo did not prove that the earth moved. But he provided serious considerations on behalf of the probability of that motion. Again, Galileo did not provide serious solutions to the physical problems created by the earth’s twofold motion.

So please put yourself in the place of Bellarmine, a first-rate theologian but not a scientist, and please consider his time-conditioned predicament. We are in 1616, the year of Galileo’s first condemnation. The Counter-Reformation is in high gear. But it is Counter-Reformation. In other words, it is highly conditioned by the specter of the reformers, who as you know, replaced

the infallibility of the Pope with the infallibility of their reading of the Bible. They all stressed the literal truth of the Bible’s *statements*. Thus it fell to Luther to have the dubious honor of calling Copernicus a fool. Calvin was very cagey about the issue.

At any rate, Melancthon, the most intelligent and moderate among the first generation of reformers, most emphatically put in his textbook on physics that the earth was motionless because the Bible said so. Please, note that Melancthon was not bothered by the spherical shape of the earth, which certainly contradicted a literal interpretation of the Bible. Please, note also that even the best minds are not necessarily consistent. In fact even Bellarmine did not consider this question. Had he done so, he would have seen that taking it up seriously would have tremendous consequences for biblical exegesis.

Bellarmino’s chief concern was to devise a strategy against the Reformers. The strategy consisted in fighting one’s opponents on the battlefield chosen by them. Such a strategy may on occasion lead to a resounding success, but more often than not is the harbinger of debacles. Nothing decides so much the outcome of a battle as one’s ability to choose the field before the enemy chooses another one. Think of Waterloo. It was a question of choosing the battlefield and so it was at Gettysburg. Bellarmine let the battle be fought out on the field chosen by the Lutherans: the rigidly literal interpretation of the Bible. Now the Bible literally states that the earth stays fixed. Any endorsement of Copernicus appeared therefore in Bellarmine’s eyes to be a further concession to the Lutherans who kept saying that the Catholic Church cannot help departing from the Bible.

This is not to say that Cardinal Baronius, a mind as great if not greater than Bellarmine, would have counseled a different strategy. This is all the more strange because Baronius formulated the marvelous phrase: the Bible does not teach how the heavens go but how to go to heaven. In fact, it fell to Galileo to make the most of that statement of Baronius. Almost a hundred years later we are still being slapped in the face by references to the

Galileo trial. We are still accused of having condemned science, the great divinity of our times. Well, the only comfort we can take from that fiasco is that papal infallibility escaped by the skin of its teeth.

The motion of the earth did not obtain a physical proof until the mid-nineteenth century, when Foucault performed his pendulum experiment and Bessel observed the parallax of a nearby star. By then the motion of the earth had long become a climate of opinion. So when the Church removed, at long last, in 1826, Copernicus and Galileo from the Index, the world laughed and laughed to the high heavens.

There seemed to be nothing redeeming in that move by the Church. Yet, in retrospect, it was very redeeming. The Church seemed to realize that it had badly, though not fatally, burnt its fingers in the Galileo affair. Thus when Darwin came, the Catholic Church wisely stood aloof from a battle fought largely by Protestants against Darwin. Fundamentalists and evangelicals are still fighting that battle. Worse, they suck in a great many Catholics, turning them into advocates of a young earth and into ill-advised reminders of the difficulties of Darwinism.

The lessons of 1800 years are apparently not enough. One lesson is about the relation of natural reason to supernatural revelation. The lesson amounts to this: whenever we make a theological or exegetical statement that contains a scientifically verifiable or measurable parameter, we should know that the truth of that parameter stands or falls with science and not with theology or revelation.

Take the six-day creation story. It is relevant here because Darwin was in part moved by the rise of the science of geology in the early 19th century. He knew that geology gave him not six thousand years, not six hundred thousand years, not six million years, but most likely billions of years. And this is what ultimately turned out to be the *case*. The earth is about five billion years old and life on it has been going on for over three billion years. Moreover, evidence gathers about the fact that the process of the evolution of new

species may in some cases be stunningly fast.

The whole process could not be more ironical. To begin with, Darwin took materialism, a counterfeit of reason, for reason, and battled that very supernatural factor that had already proved itself the greatest support of the human mind as made in the image of God. Also, Darwin initiated the line of those who devoted their entire life to the purpose of proving that there was no purpose. Further, Darwin's chief purpose was not so much scientific as counter-theological. He wanted to exorcise the slightest appearance of the supernatural, which in his eyes was tied to the Bible, and which in turn seemed to speak of a special creation of each and every species, if not in six days at least in six geological ages.

It was the height of irony that Darwin, a sworn enemy of the supernatural, had to pour scorn on that strictly natural exercise of the mind which is metaphysics. Although then as now metaphysics is the chief support of evolution, namely, that the forces of matter are sufficient to explain any material happening, such as the rise of a new species. For only metaphysics can justify that great vision in which, in spite of huge gaps of scientific knowledge, one sees everything is interconnected. It was a supreme irony that Darwin debased the human mind to the level of a dog's mind, although only that human mind could achieve such a magnificent unified vision and therefore had to be more than mere matter.

But the real irony was that those who consciously enjoyed the support of the supernatural, I mean believing Christians, ignored the principle that the supernatural was not given us to know how the heavens go but how to go to heaven.

Instead of drawing the proper lesson from the biblical flatness of the earth and from the biblical fixity of the earth, they still fight evolution as a single package. They are unable and at times madly unwilling to distinguish in evolution what is science from what is bad philosophy and pseudo-religion. In doing so they keep bringing discredit to the Bible, to the Church, and to the supernatural. They do this because they are unwilling or unable to trust their God-given reason.

Now reason is a very peculiar thing. One of its peculiarities relates to an observation of Aristotle in his *Categories* (8b). There Aristotle states that among the ten categories, there is one, the category of quantities, about which one cannot say what can be said about any other categories. Take the category of quality, say goodness. It is possible to say that it is realized more or less. "More or less," this is Aristotle's phrase. But he adds, that it is not possible to say about a quantity such as say the number five that it is five more or less. Five is either five or it is something else.

Now if the Bible states that God created the world in six geological ages, it has to mean six, not five or four or seven, let alone a six which is more or less six. Geology does not know of exactly six geological ages, let alone of the kinds that are grafted onto the Bible by amateurs in geology.

This pathetic effort of drawing a parallel between the six days of Genesis 1 and geological epochs has been going on now for two centuries or so. It seems indeed that lessons of a flat earth and of a motionless earth have been in vain. Truly, in the Kingdom of God too the weeds keep on growing. Worse, some of the best Christian minds have been trapped. Please read only the next-to-last chapter of my book on Genesis 1. But other chapters too should be illuminating. Why, one may ask, did we have to wait until the 12th century, before a Christian theologian dared to wonder aloud: who has ever seen light, day and night, independently of the sun? The point was that in the Bible light comes in the first day and so do day and night, but the sun comes only on the fourth. Moreover, if we place the coming of the sun into a given geological age, we cannot place the coming of the moon in the same age. The earth is younger than the sun and the moon is younger than the earth.

Indeed one cannot say emphatically enough that in dealing with the Bible, this depository of supernatural truths, we must use our natural reason to the hilt. Indeed reading the Bible in the light of mere natural reason can provide the clue to Genesis 1, this tragically perennial stumbling block between natural science and supernatural religion.

For it takes only the natural light of reason to see two things. One is that taking Genesis 1 for a science textbook is equivalent to spitting on the flag of the supernatural as registered in the Bible. Such spitting cannot go on. Second, it takes only natural reason to admit that insofar as Genesis I is a story (ignore now the kind of story it is), the clue to it, as in the case of any other story, comes from the punchline on the last page, or perhaps in the last line as is the case in Agatha Christie's tales or in any good yarn for that matter.

Now Genesis 1 comes to an end with God's taking a rest (sabbath) on the seventh day, after working six days. In other words, it is only reasonable to seek the broader context for the composition of Genesis 1 in one of the chief sections of the Bible about the sabbath observance. There is one such context in the Mosaic legislation, but the writing of Genesis 1 postdates Moses perhaps by eight hundred years. This is one of the reasons why Genesis 1 cannot be tied to any of the major prophets either, although they thundered on behalf of the sabbath observance. Therefore we must look at some most ignored ten verses of the Bible in the last chapter of the last historical book of the Old Testament, the Book of Nehemiah.

There Nehemiah unleashes his anger at the Jews in Jerusalem who began to exchange merchandise with neighboring pagans on the Sabbath. In order to engrave on his Jewish subjects the importance of the Sabbath, Nehemiah sets up God as a role model. Nehemiah put God through a six-day work week, although he knew perfectly well that God could do in a moment with a mere command anything he wanted to do.

Setting up God as a worker imposed on Nehemiah various restrictions. He had to assign to God the greatest conceivable work, the making of the universe. That God made all, Genesis I states in three steps, each time using the metaphorical technique of stating the whole in terms of its main parts. We mean all when we say, lock, stock and barrel, or hook, line, and sinker. Also, being an intelligent worker God had to provide light first, and in the end he had to provide for a manager, who is far superior to animals. Of course God as a

maker of all is so superior a worker that the all is in total dependence on him and that all is good in a dependent sense.

There is nothing supernatural in all this. But once we understand the natural lesson of Genesis 1 we can see it as a marvelous vehicle for the supernatural. For Genesis 1 provided the Church Fathers and scholastics with a platform to proclaim such in part supernatural truths as that God created everything out of nothing, that he created all in time, which means that the past history of the universe is strictly finite, and that he created for a strictly supernatural purpose, which is literally true of man, created in the image of God.

So much in a way of a modest commentary on certain statements in the great modern biblical encyclicals, the *Providentissimus Deus* (1893) of Leo XIII and the *Divino afflante Spiritu* (1943) of Pius XII. In both it is stated most emphatically that the truth of natural reason is a primary criterion in judging things natural. For only when we do full justice to that reason whose chief ability is to critique other acts of reason, can we meet effectively the unreasonable basic claims of Higher Criticism. Champions of these are the logical target of the warning with which Leo XIII brought to a close his instruction on the subject, although he referred to the cultivators of physical science: "If writers on physics travel outside the boundaries of their own branch, and carry their erroneous teaching onto the domain of philosophy, let them be handed over to philosophers for refutation." Whether those champions would ever consider this challenge is indeed most doubtful.

But Leo XIII's warning applies to Catholic biblical exegetes as well. One group of them, riding on their academic high horses, turn that Criticism into a specious Trojan horse to be stolen into the City of God. They do this largely by dreaming about an exegesis free of epistemology, which is not more reliable than the Pegasus of mythology. Those among them who on rare occasions deplore the absence of epistemology from exegesis, are reluctant to come clean about the epistemology that supports their own exegesis. Members of the other group, who try to hijack the label "orthodox," are equally fuzzy about their epistemology, especially in relation to the specific

status of quantities. At best they recognize the unique validity of quantitative data only after long circumlocutions.

The cause of the harmony of natural reason and supernatural revelation deserves something far better than either group has been able to provide in a contestation which the explosive progress of science makes indeed an explosive issue, unless one knows how to handle the fuse. The latter will go off if one looks for a fusion of natural reason and supernatural revelation and not merely for their harmony.

For further details and discussion, see my book *Bible and Science* (Christendom Press, 1996).

Invited talk given on May 24, 1997, to the New Jersey group of Christifideles at the Sheraton Hotel, Meadowlands, NJ. Details and documentation of various topics in this essay can be found in my Genesis 1 through the Ages (1992) and Bible and Science (1996).

Open Invitation to the Priests of the Confraternity of Catholic Clergy

The Inaugural Lucille Choquette Lecture Of St. John the Evangelist Parish

COLLOQUY ON NEW BIBLICAL DEVELOPMENTS, Cathedral Girls High School,
350 56th St between 1st and 2nd Avenues, New York, Nov 8, 1997.

1. 10:00 AM Lecture by Dr. William Farmer, Emeritus Professor of the New Testament, Perkins School of Theology, Southern Methodist University, Dallas, based upon his book, *THE GOSPEL OF JESUS: THE PASTORAL RELEVANCE OF THE SYNOPTIC PROBLEM*. Responses by Fr. Lawrence Boadt, CSP, Professor of Sacred Scripture, St. Paul's College, Washington, D.C. and Dr. John Kloppenborg, Professor of Scripture, St. Michael's College, Toronto, Canada.

2. 11:30-12:00 Panel discussion on Armando J. Levoratti, Member of the Pontifical Biblical Commission, Dr. William Farmer, Dr. John Kloppenborg, Dr. David L. Dungan, Professor of the New Testament, University of Tennessee, and Fr. Lawrence Boadt. Moderator: Msgr. Michael J. Wrenn.

3. 2:00 PM Presentation by Fr. Boadt on his commentary on Genesis for the *INTERNATIONAL CATHOLIC BIBLE COMMENTARY*. Response: Msgr. Levoratti.

4. 3:00 PM Panel discussion: *The INTERNATIONAL CATHOLIC BIBLE COMMENTARY* by Msgr. Levoratti, Drs. Farmer, Kloppenborg, Dungan, and Fr. Boadt. Moderator: Msgr. Wrenn.

A copy of Dr. Farmer's book, *THE GOSPEL OF JESUS: THE PASTORAL RELEVANCE OF THE SYNOPTIC PROBLEM* will be sent prior to the Colloquy to all those who attend. There is no fee for the Colloquy, and lunch will be provided. Please contact:

Rev. Michael J. Wrenn, St. John the Evangelist
348 East 55th Street, New York, NY 10022
Tel. (212) 753-8418/19, Fax (212) 826-1848

Catholic Scholar Given Courage in Faith Award

STEUBENVILLE, OHIO—Monsignor George A. Kelly of the Archdiocese of New York was recently honored by Franciscan University of Steubenville for his many years of outspoken leadership in defense of the Catholic faith. Father Michael Scanlan, TOR, president of Franciscan University, presented Monsignor Kelly with the Courage in Faith Award at the Defending the Faith VIII Conference, held July 11-13 at the University.

"From the moment I met Monsignor Kelly, I knew him to be a man who went after the answers to problems, and then went after the

action," Father Scanlan said. "When he recognized that no one was taking a stand on a problem, he did something about it."

The son of Irish immigrants and a native of New York City, the retired monsignor is a founding member and president *emeritus* of the Fellowship of Catholic Scholars. Monsignor Kelly has had a long and distinguished career as a pastor, author, and Church leader.

A priest for 55 years, Kelly received his doctorate in social science from the Catholic University of America in Washington, DC, in 1946. He was designated as di-

rector of numerous agencies within the archdiocese, including the Family Life Bureau; the Department of Education; and the Institute of Advanced Studies in Catholic Doctrine at St. John's University in Jamaica, New York. In 1960, Kelly was el-

evated to the rank of monsignor, and later served as consultant on behalf of the archdiocese for the Congregation for the Clergy in Rome.

Following his reception of the award, Monsignor Kelly gave a talk titled "The Courage to Be Catholic When Wise Men Say No." He told a packed Finnegan Fieldhouse that the Catholic faith, "when fully embraced, is personal and consoling." It is not, he said, "a gift solely for private benefit. Sometimes suffering at the hands of enemies and betrayers can take more courage than dying once for a cause."

Monsignor Kelly is the author of six books, including *Keeping the Church Catholic with John Paul II*; *Inside My Father's House*; and *The New Biblical Theorists: Raymond E. Brown and Beyond*.

The Courage in Faith Award was presented at the Saturday evening session of the Defending the Faith Conference. Now in its eighth year, the popular apologetics conference drew nearly 1,800 participants from all 50 states and parts of Canada.

We are warriors now, fighting on the battlefield of faith, and God sees all we do; the angels watch, and so does Christ.

— What honor and glory and joy, to do battle in the presence of God, and to have Christ approve our victory.

Liturgy of Hours, Office of Readings
Common of Several Martyrs

Courage in Catholic Faith

A Comment from Ronald Lawlor, O.F.M. Cap.

The Franciscan University of Steubenville awarded its "Courage in Faith" award to Monsignor George Kelly last July before 2000 participants at a magnificent seminar on "Defending Faith." It was a great setting for the presentation of so appropriate an award.

Kelly has always been a joyful and courageous warrior in defense of the faith he loves so much. Thousands and thousands of scholars and ordinary Catholics have had their

faith warmed and strengthened by his. No one has ever accused him of being afraid to speak (or write a book) when faith asked this of him.

And Franciscan University Of Steubenville has become a surprising tower of strength for the Church. This university does not hesitate to teach Catholic faith in all its power. It is by no means ashamed to help young people grow in love of Christ and his Church. Its president, Father Michael Scanlon, T.O.R., has indeed made a once-Catholic institution happily Catholic again. Every partially Catholic university can find hope at Steubenville.

The place is filled with future

priests, and of those who will become devout religious, or committed teachers of faith, and leaders unashamed of their faith. And the university reaches many tens of thousands of other Catholics every year in seminars and special programs.

At Monsignor Kelly's award ceremony I asked some students, "Why do you come to this university? They told me: Because they teach faith so well here. To see Monsignor Kelly receive such an award from such a university warms the heart. They are both warriors in the one war in which good men must all battle bravely. May the Lord make both of them prosper!

Fellowship of Catholic Scholars, Irish Chapter

The editor has asked me to tell you a little about The Irish Chapter of the Fellowship of Catholic Scholars.

By Dr. William J. O'Connor

Firstly the nuts and bolts. The Irish chapter has now been in existence for ten years. They have been ten quite active years with two lively meetings per year for members and friends in May and in November. Occasionally we have organized larger events open to the general public.

The format in the past has been a day-long meeting (morning and afternoon with break for lunch) with a few invited papers per meeting. Recently we have found it better to have fewer topics, with just one or two main speakers and more time for contributions from the floor. The November meeting includes Mass and a short AGM. We try to move the venue around, to balance the dominance of Dublin.

For the private meetings we typically have an attendance of a few dozen. Membership has grown steadily, if somewhat slowly of late: the total number of suitable academics in the country may not be very large, so we may already have a good portion of the constituency.

The themes of the meetings have reflected both the interests of the members and current topics in Irish life. A word about the latter might set the context for those unfamiliar with the Irish scene.

Like so much of the Western World, Ireland is going through its own moral crises with struggles between the secularizing liberals and those of Christian convictions. Despite its profound Catholic roots

tested through dungeon, fire and sword, Irish society now seems determined to mimic the most "progressive" of liberal democracies, faithfully following (if a few years later) the roads they've followed, even when it has become so obvious that they are not great roads to follow.

Rather than saying "Irish society is determined", I should say that it is mainly the so-called intelligentsia, the opinion formers, the media commentators, who are determined to embrace this brave new world. They have the power to get the politicians to jump to their tune, even when the majority in the country is either clearly opposed to such changes, or, as often happens, has been confused by arguments from the same people based on apparent "freedoms" and "compassion". So we've had referenda on divorce (the people gave the "wrong answer the first time, so they were softened up a bit more and asked again!) and on abortion related issues (where, again, the people made a strongly pro-life decision, only to have it effectively reversed by the supreme court).

The Catholic Church, both clergy and laity, have been breathing this air as well, frequently absorbing the confusion, or being cowed into inferiority complexes about their deepest convictions. Partly because of the very strength of the Church in the past, the attackers are all the more "brave" and virulent. They can get away with treating committed Catholics in ways which would horrify most people if applied, for example, to any other grouping in the country, minority or majority. Visitors to Ireland have been amazed to find that Catholic issues in the Irish national media are routinely treated with a much stronger negative bias than for example in the corresponding British media. The hang-ups are rather strong.

As happens elsewhere, the "lib-

erals" are very intolerant of any departures from secularist dogmas. The dangerous myth of the "pluralist" or "neutral" state is alive and well ("dangerous", of course, because it can use its bogus claim to neutrality to demand absolute obedience to its dictates, no matter how wacky). For example, to be committed to one's faith has been decreed by some commentators to be an obstacle to holding public office in our new Irish democracy.

In this context, the need for an Irish Chapter of the Fellowship of Catholic Scholars could hardly be clearer. All three aspects (the "fellowship", the "Catholic" and the "scholars") are much needed. Themes from our meetings have included "Evangelium Vitae: ethical and political reflections", "Catholics in Irish public life", "Church, state, morality and law", "The vocation of the theologian in the Church", and contemporary world views", "Pluralism, law ethics, and morality" and "The family in Irish law".

Once or twice we have taken a public stand on issues, although the internal procedures for doing this have not been satisfactorily defined. The final outcome in each case was a letter to the papers, for example on a celebrated court case here on a "right to die" issue.

Finally, we very much appreciate being part of the wider Fellowship. Precisely because US Catholic scholars have undergone similar trials for a longer period, and are coming out the other side with their faith, hope and charity deepened, the Fellowship in the US is a real help to us in trying to serve God and his Church in the Irish context.

William O'Connor, secretary of the Irish Chapter.

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Homily at the St. Louis Meeting of the Fellowship

At the Fellowship Meeting in St. Louis a year ago, Bishop Fabian Bruskiewiz preached at the Mass in the old cathedral. This courageous churchmen spoke from the heart and mind to the Fellowship. Here is a transcript of that homily. Ed.

"My thoughts are not your thoughts, nor my ways your ways," says the Lord. These words, from our first reading, are taken from the book of the prophet Isaiah, chapter 55, verse eight. Saint Cyril of Alexandria says the Catholic Church was begun in miracles, nourished by hope, increased by love, strengthened by age. This Church stands today as it has ever stood—a countercultural agent, one who, like her divine Master and Founder, is incarnate in the sinful flesh of this world and yet one who stands over and against many aspects of this world as the Bride and the Body of that Master. We have been hired late in the afternoon, and we who are the children of the New Testament, the chosen race of the New Covenant, are receiving even now far more than we ever could hope to earn. We must strive with all our hearts to be less unworthy of what we have been given, and as Catholics we must let ring in our ears constantly the question of Jesus in the parable: "Why do you stand here all day idle?" We must go to the vineyard even if there's only one hour to work, strive to love our Mother the Church with all our energy to further the cause of Christ. It's

interesting to observe that the ecclesiastical situation which we find around us today is not very different from that which confronted Cardinal John Henry Newman in the middle of the last century. He said, "It is a miserable time when a man's Catholic profession is no voucher for his orthodoxy, and when a teacher of religion may be within the Church's pale, yet external to her faith."

Such has been for a season the trial of her children at various eras of her history. It was the state of things during the dreadful Aryan ascendancy, when the flock had to keep aloof from the shepherd and the unsuspecting fathers of the Western Councils trusted and followed some consecrated Sophists from Greece and Syria. It was the case in those passages of medieval history when simony resisted the Supreme Pontiff, or when heresy lurked in the universities. It was a longer and more tedious trial while the controversies lasted with the Monophysites of old and the Jansenists of more recent times. A great scandal it is and a perplexity to the little ones of Christ to have to choose between rival claimants upon their allegiance, or to find a condemnation at length pronounced upon one whom they, in their simplicity, have admired.

When he was looking for the old, original church, when he was looking for that which came from the hand of the Redeemer, Cardinal Newman, in his patristic studies, saw what hinted at authenticity, and this authenticity is apparent not only in what he saw in the sixth, and even the fifth, centuries of Christianity, but even now. He said, "If there is now a form of Christianity such as extends

throughout the world, though with varying measures of prominence or prosperity in separate places, then it lies under the powers of sovereigns or magistrates in various ways. That these people are alien to its faith; that flourishing nations and great empires professing or tolerating the Christian name lie over and against it as its antagonists; that schools of philosophy and learning are supporting theories and following up conclusions hostile to it, and establishing an exegetical system subversive of its Scriptures; that it has lost whole churches by schism, and is now opposed by powerful communions once part of itself; that it has been altogether or almost driven from some countries, and in others its line of teachers is overlaid, its flocks oppressed, its churches occupied, its properties held by what may be called a duplicate succession, and that in others its members are degenerate and corrupt, and are surpassed in conscientiousness and in virtue, as in gifts of intellect, by the very heretics whom it condemns; that heresies are rife and bishops negligent within its own pale; and that amidst its disorders and its fears, there still remains one voice for whose decisions the people wait with trust and one See to which they look with hope; that voice is the voice of Peter and that See is Rome. Such a religion is not unlike the Christianity of the fifth and sixth century." I might add, it doesn't seem unlike the Christianity of today.

It is said that at the Last Judgment, Jesus is going to show each of us His scars from the spear and the nails, and He is going to ask us, "Where are your scars?" And if we reply, "We have no scars," He will

ask us, "Did you find nothing worth fighting for?" Let us gaze at the Church today and the contemporary world in which she abides, and ask ourselves the question that our judge might ask us:

"Did you find nothing worth fighting for?"

We can without difficulty look within the Church, and see decades of gross liturgical abuse, catechetical misinformation, moral degeneracy, disciplinary disorder, and doctrinal confusion and ambiguity. We can see doctrinal and moral relativism passing from textbook theory to existential practice, where religion is not treated with indifference; it's relegated to Studies in religious phenomenology and religious sociology masquerade as sacred theology. Some scripture scholarship has become a new Gnosticism, in which certain intellectuals claim to have the secrets of salvation, while the rest of us are despised as bingo players and rosary prayers.

Let us look around us also in this world of ours and ask, "Do we have anything worth fighting for?" Look out of any window and observe the sexual morality of a hamster cage; the senseless and merciless slaughter of millions of innocent little babies; fabrications, deceptions, lying and cheating taken as the norm of human behavior; universities and colleges—some even so-called Catholic institutions—in which learning is degraded, ethical and moral principles are mocked, sacred doctrine is derided or ridiculed, a pantheon of new idols is erected all around us, and adoration is given to false gods called multiculturalism, perversion, pleasure at the cost of responsibility, material acquisition

replacing beauty, truth, and goodness as the aim and goal of human existence. The world around us: what used to be sins of fornication and adultery are now replaced by the mortal sin of smoking, and gender differentiation which is legitimate is despised as inequality.

There is always, however, even in this Church and this world, that one voice called Peter and that one See called Rome to which, even now, people look with trust and hope. And we who have a responsibility by virtue of our baptism, our confirmation, our Christian calling, and in a particular way, our participation in the very ministerial priesthood of Jesus Himself, have a responsibility to be able to answer the question properly when put by Jesus: "Do you find nothing worth fighting for?" It's worth it to struggle to recapture again in our Church and in our world the magnificent romance of orthodoxy, on which all moral and disciplinary action hinges. To remember in the words that we all so well know, that this is what explains what is so inexplicable to the modern critics of the history of Christianity: the monstrous wars about small points of theology; earthquakes of emotion about a gesture or a word. It's only a matter of an inch—but an inch is everything when you are balancing.

Church could not afford to swerve a hair's-breadth great and daring experiment of irregular equilibrium.

Once let one idea become too powerful, and some other idea will become less powerful—and vice versa." It was no flock of sheep that a Christian shepherd leads, but a herd of bulls and tigers of terrible ideals and devouring doctrines,

each of them strong enough to turn into a false religion and lay waste the world. Remember, the Church went in for a specially dangerous idea as a lion-tamer: the idea of a birth through the Holy Spirit, the death of a divine being, the forgiveness of sins, the fulfillment of prophecies are ideas which need but a touch to turn them into something blasphemous or ferocious. The smallest link was let drop by the artificers of the Mediterranean; the lion of ancestral pessimism burst his chain in the forgotten forests of the North. If some small mistake were made in doctrine, huge blunders might be made in human happiness. A sentence phrased wrong about the nature of symbolism would have broken all the best statues, smashed all the Easter eggs, and burnt all the Christmas trees in Europe. A slip in definitions might stop all the dances. Doctrines have to be defined within strict limits, even in order that human beings might enjoy general liberties. The Church has to be careful so that the world can be careless. This, Chesterton says, is the thrilling romance of orthodoxy. People have fallen into the foolish habit of speaking of orthodoxy as something heavy, humdrum, safe. There never was anything so perilous and exciting as orthodoxy; it's sanity, and to be sane is more dramatic than to be mad. It's the equilibrium of a man behind madly rushing horses, seeming to stoop this way and sway that way, yet in every attitude wearing the grace of statuary and the accuracy of arithmetic.

The Church in its early days went fierce and fast with any warhorse, yet it is utterly unhistoric to say she merely went along with

one idea like vulgar fanaticism. She swerved to the left and to the right so exactly as to avoid enormous obstacles. The left on one hand was the huge bulk of Aryanism, but-tressed by all the worldly powers, to make Christianity too worldly. In the next instant she avoided Orientalism, which would have made her too unworldly. The Church never took the tame course or accepted the conventions; it was never respectable. It would always be easier to accept the earthly power of the Aryans; it would be easier in the Calvinist sixteenth and seventeenth centuries to fall into the bottomless pit of predestination. It's always easy to

be a madman; it's easy to be a heretic; it's easy to be a snob, to let the age have its head. The difficulty is to keep one's own. It's always easy to be a modernist, to have fallen into any of those traps of error and exaggeration with fashion after fashion, sect after sect set along the historic path of Christendom; it would be simple. It's always simple to fall; there are an infinity of angles at which one falls, but only one at which one stands.

To have fallen into any of the fads, from Gnosticism to Christian Science, would be obvious and tame. But to avoid them all, in one whirling adventure—in my vision, the heavenly chariot flies thunder-

ing through the ages, with all heresy sprawling prostrate, wild truth reeling but erect.

What Chesterton said a few decades ago certainly can be applied to us, to our lives and to our work. And so with renewed valor, undaunted fortitude, and spiritual bravery, let us see to our duties and bear ourselves that at the end we can show Our Lord our scars. And then, like Jacob, we shall lie down in the wasteland and wake up to see angels and a ladder leading to Heaven, and then, for all eternity, our thoughts will be the thoughts of God, and our ways will be His forever, Amen.

Catholic Faith and Legal Scholarship

Gerard V. Bradley

The most obvious and the most personally important way in which scholarship reflects faith knows no distinction between Protestants and Catholics. For all of us who are Christians, the life of the scholar is our vocation, our contribution to the building of the Kingdom, our share in the church's mission. We did not just stumble upon this life of scholarship, or choose it because it is interesting, exciting, or fun (though sometimes it is). Rather, we discerned through prayerful reflection upon our gifts, our opportunities, and the needs of our communities that God called us to serve others by striving to know, and to communicate by teaching and publication what we come to know. Perhaps some dramatic ex-

perience like that which befell Saul on the road to Damascus pointed us on the scholarly way. No matter. The discovery occurred.

What of the questions we choose to engage? Again, it seems to me that Catholics and Protestants alike are properly influenced by the scholarly state of the art, by a senior colleague's advice, and by what the elite law reviews seem to want. Partly, it is a matter of what interests us: that some question seems compelling is quite possibly evidence of God's plan for us. But this feeling of being grabbed must be subordinated to a calm consideration of what, here and now, is worth figuring out because it will help build the Kingdom.

Is that the end of the way our faith influences our scholarship? Is there anything between the covers (after we have identified a topic) that distinguishes the *Catholic legal* scholar's articles, book chapters, monographs?

Where on the pages are the Roman fingerprints? Let us leave aside the more obvious telltale signs: a citation to Aquinas or to a document of Vatican II; a decidedly pro-life perspective on abortion by someone named Murphy whose middle initials are F. X.; an article on social justice by someone named Gaffney.

There have always been some deep divergences in Catholic and Protestant perspectives on some perennial legal and constitutional questions. Protestants and Catholics have contended in America, for instance, over the definitions of "liberty of conscience" and "spiritual" or "religious" liberty. To Protestants "liberty of conscience" denoted individual interpretation of Scripture and the direct unmediated encounter of the soul with God through grace. It has also commonly been an anti-Catholic slogan expressing hostility, especially to

the priesthood. It stood, relatedly, for Bible reading in the public schools.¹

“Spiritual” or, less commonly, “religious” liberty for a very long time meant to American Catholics about the same thing as “ecclesiastical” liberty: the immunity and freedom of the church in society. To Protestants, especially to Calvin, the “spiritual” in earthly manifestation was the person and his conscience. The church was an ephemeral teaching instrument, not the ark of salvation. Indeed, to most Protestant Americans, the “ecclesiastical” has rather been the enemy of the genuinely “spiritual.” To Catholics, the two have been harmonious, sometimes practically identical.

These differences are now much less salient than they were a generation ago. Why? Partly due to the increasing Protestantization of American Catholics, and partly because Catholics and Protestants have more in common these days, thanks to a common enemy in secularism.² (Indeed, as I write, there is a burgeoning controversy within the Catholic Church over whether Catholics should make common political cause with Ralph Reed’s Christian Coalition.) But Catholics still have a take on religious liberty that Protestants are unlikely to share. The law of church and state is determined by *Everson v. Board of Education*’s³ neutrality principle: public authority may not promote or foster religion, even if it does so with no partiality among religions.⁴ This norm of public morality cannot be squared with the authoritative teaching of Vatican II on religious liberty, *Dignitatis Humanae*, which holds that it is a duty of public authority

to foster and encourage the religious life of the people.⁵ My point here is *not* that Catholics must hold, somehow as a matter of faith or morals, that the First Amendment contains this teaching. It would be a bit surprising if the First Amendment as originally framed by Protestants coincided with present Catholic teaching. (Surprise! I am prepared to argue that it does.) My point is that Catholics should see the Court’s interpretation of the First Amendment as inimical to the common good.

Another perennial of American constitutionalism is Madison’s observation in *Federalist* 51: if men were angels, no government would be necessary. To be sure, angels have no defect of will. No sanctions are necessary to induce angels to observe the law. If “sanction” is a necessary part of a proper definition of law, then Madison is right. But “sanction” is not a necessary part of the proper definition of law; much less is law helpfully defined as “force” or “violence.” For even angels have coordination problems. Someone has to identify George Bailey’s (*It’s a Wonderful Life*) need as compelling and well suited to the talents of the yet-to-be-winged angel Clarence. And at Armageddon, one supposes, angels will have to be directed by someone in authority. (The archangel Michael?) Cooperation, even among angels, requires an authoritative stipulation of how the common aim is to be achieved. These authoritative directives on how to cooperate for the common good are properly called “laws.” I am inclined therefore to disagree with Madison. I am, finally, inclined to think there

is a distinctly Protestant influence upon *him*, and a distinctly Catholic influence on *me*.

The leading distinguishing feature of Catholic legal scholarship is still probably a commitment to “natural law.” In a loose sense, the Catholic Church has been for a generation or so the bulwark of an objective morality, including some exceptionless moral norms, so much so that if next week you said to a colleague that you met a natural lawyer at the AALS meeting, I dare say your colleague would assume that the person you met was Catholic. In my view, the most interesting work in natural law theory—indeed, in jurisprudence—is being done by a handful of Catholics. I refer to the new classical theory of practical reason conceived and articulated by Germain Grisez and brought into legal scholarship most notably by John Finnis.⁶ This new natural law theory has yet to command the scholarly interest it deserves outside the church. Within the church it is well known, but controversial. One reason for its controverted status within the church is the orthodoxy of Grisez, Finnis, and their collaborators, especially with regard to church teachings on the morality of contraception, sodomy, and abortion. These are issues upon which there is much dissent among Catholic intellectuals in America. Still, this body of work is, in my judgment, the most important work in legal scholarship today.

How is the natural law related to Kingdom building? How for that matter does the scholar help to build the Kingdom? How, that is, is scholarship a *vocation*? The scholar believes that one can know, and that knowing is worthwhile in

itself, even if it also has instrumental value. Scholarship is a community effort; no one scholar working alone can accomplish much. The scholar is thus required to work with others, and that means that truthful communication is essential to his or her vocation.⁷ And, for the Catholic scholar at least, whatever truths one comes to know by scholarly investigation do not, because

they cannot, conflict with the truth made available to us by God's revelation. Reality, in the end, is one, and it is not inconsistent. Someone who affirms natural law implicitly affirms free choice (an endangered species in legal scholarship) and confirms St. Paul's belief that God has written a law into the human heart. That is, natural law is distinguished partly by its commitment to universal, categorical moral norms.⁸

As the Holy Father made so powerfully clear in the encyclical *Veritatis Splendor*, when we preach the Gospel we preach the good news of *salvation* through Jesus. It is "precisely on the path of the moral life that the way of salvation is open to all."⁹ The moral truth is the path to salvation for those who, through no fault of their own, have not embraced the faith. Doing scholarly work on natural law theory, and bringing natural law theory to bear upon any topic in legal scholarship, thus can be evangelical work.

The point of scholarship is to articulate, and thereby share, the truth as one has come to understand it. Scholars must respect the integrity of the discipline in which they work and the general canons of scholarly inquiry. In addition,

the Catholic scholar must immerse himself in the Catholic tradition, especially in authoritative teachings on morals and social doctrine. Only after such immersion can one make competent judgments about the tradition's relevance to one's scholarship. I do not suppose that there is invariably a Catholic take on legal issues—that one is guaranteed to discover, for example, a "Catholic view" of letters of credit or the Sherman Act. Maybe there is. I don't know. I don't know because I have not given the matter any thought in light of the Catholic tradition. Only someone who knew the tradition and had investigated the relevant legal materials in light of that tradition according to the relevant norms of scholarly inquiry would be qualified to say.

Only by immersing oneself in the tradition can one function at the minimum level of Catholic scholarship: one must never deny any proposition the denial of which entails the falsity of some truth of the faith, including truths accepted upon the basis of authority. Note well: even propositions accepted because they are taught—i.e., believed on the basis of authority—are held by Catholics as true. And here I refer not to rules and disciplines which on their own terms (rules on fasting, liturgical rhythms) apply only to the faithful. I refer to norms expressed in such form as *No one may (for example) commit adultery*. Only by knowing the tradition will one avoid proposing to the scholarly community as true, sound, valid, etc., some proposition that the scholar actually holds to be false, unsound, invalid (again, even if just on the basis of authority).

I do not propose that Catholic scholars make some such proposi-

tion the premise of an article. That would serve no good purpose, for the entire article then would depend upon a premise which is left undefended, unless all the arguments for accepting the teaching authority of the church are laid out as well. That is the *task* for another occasion. One might, however, devote an article to a *rational* defense of some truth accepted on the basis of authority. As a rational defense, the work would be entirely accessible to any interested reader, regardless of the reader's faith commitments. One might succeed, in which case one would have illumined the faith. Failure would not be scandalous; the truth of any proposition is logically independent of any argument for it.

Some examples. The new universal Catechism allows that some persons have no "right" to the truth, and may be told lies." That probably is supported by a preponderance of authority in the tradition. But I would defend the "minority" view, which is compatible with the Catechism (which does not say that anyone is ever *obliged* to lie): lying is always wrong.

People lie when they assert a proposition as true which they believe to be false. When do trial lawyers assert propositions? Do trial lawyers lie when they cross-examine a witness in a way that suggests some part of the witness's story is false—a part that the lawyer knows to be true? How about closing argument? Can the entire trial exercise be considered a performance, in which lawyers are understood to play parts, so that the norm against lying is inapposite? That sounds a bit like our adversarial system, and a lot like the

aver-age trial lawyer's understanding of it. But, if so, how can trials be defended as a proper means of dispute resolution? Trials resolve claims of right, which are aspects of justice. But justice has to do with the truth about what happened.

The Catholic scholar must be alert to the relevance of truths of the faith to legal issues. Right-to-die judicial opinions typically implicate three such truths. Almost any such opinion will make one or more of the following three claims. First: persons who refuse medical treatment because they prefer to die (and so rid themselves of pain, indignity, etc.) do not commit suicide, but simply let nature take its course. Second, a metaphysical dualism: the body is the instrument of the "person," much as a car is related to its driver. Third: opposition to the right to die rests upon "sectarian" or "theological" doctrine, not on a "rational basis."

The Christian (not just the Catholic) must resist any action theory which does not, as these opinions do not, allow us to see how our Lord was a martyr, not a suicide. The Christian must reject all dualistic accounts of the person, and affirm that the person is a dynamic unity of body and spirit. Dualism denies that unity, and so undermines the faith lives of Christians, who can no longer understand the dignity of bodiliness and find it difficult to take seriously many aspects of faith-Jesus in the Eucharist, the virgin birth, resurrection of the body, original sin, and so on. Finally, Christians can hardly allow courts to tell them what is knowable by reason and what is knowable only via revelation. That is for persons working

within the tradition. That is for Christian scholars.

Gerard V. Bradley, President of the Fellowship, is Professor of Law at the University of Notre Dame. This article first appeared in the Journal of Legal Education, Volume 47, Number 1 (March 1997)

End Notes

¹ "Relatedly" because for a very long time (at least) the common Protestant criticism of the priesthood was rooted in the Protestant commitment to "Sola Scriptura"; that is, Protestants claimed that the Catholic clergy obscured the truth. Very basically, Protestants commonly thought that they could save children from the priesthood by exposing them to the Bible in school — the King James version.

² See the joint statement of a prominent group of Catholics and evangelical Protestants, Evangelicals and Catholics Together: The Christian Mission in the Third Millennium, *First Things*, May 1994, at 15.

³ 330 U.S. 1 (1947)

⁴ *Idem*, at 15-16.

⁵ *Dignitatis Humanae*, a solemn declaration of the Second Vatican Council subscribed to by the many church fathers present, articulated a basic human right to immunity from coercion in religious matters. Even so, it expressly enjoined those exercising public authority to foster the religious life of the people, in ways that do not violate the right to immunity from coercion. Evenhanded state aid to religious schools is one thing that the fathers may have had in mind. Under the Supreme Court's interpretation of the Establishment Clause, direct assistance to the religious school is unconstitutional. Indirect assistance (say, tuition tax credits) is highly problematic.

⁶ Grisez, *The Way of the Lord Jesus: Christian Moral Principles* (Chicago, 1983); Finnis, *Natural Law and Natural Rights* (New York, 1980).

⁷ Scholarship is in this sense what Alasdair MacIntyre calls a tradition, the work over an extended period of time of a group of people with its own standards of excellence. Such a tradition requires that its members exercise virtues, especially truthfulness. See *After Virtue: A Study in Moral Theory*, 2nd ed. (Notre Dame, 1984)

⁸ Romans 2:15-16.

⁹ John Paul II, *Veritatis Splendor*, n. 3.

The Priestly Office. *A Theological Reflection.*

By Avery Dulles, S.J.
Paulist Press, 997 Macarthur Blvd.,
Mahwah, N.J. 07430, 1997,
81 pp. PS \$7.95.

This small book contains five lectures given by Fr. Dulles at the National Institute for Clergy Formation at Seton Hall University in June 1996. The subject matter is the ordained priesthood in the light of Vatican II, with reference to other documents of the Magisterium and the teaching of some contemporary theologians.

The first chapter deals with the priest in his relations to the Church. Here the author discusses the idea of the priesthood, the priesthood of Christ, the important distinction stressed by Vatican II between the common priesthood of the laity and the ministerial priesthood, the priestly character, and the relation between office and charism in the priest, that is, one who is ordained is also called to be a holy priest in imitation of Christ.

The next three chapters apply to the priest the three essential functions of the priesthood of Jesus Christ: prophet, priest and shepherd or word, worship and pastor. Which one of these functions is primary? Vatican II is not clear on this. Among modern theologians, Dulles quotes Karl Rahner, Hans Kung and Hans Urs von Balthasar as seeing proclamation of the word as primary, while the other two functions flow from that. In his third chapter, Dulles says that St. Thomas Aquinas saw the sacramental function as primary; Pius XII shared this view. The fourth chapter is on the pastoral ministry of the priest—his shepherd role. Among recent thinkers, Walter Kasper, Jean Galot and also von

Balthasar in another context, see the shepherd role of the priest as primary.

The fifth and final chapter or lecture deals with the priest as a disciple of Christ. Here the emphasis is on the holiness of the priest, the imitation of Jesus the Good Shepherd, and the value of celibacy for priests of the Roman Rite.

Fr. Dulles in this book offers a fair summary of thinking on the priesthood as it is found in the documents of Vatican II, in the Magisterium, and in some recent theologians. He is careful not to pass judgment on some views that he apparently disagrees with. The thrust of the book is primarily exposition, but by the time one has finished the book it is quite clear that Fr. Dulles supports the view of Vatican II and the tradition in opposition to the radical views of men like Kung and Schillebeeckx.

One of the purposes of the book is to address the problem of priestly identity. Is he a preacher or a priest or a minister? Since Vatican II Catholic theology has tended to play down the sacerdotal or sacramental aspect of the priest. Dulles says: "This shift, in my opinion, has been partly responsible for the crisis of priestly identity and for the paucity of vocations in parts of the world where secularization has gone furthest. John Paul II is not mistaken in recalling the central importance of the priestly task of mediation through prayer, sacrifice, and the ministry of the sacraments. While these sacred functions do not exhaust the whole nature of priesthood, they give a properly priestly tone to all the activities of the bishop and presbyter" (p. 44).

*Kenneth Baker, S.J.
Fairfield, N.J.*

What Does God Want?

By Michael Scanlan, T.O.R.
with James Manney.
Steubenville: Franciscan University
Press, 1997. 127 pp.

"Man is sometimes confronted by situations that make moral judgments less assured and decision difficult. But he must always seriously seek what is right and good and discern the will of God expressed in divine law." Catechism of the Catholic Church, no. 1787.

This paragraph from the Catechism could serve as the preface for this remarkably useful book. The author is well known as the architect of the transformation of a moribund college into the premier—and in this reviewer's opinion the only—wholly authentic Catholic university in the United States. Throughout the revival of Franciscan University under his leadership, Fr. Scanlan has acted not only as a president but as a pastor. When he offers advice on the making of decisions, he does so from a wealth of varied and practical experience.

This little book offers practical guidance for making decisions, including not only the moral confrontations alluded to in the Catechism, but also the frequently more difficult choices between goods. Should I be a physician or, God help us, a lawyer? Should I take that job or the other one? Such decisions, however, can also raise moral implications. Conscience, as the Catechism says, "is a judgment of reason." It has to be formed and it has to be followed if it is clear. But we should not act on a morally doubtful conscience. And, perhaps of most difficulty, we have to try to resolve doubts.

Fr. Scanlan offers here a user-friendly guide to the resolution of doubts in decisionmaking. He sets out **five** tests:

Conformity. Does the proposed action conform 'to God's revealed will?' (P. 14)

Conversion. "Will the proposed action draw us closer to God or lead us away from Him?" (p. 27)

Consistency. "Does the option we are considering seem to fit the kind of person we are?" (p. 40) But it "is more crucial to be consistently trusting in God's love and grace than in anything else." (p. 48)

Confirmation. The decision can be confirmed through consultation with others or through "the appearance of favorable circumstances and the disappearance of obstacles." (p. 64) And,

Conviction. 'Does the heart say 'yes.' . . . The final test of a decision is the inner conviction that the course of action is indeed the right one.' (pp. 70-71)

This is the framework, which Fr. Scanlan fleshes out with hypothetical but realistic case histories drawn from his wide and successful experience in counseling students and others. A separate chapter deals with the special problem of decisions as to life-long vocations to marriage, the single life, priesthood and the religious life. Another chapter offers practical guidance to counselors. Appendices offer suggestions on praying for guidance, drawn from Fr. Scanlan's own experience and practice, and worksheets for the decision-making process. A helpful reading list is added, emphasizing the principles of St. Ignatius Loyola. The primary emphasis throughout the book is on prayer and seeking the will of God.

For the past two years I have been privileged to be a member of

the Board of Trustees of Franciscan University. Imagine a board of a Catholic university characterized by unity of faith and intellectual purpose and by fidelity to the Magisterium. I doubt that there is another one in

this country, and certainly not in Northern Indiana. Fr. Scanlan has done great work at Franciscan University with the help of many others. But this book should rank among his most effective contributions. Read it,

whoever you are. And give it to family members and friends. They will thank you for it.

Charles E. Rice is a Professor of Law at Notre Dame Law School.

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Women for Faith & Family Conference, October 24-26

The Year of Christ: "Go, tell what you have seen and heard..."

Bishop Fabian Bruskewitz of Lincoln will keynote the annual Women for Faith & Family conference, "The Year of Christ: Go, tell what you have seen and heard," to be held October 24-26 in St. Louis at the Holiday Inn—Clayton Plaza. The bishop will speak at the opening session on Friday, October 24, at 7:45 p.m. The conference title which observes the Church's Year of Christ, is from Jesus' instruction to His disciples recorded in the Gospel of Luke.

Bishop Bruskewitz will also celebrate Mass at the Cathedral Basilica of St. Louis at 8 a.m. Saturday morning, and will receive the organization's *Faith and Family Award* at the banquet Saturday evening.

Popular author **Donald DeMarco** will be the banquet speaker. Professor DeMarco, of St. Jerome's College, Toronto, is the author of many books and articles, including the recent "Character in a Time of Crisis." The banquet begins with a social hour at 5:30, October 25.

Other featured speakers on Saturday and Sunday will be: **Anne Carey**, author of *Sisters in Crisis: The Tragic Unraveling of Women's Religious Communities*

Thomas C. Reeves, history professor at the University of Wisconsin, Parkside, and author of *The Empty Church: The Suicide of Liberal Christianity*. A former Episcopalian, Dr. Reeves and his wife were received into the Catholic Church on July 31

Sr. M. Timothea Elliott, professor of Scripture at St. Joseph's Seminary in Yonkers, New York and member of the Sisters of Mercy of Alma

Fr. Paul Mankowski, S.J., professor of Hebrew at the Pontifical Biblical Institute in Rome

Mary Woodard, director of the Community Initiative for Cult Awareness, in Douglasville, Georgia, a former Jehovah's Witness who is a convert to Catholicism

Helen Hull Hitchcock, director of Women for Faith & Family and editor of *Adoremus Bulletin*.

Bishop Bruskewitz, Dr. DeMarco, Sr. Timothea and Fr. Mankowski have been popular speakers at past WFF conferences.

Conference and registration begins at 5 p.m., Friday, October 24th. The weekend activities will conclude with mass at noon on Sunday, October 26, at the Basilica of St. Louis, King of France. Father Mankowski will be principal celebrant and homilist.

The Holiday Inn—Clayton Plaza provides free shuttle service to and from the airport, and complimentary parking for conference participants. Sessions will be audio taped.

For registration and general information, contact Sherry Tyree, 314-822-7740. Exhibitors contact Susan Benofy, 314-752-2101.

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