

---

Theses

---

2016

**Private conscience and public dissent: The influence of revisionist theological rhetoric in Australian public life**

Gerard Calilhanna

*The University of Notre Dame Australia*

Follow this and additional works at: <https://researchonline.nd.edu.au/theses>



COMMONWEALTH OF AUSTRALIA  
Copyright Regulations 1969

WARNING

The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

---

**Publication Details**

Calilhanna, G. (2016). Private conscience and public dissent: The influence of revisionist theological rhetoric in Australian public life [Master of Philosophy (School of Philosophy and Theology)]. The University of Notre Dame Australia.  
<https://researchonline.nd.edu.au/theses/192>

This dissertation/thesis is brought to you by ResearchOnline@ND. It has been accepted for inclusion in Theses by an authorized administrator of ResearchOnline@ND. For more information, please contact [researchonline@nd.edu.au](mailto:researchonline@nd.edu.au).





THE UNIVERSITY OF  
**NOTRE DAME**  
A U S T R A L I A

School of Philosophy and Theology  
Sydney

Private Conscience and Public Dissent:  
The Influence of Revisionist Theological  
Rhetoric in Australian Public Life

Submitted By  
Gerard Calilhanna

A thesis in partial fulfilment of the requirements of the degree of  
Master of Philosophy

Supervised by  
Dr Renée Köhler Ryan and Nigel Zimmermann

December 2016

# Contents

## Contents

Contents .....	2
Abstract .....	4
Acknowledgements .....	5
Dedication .....	6
Psalm 1 .....	7
The Two Ways .....	7
Pope John Paul II, <i>Veritatis Splendor</i> (1993).....	8
On Martyrdom: .....	8
Introduction and Key Concepts.....	9
Key concepts .....	10
Chapter 1: Revisionism in Australian Public Life: The Case Examples of Kristina Keneally and Father Frank Brennan SJ.....	16
Kristina Keneally .....	16
The Crucial Public role of Frank Brennan SJ: .....	25
1. Acting on Conscience: A Critique .....	25
Book Launch .....	25
2. Brennan and the Redefinition of Marriage.....	36
Conclusion .....	41
Chapter 2: Church Teaching: Natural Law and Conscience.....	42
Introduction .....	42
Pope Pius XI, the Social Kingship of Christ and Australia.....	45
I. Natural Law: What it is and How it Works .....	47
Eternal Law .....	47
The Importance of Natural Law .....	50
The Natural Law and the contribution of John Henry Newman.....	55
The Common Good and Natural Law .....	57
Positive Law and Natural Law .....	59
II. The Relationship between Natural Law and Conscience .....	63
What is Conscience? .....	63
III. Role of Conscience and Natural Law in Church Teaching.....	78
Introduction .....	78
The Second Vatican Council and Conscience .....	79
Newman, Conscience, the Magisterium and the Development of ‘Primacy of Conscience’ .....	82
The Influence of Developments in Natural Law on Contemporary Discussions of Conscience .....	88
IV. Conclusion .....	94
Chapter 3 - The Magisterium and Everyday Catholic Life.....	96
Implications for Informing Conscience in Public Life .....	96
Revisionism and John Henry Newman .....	97
The Development of Revisionist Moral Theology .....	110
The Manual System of Moral Theology .....	111
The Role of Bernard Häring and the Second Vatican Council .....	117
The Revolution Defines its Predecessors .....	123
Church Hierarchy Labelled New Manualists.....	130
Pope Francis, <i>Amoris Laetitia</i> and Conscience.....	132

Humanae Vitae (1968) .....	137
The Papal Birth Control Commission.....	138
Open Dissent from Humanae Vitae .....	141
Curran’s Further Development of Conscience.....	145
The Extension of Revisionism and Historicism after Humanae Vitae .....	146
Conclusion .....	148
Chapter 4: Faith and Practice: the Fraught Experience of Australian Politicians and Personal Faith.....	150
Introduction .....	150
The Catholic Conscience in Public Life: Cardinal George Pell’s intervention in the Embryonic Stem Cell debate June 2007 .....	151
Theological Debate Enters the NSW Parliament and Cardinal Pell’s Intervention is Debated, For and Against.....	162
Cardinal Pell Corrects Revisionist Teaching about Conscience .....	177
A Catholic Parliamentarian in Australia – Faith and Courage under Fire .....	179
Senator Brian Harradine (1935-2014).....	180
Conclusion .....	189
Final Conclusion .....	192
Catholic Theology and Australian Political Life .....	192
The Way Ahead.....	194
The Kingship of Christ and the Search for Truth.....	196
<b>BIBLIOGRAPHY</b> .....	198

## **Abstract**

Catholic parliamentarians in Australia are often in decisive roles in parliamentary debates and play crucial roles in votes for and against particular Bills, deciding their fate in Parliaments. These Bills may often have a direct relationship to the conformity of laws in a parliamentary jurisdiction with the natural or moral law. The Catholic parliamentarian is both a Catholic and an elected representative, with implications for his or her life in parliament and upon decisions made as a parliamentarian. Impressing upon these parliamentarians is the traditional Catholic understanding of conscience in conformity with Apostolic Tradition that obliges adherence to the Magisterium and is not waived from the individual while in parliament, including for voting decisions. However, a recent theological phenomenon, revisionism, encourages the formation of conscience by recognising the self as the ultimate authority. This thesis explores the nature and implications of the claims of this conflict on the parliamentarian.

## Acknowledgements

The author gratefully acknowledges the support of the following:

My wife Andrea for her patience and encouragement, and our daughters Catherine and Teresa who have been very patient, supportive and understanding; my parents Robert and Ann and sisters Germaine (in memoriam) and Ann-Marie.

Thesis supervisors Renée Köhler-Ryan and Nigel Zimmermann, whose professionalism, assistance and vital encouragement helped throughout this work; former Supervisor Paul Morrissey, who encouraged me to undertake the Masters Thesis.

The author also wishes to thank the Australian Taxpayer, without whom this work could not be possible.

Last, but truly first, the author acknowledges the Sovereign Reign of Christ the King over all nations and individuals.

## Dedication

This thesis is dedicated to the honour and recognition of the sovereignty of Christ the King over all nations and individuals, in full accordance with the Encyclical of Pope Pius XI, *Quas Primas* (1925) and in honour of the coming Triumph of the Immaculate Heart of Mary, as promised at Fatima in 1917.

# Psalm 1<sup>1</sup>

## *The Two Ways*

<sup>1</sup> Blessed is the man  
who walks not in the counsel of the wicked,  
nor stands in the way of sinners,  
nor sits in the seat of scoffers;

<sup>2</sup> but his delight is in the law of the LORD,  
and on his law he meditates day and night.

<sup>3</sup> He is like a tree  
planted by streams of water,  
that yields its fruit in its season,  
and its leaf does not wither.  
In all that he does, he prospers.

<sup>4</sup> The wicked are not so,  
but are like chaff which the wind drives away.

<sup>5</sup> Therefore the wicked will not stand in the judgment,  
nor sinners in the congregation of the righteous;

<sup>6</sup> for the LORD knows the way of the righteous,  
but the way of the wicked will perish.

---

<sup>1</sup> Psalm 1, *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway,  
<https://www.biblegateway.com/passage/?search=Psalm+1&version=RSVCE> (Accessed 21 November 2016).



## Pope John Paul II, *Veritatis Splendor* (1993)

### ***On Martyrdom:*<sup>2</sup>**

Although martyrdom represents the high point of the witness to moral truth, and one to which relatively few people are called, there is nonetheless a consistent witness which all Christians must daily be ready to make, even at the cost of suffering and grave sacrifice. Indeed, faced with the many difficulties which fidelity to the moral order can demand, even in the most ordinary circumstances, the Christian is called, with the grace of God invoked in prayer, to a sometimes heroic commitment. In this he or she is sustained by the virtue of fortitude, whereby — as Gregory the Great teaches — one can actually "love the difficulties of this world for the sake of eternal rewards". (From Paragraph 93)

The voice of conscience has always clearly recalled that there are truths and moral values for which one must be prepared to give up one's life. In an individual's words and above all in the sacrifice of his life for a moral value, the Church sees a single testimony to that truth which, already present in creation, shines forth in its fullness on the face of Christ. (From Paragraph 94)

---

<sup>2</sup> Pope John Paul II, *Encyclical: Veritatis Splendor: The Splendour of Truth*, 6 August 1993, Libreria Editrice Vaticana [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html) (Accessed 7 October 2016).

## Introduction and Key Concepts

This thesis will investigate the question of whether there is a link between a revisionist representation of the Catholic teaching on conscience, as a part of moral theology, and the actions and voting of Australian parliamentarians who openly identify as Catholic. The essential idea is to explore the disconnection between what the Church teaches as part of the formal work of the Magisterium, and how this can be disregarded in voting deliberations while the politician still claims to be a Catholic in good faith. This thesis is dealing with conscience at the intersection between theology and public policy debate. This is a sensitive area and because of the nature of the rhetoric and discussion, not all theological themes, however relevant, can be explored in all of their depth.

This investigation will explore how the recently developed conceptual framework of revisionism in moral theology feeds into the political process in Australia. Catholics are part of the demographic of the Australian population that are elected to various parliaments at different levels of government. Voting for a Bill that is contrary to the formal teaching of the Church, or voting against a Bill that is consistent with Magisterial teaching is enough in the first instance to pass the Bill into Law and in the second, to frustrate a measure that would promote the objective good in the society represented by the legislature in question, state, local or federal.

When in the above cases Bills pass or fail by small margins, the role of the Catholic politician is decisive in affecting the lives of large populations, and at the state level can prompt other states to follow suit. Catholic politicians will gain either support or derision from the electorate depending on how they relate their faith to their policy positions, and it can be a personally fraught vocation. A significant recent example is the passing of gay adoption laws in NSW in 2010 in the Legislative Assembly by a margin so small that the changing of one vote could have blocked the passage of the Bill. Other states have followed suit, the most recent being Victoria under the Andrews Government.<sup>3</sup>

---

<sup>3</sup> ABC News, 'Same-sex adoption laws pass Victorian Parliament after Government accepts religious exemptions', 9 December 2015, <http://www.abc.net.au/news/2015-12-09/same-sex-adoption-passes-victorian-parliament/7013502> (Accessed 19 June 2016).

This thesis will be broken down into four chapters. The first chapter will profile a Catholic politician who explicitly appeals to a revisionist understanding of conscience. In this case it will be former NSW Labor Premier, Kristina Keanelly. Her significance, however, cannot be depicted in isolation from the public role of Father Frank Brennan and the degree of influence he has allegedly had on her thought and action. The second chapter will examine natural law, conscience and what the church teaches about this. The third chapter will examine what the role of the Magisterium is in informing one's conscience, and how this relates to making everyday decisions in public life. A revisionist perspective will be examined through the work on Linda Hogan and Fr James F. Keenan SJ. The last chapter will use a case examination of how the current debates in moral theology on conscience entered and influenced a debate in the NSW Parliament during 2007, and a contrasting case of a Federal parliamentarian who held fast to the Catholic faith, spanning a career of thirty years in public life. This will be followed by a conclusion.

## Key concepts

This thesis will use some key terminology, which will be examined in more detail throughout, but some essential definitions to outline important concepts employed in this work.

### *Apostolic Tradition*

Apostolic Tradition is the whole Gospel, as received by the Apostles from Christ handed down through the Church by word of mouth: including what the Apostles preached, set as an example or established as an institution - or by writing; through the office of the Bishop. Bishops were established as successors to the Apostles for this purpose, holding the teaching authority of the Apostles themselves, and which will continue to the end of time.<sup>4</sup> This handing down of the whole Gospel through

---

<sup>4</sup> *Catechism of the Catholic Church* (CCC), 2nd ed., St Pauls Publications, Strathfield, NSW, 2000, n. 75-77, [http://www.vatican.va/archive/ENG0015/\\_PK.HTM](http://www.vatican.va/archive/ENG0015/_PK.HTM) (Accessed 28 September 2016).

successive bishops is a “living transmission, accomplished in the Holy Spirit”<sup>5</sup> and “is called Tradition.”<sup>6</sup> Through Tradition, “the Church, in her doctrine, life and worship, perpetuates and transmits to every generation all that she herself is, all that she believes.”<sup>7</sup>

### *Conscience*

The *Catechism of the Catholic Church* (hence CCC), Paragraph 1778, provides the thesis an understanding of what conscience is, and it includes a quote from John Henry Newman’s key work on the subject, the *Letter to the Duke of Norfolk* (hence LDN). A feature of the works of both Hogan and Keenan is the absence of consideration of this seminal study. This point will be revisited in this thesis.

The paragraph reads:

Conscience is a judgment of reason whereby the human person recognizes the moral quality of a concrete act that he is going to perform, is in the process of performing, or has already completed. In all he says and does, man is obliged to follow faithfully what he knows to be just and right. It is by the judgment of his conscience that man perceives and recognizes the prescriptions of the divine law:

Conscience is a law of the mind; yet [Christians] would not grant that it is nothing more; I mean that it was not a dictate, nor conveyed the notion of responsibility, of duty, of a threat and a promise.... [Conscience] is a messenger of him, who, both in nature and in grace, speaks to us behind a veil, and teaches and rules us by his representatives. Conscience is the aboriginal Vicar of Christ.<sup>8</sup>

The paragraph refers to the actions of conscience before during and after an action is undertaken; it is a judgement applied to an action. Conscience also obliges an

---

<sup>5</sup> Ibid., 78.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> CCC, 1778, [http://www.vatican.va/archive/ENG0015/\\_P5Z.HTM](http://www.vatican.va/archive/ENG0015/_P5Z.HTM) (Accessed 20 June 2016).

individual to follow a particular action in whatever relevant circumstances, in that as soon as the individual knows what the Divine Law is in relation to a particular circumstance, the person has the moral responsibility to obey the law.

Newman will proceed to describe how conscience is flawed due to the effects of Original Sin and thereby needs a papacy to provide guidance in doubt.<sup>9</sup> Newman is a key focus of this thesis because his work on conscience represents a significant development in understanding conscience and its relationship with the Church's Magisterium, in particular the Papacy, following the dogmatic teachings on the Papacy as issued by the Vatican Council. His famous toast to conscience before the Papacy is cited incorrectly in support of the pre-eminence of the individual conscience, and thereby the individual, over the Magisterium of the Church. Understanding what he says and means in its proper context is therefore critical to the contemporary debates, and provides an anticipatory critique of revisionist thinking in this area.

### *Dogma*

According to the CCC, dogma is “truths contained in divine Revelation or also when it proposes in a definitive way truths having a necessary connection with them.”<sup>10</sup> Additionally, from *Dei Filius* of the Vatican Council, comes the following teaching on dogma. It also contains the initial solemn reference to the Ordinary Magisterium, which will be outlined the next definition:

Further, all those things are to be believed with divine and Catholic faith which are contained in the Word of God, written or handed down, and which the Church, either by a solemn judgement or by her ordinary and

---

<sup>9</sup> John Henry Newman, ‘Letter to the Duke of Norfolk: 5. Conscience’, in *Newman Reader — Works of John Henry Newman*, 2007, The National Institute for Newman Studies, <http://www.newmanreader.org/works/anglicans/volume2/gladstone/section5.html> (Accessed 30 August 2016).

<sup>10</sup> CCC, 88, [http://www.vatican.va/archive/ENG0015/\\_PM.HTM](http://www.vatican.va/archive/ENG0015/_PM.HTM) (Accessed 30 August 2016).

universal teaching (*magisterium*), proposes for belief as having been divinely revealed.<sup>11</sup>

### *Magisterium*

The Magisterium is the solemn teaching office of the Catholic Church “restating or unfolding authoritatively Christ’s teaching and its implications.”<sup>12</sup> The CCC states:

The task of giving an authentic interpretation of the Word of God, whether in its written form or in the form of Tradition, has been entrusted to the living teaching office of the Church alone. Its authority in this matter is exercised in the name of Jesus Christ." This means that the task of interpretation has been entrusted to the bishops in communion with the successor of Peter, the Bishop of Rome.<sup>13</sup>

The key figure in this description is the Pope, and the stress is upon bishops being in communion with his office and person. The Magisterium can be at the Solemn level, whereby areas of doubt in faith and morals are formally defined, by either the pope or a dogmatic Council with the approval of a pope. The Ordinary Magisterium is the day to day teaching office of the Church, where truths of faith are restated, especially in the context of new situations and applied to the new situations. Both aspects of the Magisterium are binding on the Catholic. The Authentic Magisterium, however, is not and can err. This is the non-infallible Ordinary magisterium, which are statements from the person of the Pope himself and not in reference to the infallibility of his office.

---

<sup>11</sup> *Dogmatic Canons and Decrees*, Authorized translations, rpt. 1912, Tan Books and Publishers, Rockford, Illinois, 1977, 225.

<sup>12</sup> Anthony Fisher, *Catholic Bioethics for a New Millennium*, Cambridge University Press, Cambridge, 2012, 52.

<sup>13</sup> CCC, 85, [http://www.vatican.va/archive/ENG0015/\\_PM.HTM](http://www.vatican.va/archive/ENG0015/_PM.HTM) (Accessed 20/06/2016).

Revisionism grew as a reaction to what has been termed manualism.<sup>14</sup> The theological manuals dominated the area of moral theology for most of the post Tridentine period, with a culmination point in the middle of the 1960s. The focus of these was to aid priests in the confessional, to guide them in guiding penitents.<sup>15</sup> The manuals, according to James Keenan, “were not designed to help one become a disciple, but rather to keep a penitent from being lost forever.”<sup>16</sup> Keenan is highlighting the purpose of the manuals, which had a precise focus and purpose. In this he is also highlighting the limitations of the same, in that their design did not have a method or approach to form rounded disciples of Christ. This was an essential thrust of revisionist argument and motivation for reaction and the quote from Keenan summarises this succinctly.

However limited the scope of the manuals, their purpose of identifying and counselling against sin was fundamentally good, and this aspect of them should retain a crucial and ongoing role. However, this did not occur and in reaction to their form, a reaction to their purpose ensued, as notions of sin became diminished.

Criticism of the manuals became a war against what they stood for. The presupposition of the manuals was that universal laws never change; “thus as new cases emerged, the manualist astutely applied the law, but the law remained intact.”<sup>17</sup> Though following a principle of unchanging law, as consistent with the unchanging Nature of God, from whom these laws derived, this fidelity to unchanging law becomes a point of criticism and a problem for the revisionist position.

In reaction to this, revisionism held that moral theology was “more positive, more theological and more attuned to human experience.”<sup>18</sup> “Human experience and reflection” became identified as “one of the most indispensable sources of moral knowledge.”<sup>19</sup> Human experience was a determining factor influencing the shift by

---

<sup>14</sup> James F. Keenan S. J., *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences*, Bloomsbury Publishing PLC, London, 2010, 4.

<sup>15</sup> *Ibid.*, 11.

<sup>16</sup> *Ibid.*, 12.

<sup>17</sup> *Ibid.*, 25.

<sup>18</sup> *Ibid.*, 83.

<sup>19</sup> *Ibid.*, 88.

the revisionist, a human experience that was more complex and removed from the reality of Catholic lives in the mid Twentieth Century.



# Chapter 1: Revisionism in Australian Public Life: The Case Examples of Kristina Keneally and Father Frank Brennan SJ

## *Kristina Keneally*

Kristina Keneally entered the NSW Parliament by winning the seat of Heffern in southern Sydney for the Australian Labor Party (ALP) in the 2003 NSW State Election. She became the Premier of NSW on 3 December 2009 and led the ALP to election defeat on 26 March 2011.

In her Inaugural Address to the NSW Legislative Assembly she reflects on her Catholic background and its intersection with feminism:

My passion for social justice has its roots, without a doubt, in my Catholic faith. The Catholic Church has a proud tradition of social teaching, starting with the papal encyclical *Rerum Novarum*: The Condition of Labor in 1891, and continuing with strong statements about peace, the environment, and economic justice. However, the church has had another significant influence on my life: it made me a feminist. I became a feminist activist at age eight, when I rang the local bishop on a talk-back radio program to ask why girls could not be altar servers. His unsatisfactory answer prompted me to see how women are disadvantaged in the church and in society. My feminist agitation continued, including writing a feminist column for my university newspaper and getting a graduate degree in feminist studies in religion. By the way, it is common for girls to be altar servers today, but I still think we have a long way to go to achieve equal opportunity in my church, and indeed, in the wider society.<sup>20</sup>

---

<sup>20</sup> Kristina Keneally, Inaugural speech, *Hansard*, NSW Legislative Assembly, 20 May 2003, 732, <https://api.parliament.nsw.gov.au/api/hansard/search/daily/pdf/HANSARD-1323879322-61614> (Accessed 14 December 2016).

In a profile article about her after becoming Premier, writers Deborah Snow and Anne Davies provide detail about her Catholic formation and upbringing in the USA. The also delve more into her academic formation, which continues on from information contained in her Inaugural Speech. While attending the University of Dayton, Ohio, the authors note:

At this time Keneally was delving deeper into her religious studies, searching for ways to reconcile feminism with the teachings of the Bible and the practices of the Catholic church.

Her master's thesis explored gender bias in the Catholic Church.

Despite her professed devotion, she had plenty of issues with the church. As she stated afterward, "Being stridently feminist, I had more than a few arguments with John Paul II when I set off for Poland [in 1991], " she told NSW Parliament in 2005. These included "women's ordination, celibacy in the priesthood, lifelong vocations and contraception".<sup>21</sup>

The reference to Poland in 1991 was when she attended the then World Youth Day in Częstochowa. There is no evidence that she met Pope John Paul II and had a verbal exchange, but that she was expressing opposition to a number of Church teachings that Pope John Paul II is personified as the defender of. Despite her heralding from a strong Catholic environment the sources of antagonism with the Catholic faith are present from an early age through the agency of feminism.

Her speech in Parliament in 2007 over the stem cell issue and the question of the intervention of Cardinal Pell, after explaining her reasons for opposing the Bill and thanking those with whom she consulted, follows a similar pattern to the positions outlined above. She stated:

One person to whom I did not speak was Cardinal George Pell. I make it clear that his remarks played no role in my decision on this legislation.

---

<sup>21</sup> Deborah Snow and Anne Davies, 'Labor's least likely', in *The Age*, 5 December 2009, <http://www.theage.com.au/national/labors-least-likely-20091204-kb2i.html#ixzz409215HUw> (Accessed 14 February 2016).

As a practising Catholic and as a member of Parliament with a degree in Catholic theology, I was disappointed that Cardinal Pell did not take a more pastoral approach to this issue. For example, Cardinal Pell could have sought to speak with Catholic members of Parliament. He could have sought to offer counsel and advice and, for those who would have liked it, he could have sought to offer spiritual guidance. Rather, his first approach to us on this matter was his authoritarian legalistic edict. I also note that if the Cardinal's approach is to start ex-communicating Catholic members of Parliament he might want to know that I support the ordination of women.

I compliment my fellow members of Parliament, most of who are conducting this debate in a respectful manner, recognising that hardly anyone develops a position on such matters easily and that most do so by developing a well-formed conscience.<sup>22</sup>

Having stated her Catholic credentials in practice of faith and education, she derides the Cardinal for his “authoritarian legalistic edict,”<sup>23</sup> adding for good measure that she supports “the ordination of women.”<sup>24</sup> Her reference to a “well-formed conscience”<sup>25</sup> concerns all members of Parliament and it is not given a Catholic frame. Conscience here is merely informed opinion, with no deference to any authority above the self.

Her views would develop further. As Premier in 2010 she oversaw the introduction of Relationship Registers for heterosexual and homosexual couples, gay adoption, moved via proxy through Independent for Sydney, Clover Moore, and later in the year ‘altruistic’ surrogacy. Of note, the *Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2)* passed in the NSW Legislative Assembly 46-44.<sup>26</sup> This means that if one more state parliamentarian voted against, the vote would have been tied. The

---

<sup>22</sup> Kristina Keneally, Speech - Human Cloning and Other Prohibited Practices Amendment Bill 2007, *Hansard*, NSW Legislative Assembly, 6 June 2007, [https://www.parliament.nsw.gov.au/Prod/parliament/hansart.nsf/V3Key/LA20070606004?open&refNavID=HA8\\_1](https://www.parliament.nsw.gov.au/Prod/parliament/hansart.nsf/V3Key/LA20070606004?open&refNavID=HA8_1) (Accessed 10 February 2016).

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Parliament of NSW, *Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2)*, *Hansard*, Legislative Assembly, Page 25148, 2 September 2010, <https://www.parliament.nsw.gov.au/prod/parliament/hansart.nsf/V3Key/LA20100902005> (Accessed 16 February 2016).

Speaker of the House then has a casting vote. At the time it was Richard Torbay, who was understood to be against. When such votes have critical margins, the role of publicly identifiable Catholic parliamentarians becomes more acute, and these were crucial in the passing of the vote; for example, Victor Dominello, Kristina Keneally, Barry O'Farrell, and Adrian Piccoli.

The Keneally Government's final contribution was the Proud Schools Program issued in early 2011.<sup>27</sup> An editorial in *The Daily Telegraph* argued at the time that it was gay propaganda in schools:

Indeed, it appears that far from merely promoting tolerance, the program seeks to advance a political agenda. Teaching high school students that gender and sexuality are "fluid" concepts and that "binary" notions such as gay and straight are "heterosexist" is not an anti-bullying message, it is presenting a particular view - and doing so as though it is scientific fact.

Questions about whether sexuality is fixed or fluid might belong in the tutorials of undergraduate arts degrees where young adults who care about such things can argue about them until the cows come home. They should not be foisted upon children - and certainly not foisted upon them as fact.<sup>28</sup>

This program was continued in 2011 by the newly elected Coalition Government under then Premier Barry O'Farrell.<sup>29</sup>

After the defeat of her government at the March 2011 Election, Keneally used the status of a former Premier to effect in the lead up to the ALP National Conference set for 3 December of the same year. Facing pressure on their left political flank from The Greens, following a strong performance in the 2010 Federal Election, and amidst

---

<sup>27</sup> The Hon Verity Firth, *Press Release: \$250,000 TO HELP TACKLE HOMOPHOBIA IN SCHOOLS*, 21 January 2011, [https://www.det.nsw.edu.au/detresources/mr210111-homophobia\\_vDHHZAfgyK.pdf](https://www.det.nsw.edu.au/detresources/mr210111-homophobia_vDHHZAfgyK.pdf) (accessed 16 February 2016).

<sup>28</sup> Editorial, 'Is this tolerance or propaganda?' in *The Daily Telegraph*, 17 October 2012, <http://www.dailytelegraph.com.au/news/opinion/is-this-tolerance-or-propaganda/story-e6frezz0-1226497251221> (Accessed 16 February 2016).

<sup>29</sup> 'Proud Schools Trial Here to Stay', in *Gay News Network*, 18 October 2012, <https://gaynewsnetwork.com.au/news/proud-schools-trial-here-to-stay-9200.html> (Accessed 27 December 2016).

a rising challenge from the ALP's Left faction to match The Greens on social policy, voices from the ALP's Right faction started agitating on the issue.<sup>30</sup> An ALP National Conference was scheduled for mid-2012, but was brought forward to 3 December 2011 for the sake of this issue.<sup>31</sup> At the National Conference, the ALP changed its policy to abandon support for marriage and replaced it with homosexual 'marriage', albeit with a conscience vote position. Securing the conscience vote was only just achieved and meant that Labor parliamentarians were at that point not bound by a party policy when voting on a Bill or Motion.<sup>32</sup>

In this period Kristina Keneally helped play a role in this significant policy shift. In *Eureka Street online*, on 25 September 2011, she published an article titled "Why I support gay marriage".<sup>33</sup> There she asks:

As a legislator, I have voted for and promoted legislation that accords rights, such as adoption, to homosexual people. I have publicly stated that I don't agree with the Church's teaching on homosexuality. How did such a good Catholic girl arrive at what appears to be a non-Catholic position on this issue?<sup>34</sup>

---

<sup>30</sup> Michelle Grattan, 'Legalised gay marriage is inevitable, says Labor's Left', in *The Age*, 25 October 2010, <http://www.theage.com.au/national/legalised-gay-marriage-is-inevitable-says-labors-left-20101024-16z6y.html#ixzz2LRDqB09f> (Accessed 15 February 2016) and Patricia Karvelas, 'Mark Arbib wants Labor to back gay marriage', in *The Australian*, 6 November 2010, <http://www.theaustralian.com.au/national-affairs/arbib-wants-labor-to-back-gay-marriage/story-fn59niix-1225948555751> (Accessed 15 February 2016).

<sup>31</sup> Phillip Coorey, 'Labor on a steady path to same-sex weddings', in *The Sydney Morning Herald*, 22 November 2010, <http://www.smh.com.au/opinion/politics/labor-on-a-steady-path-to-samesex-weddings-20101121-182hh.html#ixzz2LRJt1gG4> (Accessed 15 February 2016).

<sup>32</sup> Dennis Shanahan, 'Labor's shift in policy on same-sex marriage marks a historic change for the party', in *The Australian*, 3 December 2011 12:05 PM, <http://www.theaustralian.com.au/national-affairs/indepth/labors-shift-in-policy-on-same-sex-marriage-marks-a-historic-change-for-the-party/story-fnba0rxe-1226212933720> (accessed 15 February 2016). This has since shifted to a binding parliamentary vote following the 2019 Federal Election as a result of the 2015 ALP National Conference. See Ellen Whinnett, 'ALP National Conference: Bill Shorten to introduce same-sex Bill within first 100 days of government', in *Herald Sun*, 26 July 2015, <http://www.heraldsun.com.au/news/alp-national-conference-bill-shorten-to-introduce-samesex-bill-within-first-100-days-of-government/news-story/825d2293755e7c1ce291513aaf1d01e9> (Accessed 27 December 2016).

<sup>33</sup> Kristina Keneally, 'Why I support gay marriage', in *Eureka Street*, 25 September 2011, <http://www.eurekastreet.com.au/article.aspx?aeid=28390#.VsL9ZeRulZV> (Accessed 16 February 2016).

<sup>34</sup> *Ibid.*

For her theology she consults Richard P. McBrien's *Catholicism*, and agrees with his view that "homosexual acts are morally neutral, because the morality of a sexual act depends on the quality of the relationship of the people involved."<sup>35</sup> Contrary to this emphasis on the morality of a homosexual sexual act being contingent on another principle, the CCC states:

Basing itself on Sacred Scripture, which presents homosexual acts as acts of grave depravity, tradition has always declared that "homosexual acts are intrinsically disordered." They are contrary to the natural law. They close the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.<sup>36</sup>

Keneally's adoption of McBrien's position makes sense when one considers her overview of her views on conscience. She reflects that:

Another significant influence on my thinking also came from my studies of Catholic doctrine: the inviolability of conscience.

Conscience is a tricky area when one wants to claim it as a basis for disagreeing with the Church's official teaching. It often leads to accusations of being a 'cafeteria Catholic', choosing only the parts of Church teaching you want to agree with.

(I find this ironic, given that the Church has never explicitly claimed infallibility on a moral teaching, and has altered its own views over the years in response to cultural changes, e.g., on usury.)

The Second Vatican Council declares we are bound to follow our conscience faithfully; that one cannot be forced to act in a manner contrary to their conscience.

---

<sup>35</sup> Ibid.

<sup>36</sup> CCC, 2357, [http://www.vatican.va/archive/ENG0015/\\_P85.HTM#15L](http://www.vatican.va/archive/ENG0015/_P85.HTM#15L) (Accessed 12 December 2016).

But a conscience must be properly formed. Conscience is not a feeling; it is a decision to act based on thorough consideration.

A Catholic conscience must give attention and respect to Church teachings, but is also bound to consider science, reason, human experience, scripture and other theological reflection.

This is how I came to the views I have espoused in the Parliament and in public debate: by thoroughly forming my conscience.<sup>37</sup>

Breaking this argument down, there is no distinct separate binding authority that the Church's Magisterium has for the Catholic. One considers Church teachings, but on par with a range of other factors. In other words, the only difference for the Catholic is that amongst range of sources to consider a matter, one also includes Church teachings, but these get no more weighting than any other. The formation of conscience then is to consider a wide range of inputs in order to reach "a decision to act based on thorough consideration."<sup>38</sup> Ultimately, however, the summit of authority is the self. Conscience is inviolable, but for the Catholic a deference to the authority of the Church's Magisterium to the area of teaching concerning the question at hand is necessary.

Keneally is correct in saying that "Conscience is not a feeling,"<sup>39</sup> but it is not a decision either. Cardinal Newman, argues that conscience is a faculty that apprehends natural law and applies it to different circumstances to conform to doing what is right and avoiding what is wrong.<sup>40</sup> Newman asserts the strong role of a person's conscience and developed substantially its general understanding, but also asserts a key authoritative and guiding role for the Church as conscience is not fail safe.<sup>41</sup> There are also references in the Second Vatican Council documents to deference of the individual conscience to the authority of the Church, for example, which "must always be governed according to a conscience dutifully conformed to the divine law itself, and should be submissive toward the Church's teaching office,

---

<sup>37</sup> Kristina Keneally, 'Why I support gay marriage', op. cit.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> John Henry Newman, 'Letter to the Duke of Norfolk: 5. Conscience', op. cit.

<sup>41</sup> Ibid.

which authentically interprets that law in the light of the Gospel,”<sup>42</sup> as distinct from the partial reflection of its content by Keneally. More details on this topic will be covered ahead in this thesis.

In 2015, Keneally helped launch a recent work by Frank Brennan on conscience called *Amplifying that Still Small Voice*.<sup>43</sup> When outlining her understanding of conscience, she repeats verbatim what she wrote explaining her reasons for going against Church teaching on the question of marriage. However, she adds this point:

A Catholic has an obligation to follow her fully-formed conscience, even if it brings her into conflict with church teaching.<sup>44</sup>

This comment identifies the subject as a Catholic, who has a “fully-formed conscience.”<sup>45</sup> At this point the subject, having followed this path, would have noted what the Church teaches on a particular matter and assented to it, definitively, irrespective of what his or her prior personal views are, as it has Christ’s own authority behind it. However, Keneally asserts that a fully formed conscience can be in conflict with church teaching. This is incorrect. A fully formed Catholic conscience means that the subject will knowingly defer to Church authority. Conflict with the same is impossible, as will be explored in Chapter Two of this thesis. For Keneally, however, the self is sovereign in moral and broader doctrinal questions and this is set in opposition to the teaching authority of the Church, which she not only denies, but disregards.

To provide a theological appraisal and evaluation of this approach, a relevant precedent is explored by Pope John Paul II in *Veritatis Splendor*. Note that by his

---

<sup>42</sup> II Vatican Council, *Gaudium et Spes: Pastoral Constitution On The Church In The Modern World*, 7 December 1965, Paragraph 50, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_cons\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html), (Accessed 22 September 2016). According to Fisher, op. cit., 47; other paragraphs include *GS* 31 and 87, *Dignitatis Humanae*, (*DH*) 8 and 14, *Gravissimum Educationis* (*GE*) 1, *Apostolicam Actuositatem* (*AA*) 20, and *Inter Mirifica* (*IM*) 9 and 21.

<sup>43</sup> Kristina Keneally, ‘Frank Brennan, Ambassador from the Republic of Conscience’, in *The Eureka Street Religion Blog*, 3 June 2015, <http://www.eurekastreet.com.au/article.aspx?aeid=45035#.VsRsGuRulv0> (Accessed 17 February 2016).

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.



exposition, he recalls the Catholic faithful to the lessons contained in the Book of Genesis.

In the Book of Genesis we read: "The Lord God commanded the man, saying, 'You may eat freely of every tree of the garden; but of the tree of the knowledge of good and evil you shall not eat, for in the day that you eat of it you shall die' " (Gen 2:16-17).

With this imagery, Revelation teaches that the power to decide what is good and what is evil does not belong to man, but to God alone. The man is certainly free, inasmuch as he can understand and accept God's commands. And he possesses an extremely far-reaching freedom, since he can eat "of every tree of the garden". But his freedom is not unlimited: it must halt before the "tree of the knowledge of good and evil", for it is called to accept the moral law given by God.<sup>46</sup>

Kristina Keneally also reveals the level of political influence the views of Brennan have, especially in her own case:

But if anything, members of the Australian public, our fellow citizens of Australia, crave leadership and examples of how to openly, honestly, and fully form a conscience and arrive at a conscientious decision.

When I was in parliament, Frank Brennan, to me, always stood as an example of how to do this, and more importantly, the insistence that this must always be done. In fact, I regarded him as a bit of a hero.<sup>47</sup>

This thesis will seek to show the connection between the revisionist moral theologian and the parliamentarian, which is what the above tends to demonstrate; and how that understanding of what conscience is has in some instances found its way to the chief lawmakers and political commentators in Australia.

---

<sup>46</sup> Pope John Paul II, *Encyclical: Veritatis Splendor: The Splendour of Truth*, 6 August 1993, Libreria Editrice Vaticana, Paragraph 35, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html) (Accessed 7 October 2016).

<sup>47</sup> Kristina Keneally, 'Frank Brennan, Ambassador from the Republic of Conscience', op. cit.

With deference to Frank Brennan given by Kristina Keneally, demonstrating his influence and political reach, it is timely to shift to a discussion of a key example of his contribution to public debate on the subject of conscience.

## ***The Crucial Public role of Frank Brennan SJ:***

### ***1. Acting on Conscience: A Critique***

#### **Book Launch**

The publication of Frank Brennan's *Acting on Conscience* in late 2006 came with great fanfare, with launches in Brisbane, Canberra, Melbourne and Sydney. *Eureka Street* published the various addresses to commemorate the launch. These included then Shadow Minister for Foreign Affairs, Trade and International Security, Kevin Rudd.<sup>48</sup> He pointed out that the book largely sets "out a framework for religious participation in Australian political life"<sup>49</sup> and much of the discussion centres on the way in which various Christian individuals and churches can influence the political process; but he refers to the issue of conscience within the Catholic Church.<sup>50</sup> Rudd refers to this as the "doctrine of the primacy of an informed, individual conscience" and states Brennan's position, but leaves the debate to "Frank" and "his hierarchy".<sup>51</sup>

In his response to Kevin Rudd's address, Brennan encapsulates his own ideas in the following passages. Firstly:

The state needs to respect the inherent dignity of every person and this requires due acknowledgement of the person who acts with a formed and informed conscience about what is right for him and for others.<sup>52</sup>

---

<sup>48</sup> Kevin Rudd MP, 'Acting on Conscience Canberra Launch Speech', 31 October 2006, in *Eureka Street*, 27 February 2007, [http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh\\_beRumhc](http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh_beRumhc) (Accessed 8 February 2016).

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Frank Brennan, 'The Launch of Acting on Conscience, University of Queensland Press: Frank Brennan's Response to Kevin Rudd, Parliament House', Canberra, in *Eureka Street*, 31 October 2006, [http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh\\_beRumhc](http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh_beRumhc) (Accessed 9 February 2016).

This is a fairly straightforward presentation of the role of conscience in terms of the dignity of the individual before the state, and the centring is on the individual judgement of the person based on his conscience. The next paragraph, however reveals that this individual autonomy is also free in a religious context and therefore individual members of different religious communities are not bound by their religious leaders. However, he carefully avoids saying so explicitly:

Religious leaders are free to proclaim the formal teaching of their faith communities, not only to their members but to all members of society. As citizens, they are entitled to agitate for laws or policies consistent with their formal teaching. It is not only folly but it is wrong for religious leaders to represent to the world that all members of their faith communities think and act in a way fully consistent with the formal church teaching, or that most of their members think law and policy should reflect their formal church teaching.<sup>53</sup>

If Brennan warns away religious leaders from claiming that all their members adhere to and act in accordance with church teaching, or that public policy should reflect this, then he is upholding that this disconnection is both desirable and necessary and that it should not be otherwise. It also places his previous remark in the light of an individual autonomy beholden to no authority save his own.

The book is endorsed by then Senator Bob Brown, former leader of the Greens Party. The support is perhaps motivated by Brennan's sympathetic portrayal of Brown's condemnation of the bipartisan changes to the Marriage Act in 2004 in his book.<sup>54</sup> The relationship with Brown extends further. Cardinal Pell attacked The Greens party prior to the 2010 Federal Election, pointing out readers of his then *Sunday Telegraph* column about how "thoroughly anti-Christian" Greens policies are, that the Greens ethic is intended to replace Judeo-Christianity, namely "humans are simply another smarter animal so that humans and animals are on the same or similar levels depending on the level of consciousness."<sup>55</sup> Brown had co-authored the book *The Greens* with Peter Singer in 1996, which championed a new "green ethic" that

---

<sup>53</sup> Ibid.

<sup>54</sup> Frank Brennan, *Acting on Conscience: How can we responsibly mix law, religion and politics?*, University of Queensland Press (UQP), St Lucia, Qld., 2007, 184-185.

<sup>55</sup> George Pell, 'Greens are anti-Christian', in *The Sunday Telegraph*, 8 August 2010, 45.

emphasises “the interests of individual non-human animals” in contradiction to the traditional Christian view.<sup>56</sup> Pell concluded his article by describing The Greens as “sweet camouflaged poison.”<sup>57</sup>

Brown’s reaction to Pell was swift, denouncing the Cardinal’s statement, claiming instead that “Cardinal Pell's "anti-Christian" claim was a lie, and that he had fallen out of touch with his people.” Brown also claimed that “The majority of Catholics support equality in marriage (as do) the majority of Christians in Australia.”<sup>58</sup>

Brennan then entered this debate and argued that there was a plausible case to vote for The Greens, while chiding the Cardinal for his “unbecoming and unhelpful” language.<sup>59</sup> Thus, Brennan undermined Cardinal Pell, created public division over the issue from a Catholic perspective,<sup>60</sup> and gave a Catholic both political and religious cover for voting for The Greens in the coming 2010 election, which was a political gift for them. The result for The Greens in 2010 was to secure five Senate seats and win the Seat of Melbourne from the Labor Party, the first time Labor had lost this Seat since Federation. The effect of this was to help pull the Labor Party further to the Left on social issues to cover their political flank. The issue that expressed this shift the most was the Labor Party’s marriage policy.

Brennan is trying to find a legitimate way for religion to re-enter public discourse, which is good in principle. The key vehicle for this, however, is the “primacy of conscience” of the individual.<sup>61</sup> A working definition of “primacy of conscience” for our purposes here is that conscience is the supreme authority that the individual must follow, rightly or wrongly, without qualification or deference to an external

---

<sup>56</sup> Angela Shanahan, ‘Christians must boost immunity to Greens virus’, in *The Australian*, 12 June 2010, <http://www.theaustralian.com.au/archive/politics/christians-must-boost-immunity-to-greens-virus/story-e6fgrczf-1225878344697> (Accessed 2 September 2016).

<sup>57</sup> George Pell, ‘Greens are anti-Christian’, op. cit.

<sup>58</sup> AAP, ‘Greens’ policies more Christian than Cardinal George Pell, says Bob Brown’, in *The Australian*, 8 August 2010, <http://www.theaustralian.com.au/news/latest-news/greens-policies-more-christian-than-cardinal-geogre-pell-says-bob-brown/news-story/8447dbc25245877cc3ea7007508e65da> (Accessed 15 July 2017).

<sup>59</sup> Frank Brennan, “Why a conscientious Christian could vote for the Greens” in *EurekaStreet.com.au*, Vol 20 No 15, 10 August 2010, <http://www.eurekastreet.com.au/article.aspx?aeid=22755#.V8gyr-Qkqhc> (Accessed 3 September 2016).

<sup>60</sup> Paul Kruger, ‘Catholics divided over Pell's criticism of Greens’, ABC News online, 11 August 2010, <http://www.abc.net.au/news/2010-08-10/catholics-divided-over-pells-criticism-of-greens/939596> (Accessed 3 September 2016) and ABC News: *PM with Mark Colvin*, ‘Christians told it's OK to vote Green’, 10 August 2010, <http://www.abc.net.au/pm/content/2010/s2979182.htm> (Accessed 3 September 2016).

<sup>61</sup> Brennan, *Acting on Conscience*, op. cit., 9.

authority. The concept that Brennan’s work explores and reflects is that the “primacy of conscience” is the means for religion to establish a legitimate place in a democracy, using case examples that follow as examples of this. He draws on examples from both Australia and the United States to illustrate how religion can inform key decision makers in society, via their conscience, in the course of their public life. Some examples of the interplay between religious issues and policy-making include the Iraq war and the nature of the just war, the 2004 US Presidential Election – in particular administering Holy Communion to pro-abortion politicians, embryonic stem cell research, and religious principles informing judgements made in Australian judicial system. The idea of how religion can inform key decision makers in society is not in itself a problem, but when he attempts to define what conscience is, the circumstances in which it is then applied, and how, things change completely.

When a defender of “primacy of conscience” speaks or writes, particularly with an Australian connection, Cardinal Pell has tended to be a key target in contemporary times in Australia. Cardinal Pell has been the strongest public voice in Australia attacking primacy of conscience. In 1988 he said it should be “quietly ditched”<sup>62</sup> and in 2003 stated more strongly:

In the past I have been in trouble for stating that the so-called doctrine of the primacy of conscience should be quietly dropped. I would like to reconsider my position here and now state that I believe that this misleading doctrine of the primacy of conscience should be publicly rejected.<sup>63</sup>

These comments still elicit denunciations from “primacy of conscience” advocates, Brennan included. Brennan takes clear aim at Cardinal Pell and describes what he, Brennan, understands conscience to be and especially what “primacy of conscience” is. Brennan’s most important chapter is the second, *Maintaining the Citizen’s Freedom of Conscience*, as this is where he details his understanding of what

---

<sup>62</sup> George Pell, ‘The issues facing Australian Catholicism’, in *AD2000*, Vol 1 No 8, November 1988, 9.

<sup>63</sup> George Pell, ‘Catalyst for Renewal Address: The legacy of Vatican II’, in *AD2000* Vol 16 No 7, August 2003, 8.

conscience is. While other chapters treat its application, that chapter will be the focus here.

Brennan cites Newman's toast to conscience before the pope.<sup>64</sup> He does so, however, without mentioning the important papal role that compensates the weakness of conscience due to Original Sin, which Newman also explores.<sup>65</sup> Brennan tries to speak for Newman, who he claims "would have been surprised by some of the contemporary claims that popes have taught infallibly on a vast range of moral issues, including contraception."<sup>66</sup> The opposite, however, is true. If Brennan understood what Newman was saying in the LDN, he would realise that this is exactly what the role of the papacy is for. Here it is significant to note the connection between conscience and *Humanae Vitae*. Brennan tries to use the "definitive wording" of John Paul II in *Evangelium Vitae*, condemning abortion, against claims that there is infallible teaching in *Humanae Vitae* against contraception. The basis for his claim is that *Humanae Vitae* does not use the same language formula, or similar, as is found in *Evangelium Vitae*.

The issue of the language formula is important, but does not diminish the expressed intent of Paul VI and that he is teaching consistently with previous declarations on this topic. Brennan misses the point by ignoring the infallibly declared competence of the Ordinary Magisterium from the Vatican Council to teach with binding authority. He reveals his preference when he says: "Many would prefer a teaching consistent with the recommendations of the majority of the commission established by Paul VI."<sup>67</sup> He also spends two pages on defending those who use contraception "in good conscience" from following the Papal Commission's majority report in 1966.<sup>68</sup>

In this statement, Brennan is placing more weight on the authority of the Papal Commission, which is not a teaching organ of the Magisterium, over the work of the Ordinary Magisterium itself found expressed in *Humanae Vitae*. Using his apostolic

---

<sup>64</sup> Brennan, op. cit., 29 and 43.

<sup>65</sup> Ibid., 29.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid., 236.

<sup>68</sup> Ibid., 40-41. The issue of the Papal Commission's majority report will be examined in Chapter Three of this thesis.

authority Paul VI rejected the majority report of the Commission and codified this rejection in the said encyclical. He stated that “certain approaches and criteria for a solution to this question had emerged which were at variance with the moral doctrine on marriage constantly taught by the magisterium of the Church.”<sup>69</sup>

The key paragraph of the book gives Brennan’s views on what he believes conscience to be. This idea guides the tenor and direction of the whole book. After commenting on Newman, he says:

Here on the other side of the globe 130 years later, there has been some suggestion that there is a competition between conscience and truth, only one of which can enjoy primacy. Some Catholics like Cardinal Pell think other Catholics would do better if they stopped talking about the primacy of conscience. Others think that there is a need for more emphasis on the primacy of the individual conscience over the directives, witness and actions of bishops and even the pope if we are to have any chance of discerning and living out the complex truth of our life project as citizens of a pluralist democracy. I am one of those others.<sup>70</sup>

Here he skews the issue, misrepresents it and misunderstands it. In the initial part of the paragraph, he frames his opponent’s position as holding that there exists competition between conscience and truth, and that only one can have primacy. By his next sentence, he means that one party argues that truth must hold primacy over conscience when the two clash. Here he oversimplifies. Conscience discerns the Law of God by apprehending it in our minds and, in this, it discerns truth about the rightness or wrongness of an act, namely, “do this, shun that”.<sup>71</sup> For him truth is oriented in our daily lives, but he makes no reference to transcendent authority as the source of truth. The issue is the treatment of conscience as if it is not subject to error, and not weakened or darkened by original sin. However as Newman points out,

---

<sup>69</sup> Pope Paul VI, *Humane Vitae: On the Regulation of Birth*, 25 July 1968, Paragraph 6, [http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html) (Accessed 6 September 2016).

<sup>70</sup> Brennan, *op. cit.*, 29-30.

<sup>71</sup> II Vatican Council, *Gaudium et Spes*, *op. cit.*, Paragraph 16.

though a sound guide, conscience is not complete in its assuredness.<sup>72</sup> Newman also stresses that conscience is not to apply to doctrinal matters but practical matters.<sup>73</sup> The consequence of Brennan's thinking, however, is that the individual conscience prevails over all considerations, despite later acknowledging that "the Catholic concedes not only the possibility but also the common reality of the incompletely formed conscience, which may receive guidance from the Church's teaching authority."<sup>74</sup> *May* receive guidance? The obligation to conform to the teaching of the Church is absent from his analysis. He makes no point about conscience's weakness, as Newman does. He only observes that conscience can sometimes lack sufficient information in a circumstance requiring its application, which one can overcome practically.

The second part of the paragraph is subtle. Note what Brennan does not say. He does not discuss questions of doctrine, moral teaching of the Church, or the like, though this is in fact the issue here and is really what is under question. What he discusses are the "directives, witness and actions"<sup>75</sup> of the pope and or bishops. What are these? Directives may refer to policy, but there is no argument about the possibility of questioning that, but what are "witness and actions"?<sup>76</sup> The concepts are so vague as to be meaningless, but Brennan invests in them qualities over which conscience must have primacy. Their broad, ambiguous scope can allow Brennan to invest in them whatever value he wishes. The very vagueness of the concept makes it seductive and dangerous. Without equivocation, he places himself on the side of upholding "primacy of conscience".

As stated, Brennan locates the natural law not with its origin from God, but based on "a single static human nature,"<sup>77</sup> that is, originating in man. Last, he provides no qualification when stating the necessity to follow an erroneous conscience. Quoting Saints Augustine and Thomas Aquinas in support, he says nothing about the duty to seek to correct the erroneous conscience by consulting Church teaching. What he

---

<sup>72</sup> John Henry Newman, 'Letter to the Duke of Norfolk: 5. Conscience', op. cit.

<sup>73</sup> Ibid.

<sup>74</sup> Brennan, op. cit., 31.

<sup>75</sup> Ibid., 29-30.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid., 32. Natural Law will be further explored in Chapter Two of this thesis.



does say is a kind of approximation of what these seminal theologians have stated, but this does not go far enough:

The Christian's contribution to the contemporary world would be greater if there were more attention to the formation of conscience and to the injunction: educate your conscience and to that conscience be true.<sup>78</sup>

But how? He does not explain. What is to be the role of the Church's Magisterium in this formation? He makes no distinction, but does come to the topic. In this he pitches broadly, not just to the Catholic but "most people", which destroys the need for the Catholic to inform and submit to the authoritative teachings of the Church in his argument. He can point to this broader category and claim that what he is saying concerning conscience cannot have a specifically Catholic appeal. Yet he makes arguments that concern Catholics on very important topics. He says:

For most people, the questions of conscience will not be: 'Am I to believe this church teaching?' but 'Am I to do this particular act or refrain from it?'<sup>79</sup>

This reemphasis is a neat move. He has shifted the focus of the application of conscience away from the supernatural to the natural sphere, to a broad public, without making any specific address to Catholics. He also bypasses the essential step of the formation of conscience in doing so, especially of advising the Catholic in the proper role of informing one's conscience in relation to church teaching. He has moved from the issue to the action, without confronting a crucial aspect that the Catholic must embrace. With this, he has bypassed any proper consideration for the proper role of the Church's teaching authority. With these foundations set he can reintroduce a religious factor while simultaneously downplaying it, declaring that:

---

<sup>78</sup> Ibid., 38.

<sup>79</sup> Ibid.

We must always accord primacy to the conscientiously formed and informed conscience, regardless of the person's place in the church hierarchy.<sup>80</sup>

Having laid such a platform, he applies it in different scenarios throughout the book, as described above. One example of the application of this platform is in his position on homosexuality. Thus, he can relate that:

On 23 July 1999, I received David Marr at my office in Kings Cross, next door to the Church of St Canice. After he had expressed misgivings about the conflicts between Archbishop Pell and gay rights supporters wearing rainbow sashes at St Patrick's Cathedral in Melbourne, I proudly told him that St Canice's was the church for the Acceptance group's weekly Friday evening liturgy (Acceptance being a Catholic homosexual group who have prayed and worshipped freely in our church since 1989).<sup>81</sup>

He also demonstrates his eagerness to appear on side with David Marr, journalist, author and prominent gay activist, a longstanding critic of the influence of religion on public policy, especially targeting the Catholic Church<sup>82</sup> and of Cardinal Pell personally.<sup>83</sup>

To accommodate his message to a secular minded readership, Brennan's emphasis on the importance of conscience uses a religious foundation inconsistent with Catholicism, though claiming to be Catholic, to limit the application of conscience to worldly matters. The application to worldly matters is not bad in itself, but in emphasising this aspect, he deflects from the necessity of an ongoing Catholic religious formation to instruct and develop one's conscience. It also allows his input into different matters to be framed by the dimensions of the matter itself rather than from one striving to be a faithful and devout Catholic as the starting point. Hence his

---

<sup>80</sup> Ibid.

<sup>81</sup> Ibid., 172. Since this time, Acceptance has transferred its church base from the Jesuit administered St Canice's in Elizabeth Bay to St Joseph's in Newtown See Acceptance: *Plan a Visit* – Weekly Mass at St Joseph's Church Newtown, [http://www.gaycatholic.com.au/plan\\_a\\_visit](http://www.gaycatholic.com.au/plan_a_visit) (Accessed 26 December 2016).

<sup>82</sup> See for example his book David Marr, *The High Price of Heaven*, Allen & Unwin, Sydney, 1999.

<sup>83</sup> David Marr, *Quarterly Essay 51 - The Prince: Faith, abuse and George Pell*, Black Inc., Carlton Victoria, September 2013.

resultant discussion about the workability of forms of same-sex relationships is unsurprising.

Brennan later devotes a whole chapter to the issue of ‘same-sex unions’ and ‘same-sex marriage’, titled *A Present Case in Point – same sex marriage*, which would not be objectionable if he were arguing for the total defence of the marital union against any attempt to compromise it, and was arguing against the legal elevation of ‘same-sex unions’. However, he supports the concept of “providing state recognition of civil partnerships between two individuals wanting to commit themselves to a long-term relationship”<sup>84</sup> and then continues to discuss how these civil unions would function.<sup>85</sup> He recognises that:

The term ‘marriage’ has a popular and religious meaning which reflects people’s lived experience in families headed by a mother and a father. The legal definition of marriage should continue to follow the contours of that meaning and experience.<sup>86</sup>

However, this is as far as he supports marriage. In contrast to the avalanche of arguments he makes for the effective social regulation of same sex relationships, his support for marriage reads more as a token offering. He began the same paragraph with the sentence “At this time in Australia, a same-sex union should not be called marriage.”<sup>87</sup>

Before continuing, however, it is important to clarify the recent statement of the Magisterium on this subject. In 2003, the Congregation for the Doctrine of the Faith (CDF) issued its *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*.<sup>88</sup>

---

<sup>84</sup> Brennan, op. cit., 186.

<sup>85</sup> Ibid., 187 ff.

<sup>86</sup> Ibid., 190.

<sup>87</sup> Ibid.

<sup>88</sup> The *Considerations* have the weight of the Ordinary Magisterium due to the declaration at its conclusion:

The Sovereign Pontiff John Paul II, in the Audience of March 28, 2003, approved the present *Considerations*, adopted in the Ordinary Session of this Congregation, and ordered their publication.

Arguments are furnished from Scripture and reason supporting the directives in the document. In reference to the statements of Brennan, the key section of the CDF document states:

When legislation in favour of the recognition of homosexual unions is proposed for the first time in a legislative assembly, the Catholic lawmaker has a moral duty to express his opposition clearly and publicly and to vote against it. To vote in favour of a law so harmful to the common good is gravely immoral.<sup>89</sup>

Brennan has already violated this directive as he argues his support for the regulation of same sex civil unions. The document states in conclusion:

The Church teaches that respect for homosexual persons cannot lead in any way to approval of homosexual behaviour or to legal recognition of homosexual unions. The common good requires that laws recognize, promote and protect marriage as the basis of the family, the primary unit of society. Legal recognition of homosexual unions or placing them on the same level as marriage would mean not only the approval of deviant behaviour, with the consequence of making it a model in present-day society, but would also obscure basic values which belong to the common inheritance of humanity. The Church cannot fail to defend these values, for the good of men and women and for the good of society itself.<sup>90</sup>

So far, up to 2007, Brennan, in the context of issues concerning conscience, has judged it worthy to disregard the above Magisterial teaching and directive concerning homosexual unions.

---

See Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*, 3 June 2003, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20030731\\_homosexual-unions\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20030731_homosexual-unions_en.html) (Accessed 16 January 2016).

<sup>89</sup> Ibid., Paragraph 10.

<sup>90</sup> Ibid., Paragraph 11.

## **2. Brennan and the Redefinition of Marriage**

The weak support Brennan gives to marriage and his willingness to support same sex civil unions made his eventual path to capitulation on the question of redefining marriage easier. In his work *Amplifying That Still, Small Voice*,<sup>91</sup> he offered little development in the way of his thinking on the subject, providing only a collection of writings on topics that involved principles already articulated in his 2007 work. He declares in the Introduction: “I believe every authentic human being needs to form and inform their conscience, and to that conscience be true.”<sup>92</sup> As in 2007, the principle is applied to all readers indiscriminately, Catholic or otherwise. No provision is made for the authoritative and binding role of the Magisterium. The summit of authority is the self, having developed informed opinion on one subject or another. Thus, the Catholic need not inform his or her conscience any differently from others in society.

Leading to his statements in 2015 on redefining marriage, Brennan’s work anthologises some statements made leading up to this, where he gives a clear indication of where he is heading. On 6 June 2012, in an article titled *What Pay Parents are Worth*, he still maintains support for civil unions for persons of the same sex, though he supports gay adoption in limited cases.<sup>93</sup> In an article titled *It’s Time to Recognise Secular Same Sex Marriage*, 11 July 2013, responding to the ALP 2013 election promise of bringing forward a Bill to legalise homosexual marriage within one hundred days of electoral victory, he stated that “I now accept that we can probably no longer draw a line between civil unions and same sex marriage.”<sup>94</sup> Following on from the High Court ruling against the ACT for enacting its own same sex marriage laws, in an article titled *High Court Leaves Same Sex Marriage Door Ajar*, 15 December 2013, while still preferring civil unions for those of the same sex he sees that no group in this debate is advocating for civil unions. He states:

In the light of these circumstances, I accept that ultimately our Parliament will legislate for same sex marriage. I will not lose sleep

---

<sup>91</sup> Frank Brennan SJ, *Amplifying That Still, Small Voice: A Collection of Essays*, ATF Theology, Adelaide, 2015.

<sup>92</sup> *Ibid.*, 1.

<sup>93</sup> *Ibid.*, 335.

<sup>94</sup> *Ibid.*, 341.

when it comes, and I will be happy for those couples who will be helped by such social endorsement to live in a faithful, loving relationship.<sup>95</sup>

By the end of 2014, he had shifted further again. In an article published on 8 December 2014 titled *The Timing of the Same-Sex Marriage Debate*, he writes:

Given that there is little support for on either side of the argument for civil unions, I accept that same sex marriage is the only way to ultimately extend equality and respect for same sex couples wanting state endorsement for their committed relationships, and that the state has an interest in supporting such relationships which enhance the care for such couples especially when they are sick or ageing.<sup>96</sup>

For Brennan, civil unions and same sex marriage have become interchangeable. Uniqueness of marriage, linking mothers and fathers to their children, in law and society is a good that has been lost on him. He does not discuss it. Instead he discusses “equality,” “respect,” and “committed relationships.”<sup>97</sup> This is the language of those advocating for the redefinition of marriage, as the issue must be defined in some way other than first and foremost it being about the need and recognition of the right of a child to a mother and father. Linking husbands and wives to each other and then to any potential children implicitly recognises a sexual order that is oriented towards the begetting of human life. So-called same sex marriage is diametrically opposed to this, and Brennan has capitulated in this direction. He has done so through his understanding of the role of conscience in its application to this question. Marriage for him can no longer be about children. Instead he is comfortable with homosexual sexual activity as warranting state recognition an identical level with marriage.

In 2015, swayed by international changes in the marriage laws of the Irish Republic, the United Kingdom, New Zealand and the USA, Brennan “accepted the inevitability that civil marriage in Australia will ultimately be redefined to include committed

---

<sup>95</sup> Ibid., 352.

<sup>96</sup> Ibid., 356.

<sup>97</sup> Ibid.

same sex relationships.”<sup>98</sup> In August of the same year he explained his shift, with some caveats that represent additional forms of capitulation, as they are essentially political compromise to enable the legislation to pass. He repeats his expectation that Parliament will pass the laws and that he will fully accept the decision. He continues to say:

I won't lose any sleep over it, and... (am) hoping that it helps put an end to homophobia, especially in religious communities.

If asked by politicians how they should exercise their conscience vote, there is no way that I would say that they should not support civil recognition of same sex marriage. But neither would I say that they must support it NOW. If I were a member of parliament, I would want four assurances before I voted for same sex marriage:

- 1. The assurance that religious groups could continue to order their religious and church affairs consistent with their teaching on marriage.*
- 2. The assurance that adoption authorities could always make decisions in the best interests of the child.*
- 3. The assurance that state authorised/funded assisted reproduction services would not be expanded to allow the creation of a child without just one known biological mother and just one known biological father.*
- 4. The assurance that those who had religious objections to same sex marriage would not be required by law to violate their own consciences in the performance of professional or artistic services (as distinct from the simple sale of goods or provision of other services) when that performance is usually enhanced by the person believing in the relationship that is being celebrated or sustained.*

---

<sup>98</sup> Frank Brennan, 'Free speech and the plebiscite on same sex marriage', in *Eureka Street.com.au*, Vol 25, No 24, 10 December 2015, <http://www.eurekastreet.com.au/article.aspx?aeid=45811#.VozJ9uRul6w> (Accessed 6 January 2016)

If those four assurances were given and if I were a member of parliament, I would vote in favour of a bill granting civil recognition to same sex marriage.<sup>99</sup>

Note that he places himself in the role of a parliamentarian making the decision to enact this legislation, as well as counselling politicians to exercise their conscience in a particular way; his way. The significance of this action is that he is appealing directly to policy makers, giving them a rationale and modelling for them what they need to do to pass such a law. He shows them how this intention is to be brought to a desired conclusion. There is no pretence of innocence or ignorance about what he is doing, no self-deception, but he attempts to instil confidence and direction for any parliamentarian or commentator willing to consider his views.

In his further comments on a future national plebiscite, conditional on a Coalition victory at the 2016 Federal Election, he derides the idea of the plebiscite stating:

A plebiscite on this issue is a waste of time and risks turning very nasty, especially now that both the prime minister and the leader of the opposition support same sex marriage.<sup>100</sup>

In this he adopts the position of those who advocate for the redefinition of marriage and who are opposed to a plebiscite, such as leading advocate Rodney Croome, who states that it “will give anyone with hatred in their heart the biggest megaphone they have ever had, causing deep offence and probably more hate-speech litigation”<sup>101</sup> and instead advises that this “is much less likely to occur if the debate occurs where it should, in parliament.”<sup>102</sup> In stating this he has fully embraced the ideology of those wanting to redefine marriage in seeing the plebiscite as a threat, and it shows how far he has digressed from the Church’s teaching on this issue. His present aim is to see the redefinition enacted.

---

<sup>99</sup> Frank Brennan, ‘Four preconditions for supporting marriage equality’, in *Eureka Street.com.au*, Vol 25 No 15, 11 August 2015, <http://www.eurekastreet.com.au/article.aspx?aeid=45316#.VozFH-Rumhd> (Accessed 6 January 2016).

<sup>100</sup> Frank Brennan, ‘Free speech and the plebiscite on same sex marriage’, op. cit.

<sup>101</sup> Rodney Croome, ‘Marriage equality v religious freedom. They are not mutually exclusive’, in *The Guardian*, 3 December 2015, <http://www.theguardian.com/commentisfree/2015/dec/03/marriage-equality-v-religious-freedom-they-are-not-mutually-exclusive> (Accessed 6 January 2016).

<sup>102</sup> Ibid.



He has since modified his stance about the tactical use of the plebiscite to use it to best achieve the redefinition of marriage in the new parliamentary term, but he has not wavered in his support for the redefinition of marriage.<sup>103</sup> He states his support for the sacramental order of marriage in the same article, but how coherent can this defence be if he is willing to support a relationship called ‘marriage’ if it is an offence to the same sacramental order he proffers to uphold? As a priest he would have to hear such sins involved in homosexual relationships in Confession, part of the same sacramental order he claims to uphold, judge their sincerity and provide absolution while enjoining the forgiven sinner not to sin again. Additionally, in rejecting the order of marriage in the civil sphere, the implication follows that this is a reflection of a view on marriage *per se* and that it has implications for his view of the sacramental order as well. The logical consequence of his position is as yet unrealised – that it is a rejection of both the natural and supernatural order of marriage.

Brennan, therefore, has not stood to oppose a change in civil law on marriage, but has joined those in advocating for it, with some additional statutory provisions. He has adopted similar positions to those at the front of the debate arguing for the change. He is comfortable with the proposal, welcomes it and will not advocate a parliamentary vote against it. He assumes the role and responsibility of a parliamentarian in deliberating on the matter and by virtue of this provides an example for a parliamentarian to follow. His actions provide cover for parliamentarians who may be in doubt, especially wavering Catholics, irrespective of whether he believes a law may pass Parliament, or in the case of a plebiscite: “When the plebiscite vote is carried in favour of same sex marriage, as I am confident it will be.”<sup>104</sup> His capitulation works against the objective moral and sacramental order established by Christ of whom, as a priest, he is meant to be and reflect.

Should the campaign Brennan has allied himself with become successful, he shares responsibility for its success and all consequences. He lends the weight of his authority as a Catholic priest and prominent social commentator. His arrival at this

---

<sup>103</sup> Frank Brennan, ‘Plebiscite the only way forward for Turnbull on marriage equality’, Vol 26 No 17, *EurekaStreet.com.au*, 5 September 2016, <http://www.eurekastreet.com.au/article.aspx?aeid=49832#.V9AUVuQkpPZ> (Accessed 7 September 2016).

<sup>104</sup> Frank Brennan, ‘Free speech and the plebiscite on same sex marriage’, op. cit.

point of thinking follows his support for the “primacy of the individual conscience” and his support for civil unions in 2007 already created a bridge to the present.<sup>105</sup>

## Conclusion

There is a mutual interplay between Kristina Keneally and Frank Brennan in the reinforcement of a theological revisionist outlook that guides them directly on social policy positions, particularly in relation to marriage. Both have a strong public presence and carry a high degree of public influence. Both demonstrate that as part of revisionist thinking there is an exaggeration of individual autonomy set against the binding magisterial teaching authority of the Church.

This chapter establishes a framework for theological discussion about the natural law, conscience and what the Church teaches about both, which will follow in the next chapter. There will also be an introduction to revisionist thinking, which in turn, will be explored at greater length in Chapter Three.

---

<sup>105</sup> Frank Brennan, *Acting on Conscience*, op. cit., 214.

## Chapter 2: Church Teaching: Natural Law and Conscience

### *Introduction*

As discussed in the first chapter, Catholic politicians play an important and oftentimes crucial role in public life. As elected representatives they speak on behalf of a community and their comments are immediately newsworthy due to their leadership role in society. They can advocate for and against various policies and help set the tone of debate via interventions in public discourse in the political jurisdiction they represent, and thereby the country.

All in their role, and in fact all who are involved in public life are, according to Pope Francis, to be encouraged:

A good Catholic meddles in politics, offering the best of himself, so that those who govern can govern. But what is the best that we can offer to those who govern? Prayer! That's what Paul says: "Pray for all people, and for the king and for all in authority."<sup>106</sup>

All in society have a vested interest in the contribution that elected officials make to shared civic life, and politicians ultimately determine the laws and their content of the jurisdictions in which they serve. Theirs can be the decisive vote for or against a contentious policy before a parliament, and in some cases it can be the vote that can cause a good or a contentious Bill to pass or fail. Their public advocacy in the path to this decision can also influence trends in society.

The way a politician publicly identifies as a Catholic is also of significance, since with that identity they bring a responsibility to witness as a Catholic in the public sphere. Contrary to the view that the Catholic element of their life is to be left to one side by virtue of the fact that they have entered public life, the opposite is true. However, as an example of the concept of severing a Catholic formation from public

---

<sup>106</sup> Pope Francis, *Christians must pray for their leaders*, Vatican Radio, 16 September 2013, [http://en.radiovaticana.va/storico/2013/09/16/pope\\_franzis\\_christians\\_must\\_pray\\_for\\_their\\_leaders/en-1-728870](http://en.radiovaticana.va/storico/2013/09/16/pope_franzis_christians_must_pray_for_their_leaders/en-1-728870) (Accessed 21 November 2016).

life, see the statements of current Australian Labor Party MP, Tony Burke, who in 2006 gave evidence of a complete separation of his then religious views and any potential influence on policy considerations. He would not need to invoke a religious argument in public policy debates, but the key point is he rejects any religious influence in shaping them.

Much has been made of... Burke's Catholicism in... (his) activism on the euthanasia issue. Burke dismisses any suggestion his stance was driven by his religious faith. "I deal with these issues more personally than some. I have the religious views I have and I wander along to church of a weekend with the family.

"But in anything that comes to public policy I think if you can't make a public policy argument in its own right then you don't deserve to win the debate.

"There was a time when I had the opposite view on euthanasia but I still had the same religion. There is a set of issues where if you have a strong opinion people want to impose the religious shadow over it. To me that just seems inaccurate." <sup>107</sup>

Burke makes the legitimate point of being able to make a public policy argument "in its own right", as most people will not be persuaded by a religious argument, but that does not mean that the argument should be avoided otherwise, or that no attempt is made to explain the matter in non-religious terminology. However, Burke admits that a point in his life he, while professing Catholicism, supported euthanasia.<sup>108</sup> This, is

---

<sup>107</sup> Mark Davis, 'The fine art of persuasion', in *The Sydney Morning Herald* online, 30 December 2006, <http://www.smh.com.au/news/national/the-fine-art-of-persuasion/2006/12/29/1166895480001.html?page=fullpageParagraph> (Accessed 28 September 2016).

<sup>108</sup> Much has happened since then. In May 2015, Tony Burke "a practising Catholic and stalwart of Labor's Right, last night declared support for same-sex marriage in defiance of his southwest Sydney electorate, saying Ireland's overwhelming vote for equality leaves 'no doubt' change is inevitable." See Jared Owens, 'Tony Burke backs 'inevitable' gay marriage', in *The Australian*, 25 May 2015, <http://www.theaustralian.com.au/national-affairs/tony-burke-backs-inevitable-gay-marriage/news-story/ca53684cc8b416c4b9d5ca29f0e2d4aa> (Accessed 28 December 2016). Burke's personal life also compromises any identification of him with Catholicism - as additionally published in *The Australian*:

Mr Burke was married to Cathy Bresnan-Burke, his partner of more than 20 years, at the time of this travel, although Ms Laris split from her husband in late 2009.

in fact a logical impossibility, for if one has “the same religion” then the same person cannot also endorse euthanasia, as this is clearly condemned within Catholicism.<sup>109</sup> Catholicism publicly professed becomes inextricably identified with the person asserting it. Holding the tenets of the Catholic faith in all aspects of one’s life at all times is also a question of integrity. A person cannot simply separate within himself or herself the self and one’s faith when considering public policy and the person does not cease to be Catholic when he or she crosses the threshold of the doors of Parliament.

As each parliamentarian deliberates over policy and pending Bills there are times when matters arise that test their consistency with the Catholic faith. Bills may be proposed that contradict areas of Catholic social and moral teaching, or at least present some kind of ambiguity. Some matters are clear in their nature and implication and others less so, but in each case the Catholic politician is obliged to inform and follow his or her conscience, which includes discovering what the Church teaches, and why. This is especially relevant when a politician does not know the issue fully, or understand the implications of what is proposed. A key to what they do next is based on the level of authority they accord to Church teaching. If that level is as the Church directs, the individual is following appropriate Church authority, but if the level of support given to Church teaching is determined by an individual’s conscience only, then authority has been deferred from the authentic Magisterium to the subjective will of the person concerned, or to some other authority.

This Chapter will explore the importance of natural law in understanding the meaning of informing one’s own conscience, as well as the nature of conscience itself. The role of the natural law is crucial because it is the way that each person engages through their own rational faculty with the Reason of God that is via Divine

---

Mr Burke then announced in February 2014 that he had separated from his wife in 2012 and that his new partner was Ms Laris. The couple became engaged earlier this year, Ms Laris announced on Facebook.

See Paul Cleary, ‘Expenses: Tony Burke’s partner Skye Laris hits out at travel claims’, in *The Australian*, 7 August 2015, 5:26 PM, <http://www.theaustralian.com.au/national-affairs/expenses-tony-burkes-partner-skye-laris-hits-out-at-travel-claims/news-story/0ece1b5f9577938414fa2eb193c25215> (Accessed 28 December 2016).

<sup>109</sup> See for example Pope John Paul II, *Encyclical: Evangelium Vitae: The Gospel of Life*, 25 March 1995, Paragraph 65, Libreria Editrice Vaticana, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html) (Accessed 8 October 2016).

and eternal law, to discern His Laws and apply them to each situation or decision, about what action is right or wrong in any given circumstance. This engagement occurs through the conscience, but due to original sin and general human limitations, the conscience does not always apprehend the Divine Law as it is. One must always follow one's conscience, as this is what the individual judges to be true and correct, but for the Catholic the same source of the Divine Law is also the author of the deposit of faith given to the Catholic Church. When one is in doubt about what the right course of action is, conformity with these teachings is part of what it means to be Catholic. This also applies to the Catholic parliamentarian.

My approach will cover four sections; exploration of the natural law, the relationship between natural law and conscience, what the Church says about natural law and conscience and then will draw conclusions before previewing the discussion of the following chapter. However, prior to this it is important to place the role of the Catholic parliamentarian in the context of the Catholic teaching about the Social Kingship of Christ.

### **Pope Pius XI, the Social Kingship of Christ and Australia**

Though Australia is not, nor ever has been, a Catholic country, Pius XI taught that the claims of Kingship that Christ has over every nation, Catholic or not, are universal: “for all men, whether collectively or individually, are under the dominion of Christ.”<sup>110</sup> In 1925 Pius XI established the Feast of Christ the King on the “last Sunday of the month of October”<sup>111</sup> to recall to the former Catholic world the obligation to uphold the rights of Christ in all societies.<sup>112</sup> He is realistic about how far removed from this ideal the situation was in 1925, in that he hopes the feast “may hasten the return of society to our loving Savior”,<sup>113</sup> adding that “It would be the duty of Catholics to do all they can to bring about this happy result.”<sup>114</sup> The world

---

<sup>110</sup> Pope Pius XI, *Quas Primas: On the Kingship of Christ*, 11 December 1925, Paragraph 18, [https://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_11121925\\_quas-primas.html](https://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_11121925_quas-primas.html) (Accessed 2 October 2016).

<sup>111</sup> Ibid. Paragraph 28.

<sup>112</sup> Ibid. Paragraph 24.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

witnessed the recent example of a nation that has responded to this call when, on 19 November 2016, the “bishops of Poland have formally recognized Jesus Christ as King of Poland. The bishops, in the presence of Polish president Andrzej Duda, performed an official act of recognition on November 19 2016, at the Church of Divine Mercy in Krakow.”<sup>115</sup>

Though Pius XI refers to the universal rights of the Kingship of Christ over all societies, Christian or otherwise,<sup>116</sup> he is targeting Catholic countries and former Catholic countries in particular, aiming to recall them to where the rights of Christ were both publicly proclaimed and upheld. He does this from a position of religious, political and cultural weakness of the Church across these same countries.<sup>117</sup>

Section 116 of The Australian Constitution states that “The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.”<sup>118</sup> For Australia then, it is unconstitutional to establish a state religion, or require the formal religious observance of honouring Christ the King via state sanctioned public expression, as set out by Pius XI, though citizens of the Commonwealth may freely undertake this in a private capacity. There is nonetheless no harm to the state when the Catholic politician adopts the frame of mind set out by Pius XI in approaching his or her role. They may acknowledge to themselves that in being “duly elected”, they “rule, not by their own right, but by the mandate and in the place of the Divine King” and that in exercising their authority, they will do so “piously and wisely” and will “make laws and administer them, having in view the common good and also the human dignity of their subjects.”<sup>119</sup> Hence they would acknowledge that their position of authority in governing derives from the authority of Christ himself, though the political and Constitutional reality is that they are the

---

<sup>115</sup> Stefan Farrar, ‘Poland Officially Proclaims Christ as King’, in *ChurchMilitant.com*, 21 November 2016, <http://www.churchmilitant.com/news/article/christ-recognized-as-king-of-poland> (Accessed 23 November 2016).

<sup>116</sup> Pope Pius XI, *Quas Primas*: op. cit., Paragraph 18.

<sup>117</sup> The standing of the Church has become arguably weaker since that time across the world, but this consideration is out of scope of this thesis.

<sup>118</sup> Commonwealth Consolidated Acts, *Commonwealth of Australia Constitution Act - Sect 116*, AustLII, [http://www.austlii.edu.au/au/legis/cth/consol\\_act/coaca430/s116.html](http://www.austlii.edu.au/au/legis/cth/consol_act/coaca430/s116.html) (Accessed 3 October 2016).

<sup>119</sup> Pope Pius XI, *Quas Primas*, op cit. Paragraph 24.

people's elected representatives, subject to re-election at established timeframes and to Australian Law. The Australian political system does not stop the Catholic politician from performing this role, but it indicates that there are lines of policy the parliamentarian is unable to cross. Crucially, since the nature and law of Christ is invested in the natural law and can be apprehended to some degree by all citizens, policy aligned with Divine Law will serve the common good of all.

Pius XI calls Catholics in all societies to “fight courageously under the banner of Christ their King, (and) then, fired with apostolic zeal, they would strive to win over to their Lord those hearts that are bitter and estranged from him, and would valiantly defend his rights.”<sup>120</sup> Hence the teaching about the Kingship of Christ is also an open and urgent call for all Catholics, each in their own station in life, to renew the ancient prerogative to evangelise others and defend the Catholic faith, as mandated at the end of St Matthew's Gospel in *The Great Commission*.<sup>121</sup> This same urgent call does not omit those who enter public life and it is wrong for the Catholic Parliamentarian to deny his or her Catholic beliefs from influencing his or her public duties.<sup>122</sup>

## ***I. Natural Law: What it is and How it Works***

### **Eternal Law**

To better understand the role and meaning of natural law, the starting point needs to be the eternal law. According to William May, the eternal law is the “*ratio* or divine plan of the governance of all things” directing all creation, including individuals.<sup>123</sup>

---

<sup>120</sup> Ibid.

<sup>121</sup> St Matthew 28:18-20: <sup>18</sup> And Jesus came and said to them, “All authority in heaven and on earth has been given to me. <sup>19</sup> Go therefore and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, <sup>20</sup> teaching them to observe all that I have commanded you; and lo, I am with you always, to the close of the age.” Cited from *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway, <https://www.biblegateway.com/passage/?search=Matthew+28&version=RSVCE> (Accessed 3 October 2016).

<sup>122</sup> Michael Davies, *The Reign of Christ the King in Both Public and Private Life*, Tan Books and Publishers, Rockford Illinois, 1992, 6.

<sup>123</sup> William E. May, *An Introduction to Moral Theology*, 2<sup>nd</sup> ed., Our Sunday Visitor, Huntington, Indiana, 2003, 73.



However, this does not account for the independence or the individual and separate wills of human beings, though there is an overall influence upon human activity.

Thomas Aquinas undertakes a detailed investigation into the question of eternal law in the *Summa Theologia*, which will be presented at this point. In responding to his question of whether there is an Eternal Law, Aquinas responds that “a law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community.”<sup>124</sup> Having earlier argued that the “world is ruled by Divine Providence,”<sup>125</sup> he draws out the evident implication that “the whole community of the universe is governed by Divine Reason.”<sup>126</sup> He reasons that “the very Idea of the government of things in God the Ruler of the universe, has the nature of a law. And since the Divine Reason's conception of things is not subject to time but is eternal, according to Prov. viii. 23, therefore it is that this kind of law must be called eternal.”<sup>127</sup>

In Aquinas' specific study of eternal law in Part 1-II Question 93, in six articles, he first examines whether the eternal law is a sovereign type existing in God, and agrees with Augustine who states that “the eternal law is the sovereign type, to which we must always conform.”<sup>128</sup> He concludes at the end of his response to the First Article of the question that “the eternal law is nothing else than the type of Divine Wisdom, as directing all actions and movements.”<sup>129</sup> In the Second Article he examines whether the eternal law is known to all and concludes in agreement with Augustine that “knowledge of the eternal law is imprinted on us.”<sup>130</sup> This question touches upon the connection between the natural law and eternal law. Aquinas argues that “no one can know the eternal law, as it is in itself, except the blessed who see God in His Essence. But every rational creature knows it in its reflection, greater or less. For every knowledge of truth is a kind of reflection and participation of the eternal law,

---

<sup>124</sup> Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Two Ia IIae QQ. 1-114 with Synoptical Charts*, trans. Fathers of the English Dominican Province, Rev ed., Benzinger Brothers, New York, 1948, rpt. Christian Classics, Westminster, Maryland, 1981, I-II Q. 91 A.1, Resp., 996.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid., I-II Q. 99 A.1, Resp., 1003.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid., I-II Q. 99 A.2, Resp., 1004.

which is the unchangeable truth, as Augustine says (De Vera Relig. xxxi).”<sup>131</sup> This participation in the eternal law, as will be discussed in the following section is what constitutes the natural law. This participation, Aquinas holds, enables “all men (to) know the truth to a certain extent, at least as to the common principles of the natural law: and as to the others, they partake of the knowledge of truth, some more, some less; and in this respect are more or less cognizant of the eternal law.”<sup>132</sup>

In the Third Article he finds that “all laws, in so far as they partake of right reason, are derived from the eternal law.”<sup>133</sup> If human law, however, departs from right reason, it no longer participates in the eternal law and “is called an unjust law and has the nature, not of law but of violence.”<sup>134</sup> This will be explored to a fuller extent in the section following titled *Positive Law and Natural Law*. Moving to the Sixth Article, Aquinas examines whether all human affairs are subject to the eternal law. Calling upon Augustine again, he cites Augustine: “Nothing evades the laws of the most high Creator and Governor, for by Him the peace of the universe is administered.”<sup>135</sup> Aquinas adds that “There are two ways in which a thing is subject to the eternal law, as explained above (Article 5): first, by partaking of the eternal law by way of knowledge; secondly, by way of action and passion, i.e. by partaking of the eternal law by way of an inward motive principle.”<sup>136</sup> He also adds that these ways, however, are “imperfect” and that in hardened sinners – “the wicked” – are all but destroyed “because in them the natural inclination to virtue is corrupted by vicious habits, and, moreover, the natural knowledge of good is darkened by passions and habits of sin.”<sup>137</sup> This points towards the darkening of the ability of those who do not conform to the eternal law and has implications for the universal accuracy of perception of all people of the precepts of the eternal law when the matter turns to the ability of the individual conscience to apply the precepts of the natural law, which will also be examined ahead in this chapter.

---

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> Ibid., I-II Q. 99 A.3, Resp., 1005.

<sup>134</sup> Ibid. Reply Obj. 3, 1005.

<sup>135</sup> Ibid., I-II Q. 99 A.6, Resp., 1007.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

All creation is directed towards an end, to its “universal common good.”<sup>138</sup> All humanity partakes in the Divine Law, which will be outlined immediately below. The place of the natural law in relationship to eternal law and Divine Law must be explained, and thereby one can offer a clearer perspective on the way that the Catholic politician can act with an informed conscience, and thereby with moral responsibility.

## The Importance of Natural Law

Recognition of the natural law exists in ancient Greek and Roman texts, where unwritten laws were perceivable, binding and external to human law.<sup>139</sup> In the context of the Catholic Church, Thomas Aquinas is a key exponent of the natural law. His work builds upon the classical tradition of natural law, as well as what is revealed in Apostolic Tradition.<sup>140</sup> For Thomas, “all created realities participate in the eternal law”<sup>141</sup> but do so according to their natures. Non-rational beings participate passively in the eternal law. However, human persons, via their rational intelligence, actively participate in the eternal law, and this intelligent participation in the eternal law is the natural law.<sup>142</sup> The participation in the natural law by human persons is possible due to a sharing in rationality. As William May discusses, the relationship between the natural law and eternal law is such that though each is

---

<sup>138</sup> May, op. cit.,

<sup>139</sup> For example, the Athenian historian Thucydides in his *History of the Peloponnesian War* writes in Pericles’ *Funeral Oration*:

We give our obedience to those whom we put in positions of authority, and we obey the laws themselves, especially those which are for the protection of the oppressed, and those unwritten laws which it is an acknowledged shame to break. (2.37)

Thucydides, *History of the Peloponnesian War*, revised ed., trans. Rex Warner, intro. & notes M. I. Finley, Penguin, London, 1972, 145. In Sophocles’ play *Antigone*, the character Antigone faces death because she buried her brother against the order of the king, Creon. In her defence she places the laws and traditions of the gods higher than those laws of the king. She says, as part of her defence: “These laws are not for now or for yesterday, they are forever” in Sophocles, *Antigone*, Richard Emil Braun trans., 1973, 38-9 in Charles Rice, *50 Questions on the Natural Law: What it is and Why we need it*, Ignatius Press, San Francisco, 1995, 31. The Roman statesman, Marcus Tullius Cicero, describes “Law” as “the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite” and that “right is based, not on men’s opinions, but on Nature.” Cicero, *Laws*, in *Great Legal Philosophers*, ed. C. Morris, 1959, in Rice, *ibid*.

<sup>140</sup> See *Key Concepts* Section preceding Chapter One.

<sup>141</sup> William E. May, op. cit.

<sup>142</sup> *Ibid*.

distinct from the other, the natural law is nonetheless “the eternal law itself mediated to or shared by the rational creature.”<sup>143</sup> There is, then, through the natural law, the possibility of participating in the way that God Himself establishes and perpetuates the universal moral order.

The CCC reinforces this understanding and re-presents individual participation in the eternal law by virtue of our reason. The natural aspect of natural law is a reference to reason, as being a part of human nature,<sup>144</sup> and is therefore located within the self and is not external to the self. The CCC also quotes St Augustine, who observes that the Law “places its imprint on it (the heart of the man who does justice), like a seal on a ring that passes onto wax, without leaving the ring.”<sup>145</sup> May echoes the same principles. He also observes that Thomas holds the natural law as anchored in and is also an “achievement of practical reason.”<sup>146</sup> It contains a grouping of actions to be taken and “formed by practical reason.”<sup>147</sup> For deeper examination of the concept of practical reason, May recommends that readers consult the explanation by Germain Grisez in his work *Contraception and the Natural Law*, published in 1964.<sup>148</sup>

Germain Grisez explains that “practical reason” is reason being practical by nature, as it identifies obligation.<sup>149</sup> He uses the term “ought-thinking” to better express the concept of obligation.<sup>150</sup> Practical reason is not an exclusive reference to “legal duty or to strict obligation,”<sup>151</sup> but it creates the structure of free action from within, thereby controlling “the entire domain of free action.”<sup>152</sup> The circumstances that give rise of “obligation-thinking” are in “extreme cases of moral judgment.”<sup>153</sup> Grisez explains that these circumstances are where practical reason must consider what is to be pursued where “there happens to be only one good way of acting or the case in which we are interested in determining the least good way of acting that is open to

---

<sup>143</sup> Ibid., 74.

<sup>144</sup> CCC, 1955, [http://www.vatican.va/archive/ENG0015/\\_P6U.HTM](http://www.vatican.va/archive/ENG0015/_P6U.HTM) (Accessed 26 July 2016).

<sup>145</sup> Ibid.

<sup>146</sup> May, op. cit., 74.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid., 128. This thesis will later briefly survey the significance of the contributions of Grisez.

<sup>149</sup> Germain Grisez, *Contraception and the Natural Law*, The Bruce Publishing Company, Milwaukee, 1964, 60.

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

<sup>153</sup> Ibid.

us.”<sup>154</sup> He explains that every “deliberate act must be either good or evil”<sup>155</sup> where the “reason is that deliberation is the work of practical reason - which can think only in modes of is-to-be - and that the degree of our control over deliberation is precisely the degree of our freedom.”<sup>156</sup> The deliberation that guides, informs and directs the act is, therefore, the work of practical reason.

Charles Rice likens the natural law to being a guide to choose to love God through reason “by acting in accord with our nature.”<sup>157</sup> Another way of understanding the role of natural law in making reasonable decisions is to look at such law as enlightening us as to the Reason and Will of God. The CCC refers to Thomas Aquinas in this context, who observes that God has placed a “light of understanding” in each of us to know what to do and not do, and that this light is the natural law.<sup>158</sup> Thomas builds on the references to the “light” in the opening of St John’s Gospel; “The true light that enlightens every man was coming into the world.” (1:9) There are no selection constraints upon those the light enlightens, including no predication upon Baptism. The ability to receive an impression of the Divine Light and participate in the natural law extends to everyone without exception.

This light is there for every person. According to the CCC the natural law “is universal in its precepts and extends to all men”<sup>159</sup> and “is immutable and permanent throughout the variations of history; it subsists under the flux of ideas and customs and supports their progress. The rules that express it remain substantially valid. Even when it is rejected in its very principles, it cannot be destroyed or removed from the heart of man.”<sup>160</sup> The tenets and precepts of the natural law are fixed, as God is, in His changeless being. We are further reminded of this in the Letter to the Hebrews writes “Jesus Christ is the same yesterday, today and for ever.” (13:8)<sup>161</sup> The

---

<sup>154</sup> Ibid.

<sup>155</sup> Ibid., 61.

<sup>156</sup> Ibid.

<sup>157</sup> Charles Rice, *50 Questions on the Natural Law: What it is and Why we need it*, Ignatius Press, San Francisco, 1995, 27-28.

<sup>158</sup> CCC, 1955, op. cit.

<sup>159</sup> Ibid., 1956.

<sup>160</sup> Ibid., 1958.

<sup>161</sup> Though out of scope of this thesis, there is significant disagreement with Pauline authorship of the Letter to the Hebrews and this is acknowledged. Following a brief survey of the dispute over Pauline authorship, biblical scholar Alan C. Mitchell writes that the “consensus of contemporary commentators indicates correctly that Hebrews is non-Pauline and anonymous.” See Alan C. Mitchell, *Hebrews*, Liturgical Press, Collegeville, Minnesota, 2007, 6.

application of the principles of natural law means that it constantly informs different actions. Only when those actions are informed by natural law is an act of conscience also an act of moral responsibility.

Through reason, all persons participate in the eternal law of God through the natural law, where the natural law is the imprint of the Eternal law on human reason.

Through the natural law, each person can apprehend the way God Himself establishes and perpetuates the universal moral order, in a way that is independent of Baptism. Our reason is part of our human nature and the application of it to inform certain actions, judging whether they are the right or best course of action, though a sense of obligation to act, or whether they are to be avoided, is achieved through the individual conscience.

Much work has been done in the twentieth century to explore the significance of natural law, and this in turn can help us to appreciate the importance of making well-informed decisions. One of the thinkers to flesh out Thomas's understanding of natural law is Germain Grisez, who in particular considers the first precept of natural law. The principle is that "Good is to be done and pursued, and evil is to be avoided."<sup>162</sup> The essential precept of the law of nature from which all others develop is first principle of practical reason, also the first precept of natural law: "*Good is to be done and pursued, and evil is to be avoided.*"<sup>163</sup> Aquinas proceeds to explain that there are many precepts that follow from a single natural law, where all "other precepts of the natural law are based on this: so that whatever the practical reason naturally apprehends as man's good (or evil) belongs to the precepts of the natural law as something to be done or avoided."<sup>164</sup> Grisez observes that key to the natural law is that the precepts Aquinas refers to are "self-evident to all men".<sup>165</sup> This principle determines the starting points for general practical judgements from

---

<sup>162</sup> Germain G. Grisez, "First Principle of Practical Reason: A Commentary on the Summa Theologiae, 1-2, Question 94, Article 2, The;Note" (1965). *Natural Law Forum. Paper 107*, 168, [http://scholarship.law.nd.edu/nd\\_naturallaw\\_forum/107](http://scholarship.law.nd.edu/nd_naturallaw_forum/107)

<sup>163</sup> *Ibid.*, 168, 170. Italics in original.

<sup>164</sup> Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Two Ia IIae QQ. 1-114 with Synoptical Charts*, op.cit., I-II Q. 94 A.2, Resp., 1009.

<sup>165</sup> Grisez, "First Principle of Practical Reason" op cit., 172.

practical reasoning towards specific ends, or the object of these same starting points.<sup>166</sup>

Grisez also discusses that Aquinas' insertion of the pursuit of the good, as well as the object of practical reason, serves to add moral value to the action. This happens in addition to the end of an action, thus freeing it from any mere utilitarianism that denies any kind of action is either good or bad.<sup>167</sup> He avoids the pitfall of the "good" being achieved by contrary means. Grisez also shows how this principle can account for wrong action remaining inside the field of rational control.<sup>168</sup> The precept "Good is to be sought," implies and requires action by the individual. There is a distinction between the imperative to identify the Good, which is an act of the intellect, and a follow up requirement to translate that into action, which is an act of the will. Remaining at the conceptual stage of knowing the Good is not sufficient for a precept. Identification of the Good sets the goal that must be reached, thereby calling the person to move towards it.<sup>169</sup>

Grisez observes that for Aquinas, "practical reason" is an active function of the mind: "Practical reason is the mind working as a principle of action, not simply as a recipient of objective reality."<sup>170</sup> Laws are also seen as enabling, rather than restricting, human action and life.<sup>171</sup> Yet Grisez also points out that the principles of natural law, being self-evident principles, are not derived from any antecedent foundation of statement or principle. They stand as foundational in themselves, on their own.<sup>172</sup>

These principles form the basis for our actions, and also show that we are capable of using reason for ourselves to guide our actions. Grisez further explains that for Aquinas reason does not guide human action without judging or applying the whole of the natural law. To employ reason therefore is in itself an interaction and an application of the natural law.<sup>173</sup> The natural law posits only natural ends, but

---

<sup>166</sup> Ibid., 179.

<sup>167</sup> Ibid., 180-185.

<sup>168</sup> Ibid., 189.

<sup>169</sup> Ibid., 191.

<sup>170</sup> Ibid., 175.

<sup>171</sup> Ibid., 188.

<sup>172</sup> Ibid., 195.

<sup>173</sup> Ibid., 198.

Aquinas' formulation allows for the reception of and response to divine grace to orient oneself towards the supernatural Good. The first principle of practical reasoning does not identify what direction human action needs to act upon and therefore, of itself does not give direction. Rather, it transcends the subsequent goods that the same principle can then draw upon. To give direction to the attainment of a good, other factors need to have acted on the first principle. Hence the primary precept is above any subsequent or derivative good, since of itself it states a general direction. It does not state what "good" is in question. Grisez concludes that this principle, standing outside any given good, enables a meeting of freedom and reason. This is the place where faith can be accepted without any surrender of individual rationality.<sup>174</sup>

Thus, a Catholic politician is, or at least should be, concerned with the way that his or her individual rationality, decision-making and action impact on the common good of society. In this respect it is important to form a link between the principle that each one of us is to do good and avoid evil, and how this influences one's understanding of that common good.

### **The Natural Law and the contribution of John Henry Newman**

John Henry Newman's contribution to the Church's understanding of conscience represents a significant advance in its development. His influence over the deliberations of the Second Vatican Council in the areas of the apostolate of the laity, ideas on education and the rights of interpretation by biblical scholars has also been noted by Christopher Hollis.<sup>175</sup> Newman's writings on conscience are essential to current debate on the topic of conscience, as has been seen in the writings of Brennan, of the late Father Ted Kennedy, whom we will encounter shortly and as is echoed by other theological revisionist commentators in Australia such as laicised priest Paul Collins.<sup>176</sup> These are a sample of a larger body of writers and thinkers that use Newman to justify dissent based on a radical autonomy of the individual

---

<sup>174</sup> Ibid., 200-201.

<sup>175</sup> Christopher Hollis, *Newman and the Modern World*, Hollis & Carter, London, 1967, 215-216.

<sup>176</sup> Paul Collins, *No Set Agenda: Australia's Catholic Church faces an uncertain future*, David Lovell Publishing, Melbourne, 1991, 168-170.



conscience, but, as shall be explored in Chapter Three of this thesis, Newman does not say what has been attributed to him by these writers. His importance is also attested to by what some writers want him to have said. Hence, grasping how Newman understands the natural law underpins what he explains conscience is, and how it functions is crucial to following his thought and understanding its contemporary influence.

Newman provides outlines of the Divine, eternal and natural laws in his famous *Letter to the Duke of Norfolk* (hence LDN). On the Divine Law he states that the eternal characteristics of the Supreme Being, as part of His nature, comprise the Law of his being, which is identified with Himself. Upon becoming Creator, this Law was implanted into the intelligence of rational creatures. He summarises the Divine Law as “the rule of ethical truth, the standard of right and wrong, a sovereign, irreversible, absolute authority in the presence of men and Angels.”<sup>177</sup> The Divine Law, for Newman, is of God’s own nature and is present in all human beings. Persons can have direct access to God, in this manner, by virtue of exercising rational intelligence.

Whereas the Divine Law is founded in the nature of God, the eternal law, Newman notes, comes from His Will. Thus we have the two components of being, intellect and will and the respective powers of law that are found in each. Newman refers to the contribution of St. Augustine on this topic, that is, that the eternal law both commands and forbids respectively that which is in accordance with the “natural order of things” and that which disturbs the same.<sup>178</sup> Therefore there is an inherent order, essence and truth of the Divine Law, complemented by the upholding of the Divine Law and its imprint or expression through the created order by the eternal law, or manifestation of the Divine Will.

This leads to Newman’s consideration of the natural law, where he turns to Thomas and French theologian Cardinal Thomas-Marie-Joseph Gousset.<sup>179</sup> The natural law, he argues, is both the impression of the Divine Law in us and how we participate in

---

<sup>177</sup> John Henry Newman, ‘Letter to the Duke of Norfolk: 5. Conscience’, *op. cit.*

<sup>178</sup> *Ibid.*

<sup>179</sup> For more information see Pierre Auguste Fournet, "Thomas-Marie-Joseph Gousset" in *The Catholic Encyclopedia*, Vol. 6, Robert Appleton Company, New York, 1909, <http://www.newadvent.org/cathen/06684b.htm> (Accessed 17 September 2016).

the eternal law. Conscience is the Divine Law as apprehended by us in our minds. Newman acknowledges that in the act of apprehension of the Divine Law, the character of the same can “suffer refraction,” meaning that the original and clear impression of the Divine Law can become diluted due to human weakness.<sup>180</sup> However, it does not lose its character of being Divine Law and thereby still commands obedience. Newman notes that Gousset elaborates on the nature of our relationship to the Divine Law, in that man is subject to the law of God, and via our conscience Divine Law is the rule of our conduct. There is an obligation to follow our conscience because of its role in apprehending and informing us of what the Divine Law entails.<sup>181</sup>

It is quite clear to Newman that the Divine Law is something that we must obey, and that we apprehend it in order that we are guided by it, and that we have the capacity in our reason to do so. That capacity is via our conscience, which forms an aspect of our rationality. It does not tell us exactly what we must do, but rather comprises a call to obedience in terms of what it makes known or understood. This understanding will be important when confronting revisionist thought. According to the Catechism, conscience is a “judgment of reason whereby the human person recognizes the moral quality of a concrete act that he is going to perform, is in the process of performing, or has already completed.”<sup>182</sup> There is, in addition to this a stress on obligation to follow one’s own conscience: “In all he says and does, man is obliged to follow faithfully what he knows to be just and right. It is by the judgment of his conscience that man perceives and recognizes the prescriptions of the divine law.”<sup>183</sup>

## **The Common Good and Natural Law**

The Catholic politician, using his or her conscience, has as a main purpose to maintain the common good, which can happen in consonance with the natural law. According to philosopher John Finnis, the common good can be understood in two levels or senses. First, at a micro level, it comprises “benefits of action” undertaken

---

<sup>180</sup> John Henry Newman, *Letter to the Duke of Norfolk*, op. cit.

<sup>181</sup> Ibid.

<sup>182</sup> CCC, 1778, [http://www.vatican.va/archive/ENG0015/\\_P5Z.HTM](http://www.vatican.va/archive/ENG0015/_P5Z.HTM) (Accessed 24 November 2016).

<sup>183</sup> Ibid.

by members of an association and thus becomes the “elements of the flourishing of individuals” across different associations.<sup>184</sup> The common good extended more broadly, at a macro level, is where in each association the actions of different members seeking to promote and benefit from each other’s actions. The benefit from association with others results in the creation of the common good where the “good purposes and one’s own are advanced.”<sup>185</sup> The Pontifical Council for Justice and Peace defines the common good as “the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfilment more fully and more easily.”<sup>186</sup> Furthermore, the common good belongs to “*everyone and to each person*” and is “common” due to its indivisibility and can only be attained due to a cooperative effort to reach, increase and protect it.<sup>187</sup>

A society has an inescapable connection with the common good, having as its primary goal “the good of all people and the whole person,”<sup>188</sup> which covers all aspects of social organisation at all levels of society.<sup>189</sup> No one is exempt from cooperating in achieving and developing the common good for all.<sup>190</sup> In terms of a political community, the common good “includes the upholding of the rights of all its members against threats of injustice from inside and outside the community.”<sup>191</sup> The Pontifical Council for Justice and Peace identifies the state as *sā* with individuals the “responsibility for attaining the common good.”<sup>192</sup> However, it emphasises that the state has an important particular role, that of guaranteeing the “coherency, unity and organization of the civil society of which it is an expression” to attain the common good “with the contribution of every citizen.”<sup>193</sup> The state also has the responsibility to “harmonize the different sectoral interests with the requirements of justice.”<sup>194</sup>

---

<sup>184</sup> John Finnis, *Human Rights and the Common Good: Collected Essays: Volume III*, Oxford University Press, Oxford, 2011, 1.

<sup>185</sup> *Ibid.*

<sup>186</sup> Pontifical Council For Justice And Peace, *Compendium of The Social Doctrine of The Church*, Libreria Editrice Vaticana, 2004, Paragraph 164, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/documents/rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html) (Accessed 2 October 2016).

<sup>187</sup> *Ibid.* Italics in original.

<sup>188</sup> *Ibid.*, Paragraph 165.

<sup>189</sup> *Ibid.*, Paragraphs 165 and 166.

<sup>190</sup> *Ibid.*, Paragraph 167.

<sup>191</sup> Finnis, *op. cit.*

<sup>192</sup> Pontifical Council For Justice And Peace, *op. cit.*, Paragraph 168.

<sup>193</sup> *Ibid.*

<sup>194</sup> *Ibid.*, Paragraph 169.

So far, the common good has been discussed in terms that work with secular commentary. It also has validity for all members of a society, including the political community. The implications, however, are broader for the Catholic politician because of the supernatural end of the common good that the Pontifical Council for Justice and Peace identifies and outlines. The Pontifical Council warns that the “common good of society is not an end in itself” and is not limited to a “simple socio-economic well-being.”<sup>195</sup> Instead its value only extends “to attaining the ultimate ends of the person and the universal common good of the whole of creation” where “God is the ultimate end of his creatures and for no reason may the common good be deprived of its transcendent dimension.”<sup>196</sup>

In other words, the Catholic politician may not limit his or her activities to non-transcendent ends. That is, each action and policy pursuit must have a goal and perspective that fulfils a supernatural perspective. The good sought at the end of any endeavour must have this supernatural end in mind. From a supernatural perspective it promotes the natural good of man, from which the person is better disposed to grace, and creates a policy and legal climate that dissuades individuals from committing acts that may cause the loss of their souls and harm to others. This perspective needs to permeate all the Catholic politician’s focus and endeavours, and the politician should not consign this supernatural perspective to a category only relevant to private life. His or her whole approach in public life needs a supernatural focus. However, by virtue of the natural law, all persons to varying degrees engage and perceive through reasoning the requirements of the common good and this can become the basis for reasonable and valid positive laws.

## **Positive Law and Natural Law**

Positive law, or human law is when human reason explores and determines implications of specific consequences and practical applications from both natural law precepts and common and indemonstrable principles. From the natural law, as practical reason engages with the eternal law, general principles are knowable and

---

<sup>195</sup> Ibid., Paragraph 170.

<sup>196</sup> Ibid.

known, but this does not extend to specific directives. Human reason then proceeds with “more particular determinations” of the natural law. These “particular determinations” are “human laws.”<sup>197</sup>

The question of justice in positive law is directly related to its conformity with the natural law. Thomas cites St Augustine who states “that which is not just seems to be no law at all” and adds that the extent of the justice of a law determines its force.<sup>198</sup> Laws therefore can exist and be in force, but an unjust human law is weak in force and thereby unjustifiable. Thomas measures the extent of the justice and rightness of a law, “human affairs,” to its level of conformity with “the rule of reason,” where the “law of nature” or natural law, is “the first rule of reason.”<sup>199</sup> The extent of the natural law in human laws is at varying levels, depending on how much of the natural law is incorporated into laws *per se*; but Thomas ends with a warning that “if at any point it deflects from the law of nature, it is no longer a law but a perversion of law.”<sup>200</sup>

Hence human laws, or positive law, derives validity and force from conformity with the natural law, in particular with the irreducible precepts that are true, such as “do good and avoid evil.” There may be varying degrees of conformity that a human law has with the natural law; in other words a human law may contain a less direct application of natural law while yet the natural law remains present in the same human law, as in, for example, the NSW Government statute describing the functions of the secretary of an owner’s corporation, which upholds principles of organisation and competence as part of service to others, in this case in a group with shared interests.<sup>201</sup> Details are provided in the statute that determine what the “more particular determinations” of the principle of service to others are. The more particular determinations, therefore, are the extensions and applications of the founding principles. This is the usual way in which principles of natural law in human law are extended in particular detail according to present and specific

---

<sup>197</sup> Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Two Ia Iae QQ. 1-114 with Synoptical Charts*, op. cit., I-II Q. 91 A.3, Resp., 997.

<sup>198</sup> Ibid., I-II Q. 95 A.2, Resp., 1014-1015.

<sup>199</sup> Ibid.

<sup>200</sup> Ibid.

<sup>201</sup> New South Wales Consolidated Acts, *Strata Schemes Management Act 1996 - Sect 22*, AustLII, <http://legislation.nsw.gov.au/inforce/58c71653-c48b-c300-b4c4-ef01a29d7327/1996-138.pdf> (Accessed 26 December 2016).

circumstances. These circumstances may vary, requiring a variation of the particular determinations, which can either change by legislation or by Regulation.<sup>202</sup>

In contrast, however, is the “perversion of law,” which acts against the precept of “first do no harm” and also of “do not kill the innocent” that is seen in the Victorian *Abortion Law Reform Act 2008*. This “seems to be no law at all” and has no genuine force, according to the way that natural law works, because it is fundamentally unjust, and this is evident more than once. First, in Section 5 (1) it sanctions the taking of innocent human life from conception to the point of birth, where a “registered medical practitioner may perform an abortion on a woman who is more than 24 weeks pregnant.”<sup>203</sup> Second, the statute coerces the conscience of those who desire to conform to the natural law, as conforming to the natural law means that the person must conscientiously object to this statute. The coercion occurs in the situation where a registered medical practitioner or registered nurse must directly participate in an abortion “where the abortion is necessary to preserve the life of the pregnant woman.”<sup>204</sup> The coercion violates the “ought” imperative of the individual that seeks to fulfil the basic precepts of not killing the innocent or first doing no harm. The statute forces the individual subject, in this case the registered doctor or nurse, to violate what they know to be wrong, thus implicating them in evil actions and violating their consciences.

The additional compromise offered by the Act, in Section 8 (3) and (4), is in itself a further form of coercion. Participation is also required of the unwilling medical practitioner who objects to performing an abortion, but who must participate in the same by having to “refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a

---

<sup>202</sup> Regulations are referred to in different Acts as being outside of the Act and can change independently of it. Examples include penalty values. An Act may refer to an amount of “penalty units” for the violation of a statute, but the value of the penalty unit is not found in the Act itself but in Regulations.

<sup>203</sup> Victorian Current Acts, *Abortion Law Reform Act 2008 - Sect 5 (1)*, AustLII, [http://www.austlii.edu.au/au/legis/vic/consol\\_act/alra2008209/s5.html](http://www.austlii.edu.au/au/legis/vic/consol_act/alra2008209/s5.html) (Accessed 4 October 2016).

<sup>204</sup> Victorian Current Acts, *Abortion Law Reform Act 2008 - Sect 8 (3 and 4)*, AustLII, [http://www.austlii.edu.au/au/legis/vic/consol\\_act/alra2008209/s8.html](http://www.austlii.edu.au/au/legis/vic/consol_act/alra2008209/s8.html) (Accessed 4 October 2016).

Lines are blurred here as to whether the action is of a primary or secondary effect, for example in an ectopic pregnancy the death of the child is not the primary object, but is a necessary consequence. However, the law as cited necessarily includes all forms of abortion including Section 5 (1) which is otherwise known as “late-term abortion” and must be taken as normative in this case.

conscientious objection to abortion.”<sup>205</sup> Though seeming to allow for conscientious objection, which has already been denied in Section 5 (1), Section 8 compels the conscience of the medical practitioner to have a role in the abortion by referral to another practitioner that he or she knows will carry it out. The obligation of the conscience to act in adherence to the natural law precepts of not killing the innocent and of doing no harm has a human law that requires a direct violation of these obligations. According to Thomas’s elaboration of natural law, this Victorian law is a “perversion of law” without moral force that demands repeal by parliamentarians and does not oblige the individual conscience to follow.

Thomas draws a connection between the justice, or injustice, of human law, conscience, and the common good. Just laws “have the binding power of conscience, from the eternal law whence they are derived.”<sup>206</sup> Just laws are just by virtue of their end, which is ordered towards the common good; and by their author, that is, when laws established are not beyond the powers of the lawmakers to create, or when they do not place inequitable burdens upon the populace. In these cases “such laws...are just and binding in conscience and are legal laws.”<sup>207</sup> Laws may be unjust because they oppose the common good, or because they oppose the Divine Good, such as compulsion to idolatry, or anything opposed to Divine Law, and Thomas argues that “laws of this kind must nowise be observed.”<sup>208</sup>

It is the duty of the Catholic politician to make just laws that promote the common good, by being consistent with the fundamental precepts of the natural law. Positive law may have a near identical expression with the natural law, or share varying partial degrees of the same. However, it is never justifiable to partake in or support any action that contravenes the natural law or anything that would openly violate any Divine prerogative. To be licit, positive law must be in harmony with natural law, because if not, the law essentially condones “acts of violence rather than laws.”<sup>209</sup> These “acts of violence”<sup>210</sup> must be resisted, opposed and no assent can be given to

---

<sup>205</sup> Ibid.

<sup>206</sup> Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes*, op. cit., I-II Q. 96 A.4, Resp., 1019.

<sup>207</sup> Ibid., 1019-1020.

<sup>208</sup> Ibid., 1020.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

them. Natural and Divine Law both inform conscience, whose ongoing formation is critical for all Catholics, including politicians.

## ***II. The Relationship between Natural Law and Conscience***

### **What is Conscience?**

Much has already said about conscience. What, though, is most significant in terms of thinking about its role in the political life of a nation? In order to answer this more fully, it is important to think through the different stages of the work of conscience. Anthony Fisher summarises the comprehensive outline of the Church's statements on conscience that appear in the CCC.<sup>211</sup> In his analysis this breaks down into "three acts or dimensions of conscience."<sup>212</sup> The first dimension is *synderesis*, which is a general view of the principles of morality by an individual, which "are the norms of practical reason accessible to all people of good will and right reason."<sup>213</sup> This dimension of conscience involves the participation in the unchanging Divine Law, and the ability under the guidance of Divine Providence to more clearly perceive unchanging truth, to form right and true judgements of conscience.<sup>214</sup> It reflects the objective moral and, for the Catholic, infallible doctrinal order that obliges conformity at the general principle level only. This level of conscience does not "give direction about specified situations or how to navigate particular routes."<sup>215</sup> Daniel Fleming posits that the universality of the experiences of conscience apprehending the same unchanging truth has implications in the realm of pedagogy in the assistance in the formation of consciences. For Fleming, "teachers can draw on experiences common to students in their classrooms to illustrate the concept. In other words, experiences of conscience do not need to be *created*, they need to be *remembered*."<sup>216</sup> As part of the rational element that is involved in the evaluative judgements of conscience by the individual, Tom Ryan observes its weaknesses that

---

<sup>211</sup> CCC, 1777- 1802.

<sup>212</sup> Fisher, op. cit., 47.

<sup>213</sup> Ibid.

<sup>214</sup> Cf. *Dignitatis Humane*, Paragraph 3 in Ibid., 47-48.

<sup>215</sup> Ibid., 48.

<sup>216</sup> Daniel J. Fleming, 'The Threshold of Conscience: A Radical Challenge for Education in Theological Ethics ... and Beyond', in *Journal of Adult Theological Education*, 13:2, 2016, 112, <http://dx.doi.org/10.1080/17407141.2016.1213950> (Accessed 16 June 2017). Italics in original.



conscience “particularly as *evaluative* and personally involved knowledge, is inherently linked with emotions and personal affectivity.”<sup>217</sup> He argues, therefore, that it is susceptible “to conditions and variables”, “unconscious, deeper biases and motivations,” and other factors, such as “low self-esteem and deficient of affect,”<sup>218</sup> thus leading to distortions and possibly nullification of the ability to apprehend what is good and evil.<sup>219</sup> As will be seen later in this chapter, these limitations on the rational aspect of conscience have been anticipated by John Henry Newman.

The second dimension is application of these general principles to particular circumstances through evaluation of both reasons and goods. The application of conscience at this level “involves further practical reasoning towards more particular moral principles and their application to given circumstances.”<sup>220</sup> The implication of this deliberative requirements means that “certain habits of mind,” particularly prudence, is required.<sup>221</sup> Fisher points out that in the deliberative process “the mind often faces temptations, dilemmas and confusion.”<sup>222</sup> He identifies this area as where conflicts between the magisterium and individual moral reasoning occurs.<sup>223</sup>

The third dimension concerns judgements of actions both prior to the act occurring and after the act has occurred.<sup>224</sup> Fisher observes that in this category of conscience, “there is plenty of ground for error here,” but that it properly acts to “apply moral truth.”<sup>225</sup> At this level, conscience must be willing to discern the moral law, but for the Catholic the initiative to consult the teachings of the Magisterium on a particular matter is more urgent to prevent an erroneous judgement. Fisher additionally thinks that the idea of “primacy of conscience” would have “bewildered” Aquinas, “or the primacy of any intellective operation.”<sup>226</sup> The value of conscience for Aquinas is in

---

<sup>217</sup> Tom Ryan SM, ‘Conscience as Primordial Moral Awareness in *Gaudium et Spes* and *Veritatis Splendor*’, in *Australian eJournal of Theology*, 18:1, April 2011, 94, [http://aejt.com.au/\\_data/assets/pdf\\_file/0003/325560/7\\_AEJT11.01\\_Formatted\\_Conscience\\_as\\_Primal\\_Moral\\_Awareness\\_copyedited.pdf](http://aejt.com.au/_data/assets/pdf_file/0003/325560/7_AEJT11.01_Formatted_Conscience_as_Primal_Moral_Awareness_copyedited.pdf) (Accessed 16 June 2017). Italics in original.

<sup>218</sup> *Ibid.*, 95.

<sup>219</sup> *Ibid.*

<sup>220</sup> Cf. *Dignitatis Humane*, Paragraph 3 in *Ibid.*,

<sup>221</sup> *Ibid.*

<sup>222</sup> *Ibid.*, 49.

<sup>223</sup> *Ibid.*

<sup>224</sup> *Ibid.*, 47.

<sup>225</sup> *Ibid.*, 49.

<sup>226</sup> *Ibid.*

“yielding the right choice. Truth always had primacy for him.”<sup>227</sup> Fisher observes that Pope John Paul II writing in *Veritatis Splendor*, especially in Paragraph 60, is an authentic follower of Aquinas’ teaching on conscience.<sup>228</sup>

With Fisher’s analysis one can see more clearly the importance of the Catechism’s analysis of conscience. The CCC breaks the subject of conscience down into four areas. In the first category, *The Judgement of Conscience*<sup>229</sup>, the CCC depicts conscience as a judgement of reason,<sup>230</sup> that is, part of a human faculty. This identification is reinforced by theologian William May. According to May, conscience “is a judgement or an act of the intellect. It thus cannot be a mere subjective feeling or option to act and live in a certain way,”<sup>231</sup> and an “upright moral life requires one’s personal conviction that given acts are or are not in accord with correct moral standards.”<sup>232</sup> He adds that “a person is obliged to act in accord with his or her conscience precisely because one of the central meanings of conscience is that it is in one’s own best judgement about what one ought or ought not to do.”<sup>233</sup> The term heart, he notes, was sometimes translated into the Latin as *conscientia*. Fisher then observes that classical philosophy considered the same, “the human faculty of right decision-making” as being an expression of right decision making in harmony with the eternal world plan.<sup>234</sup>

Moral conscience, as discussed in the CCC, passes judgement on particular choices, approving the good or condemning the evil while witnessing to the authority of truth in reference to the ultimate Good that is God. Commandments or laws from God are welcomed as emanating from the Supreme Good and when the individual listens prudently to his conscience, he hears the voice of God.<sup>235</sup> This means of course that the person must be able to listen to and follow his conscience.<sup>236</sup> Built into the dignity of the human person is the requirement for “*uprightness of moral*

---

<sup>227</sup> Ibid. As will be discussed in Chapter Four, the “Truth has Primacy” argument is also advanced by Cardinal Pell.

<sup>228</sup> Ibid., 49-50. This thesis will make a closer evaluation of *Veritatis Splendor* later in this Chapter.

<sup>229</sup> CCC, 1777- 1782, [http://www.vatican.va/archive/ENG0015/\\_P5Z.HTM](http://www.vatican.va/archive/ENG0015/_P5Z.HTM) (Accessed 28 August 2016).

<sup>230</sup> CCC, 1778.

<sup>231</sup> May, op. cit., 58-59.

<sup>232</sup> Ibid.

<sup>233</sup> Ibid.

<sup>234</sup> Fisher, op. cit., 43.

<sup>235</sup> CCC, 1777.

<sup>236</sup> CCC, 1779.

*conscience.*”<sup>237</sup> The prudent judgement of a person recognises “the truth about the moral good.”<sup>238</sup> Conscience allows the individual to take responsibility for actions performed. For example, if a person commits an evil act, a judgement of his conscience witnesses against him “as the witness to the universal truth of the good.”<sup>239</sup> Conscience can also witness in support of an action, which is evident by a peace of mind that undertakes a particular action, despite difficulties, for example publicly defending an unpopular idea on the basis of its rightness or morality. Conscience enables the individual to witness in assessment of the goodness or badness of a particular action.

The CCC then discusses *The Formation of Conscience*, emphasising the importance of a careful and lifelong effort to form one’s conscience.<sup>240</sup> Additionally, it enjoins one to prayer in this task and further adds that the teachings of the Church play a crucial role in forming one’s conscience. There are three sources of assistance in the ongoing formation of conscience; via “the gifts from the Holy Spirit,”<sup>241</sup> the “witness or advice of others”<sup>242</sup> and finally being “guided by the authoritative teaching of the Church.”<sup>243</sup> The CCC makes an important reference to the teaching authority of the Church as a source for ongoing formation of conscience, which has an authoritative place throughout the life of the Catholic believer. The developmental nature of conscience in the individual needs to be acknowledged, in that it is bound with the maturation of the person, which, given previously noted limitations, may restrict its operational capacity at any given time, as well as the distorting effect of sin. A person also embedded in an evil ideology would find it more difficult to perceive the good, but the person would be culpable for this fault insofar as the embrace of the ideology was clearly willed. At this point the person is actively suppressing his or her own capacity to apprehend the good.

The third category, *To Choose in Accord With Conscience*, describes how one must always seek to decide what is right and good and in accordance with Divine Law. It

---

<sup>237</sup> CCC, 1780. Italics in original.

<sup>238</sup> Ibid.

<sup>239</sup> CCC, 1781.

<sup>240</sup> CCC, 1783 - 1785, [http://www.vatican.va/archive/ENG0015/\\_P60.HTM](http://www.vatican.va/archive/ENG0015/_P60.HTM) (Accessed 28 August 2016).

<sup>241</sup> CCC, 1785.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

adds, however, that conscience is also capable of making a judgement that is contrary to reason and Divine Law.<sup>244</sup> Concern for the implications of the erroneous conscience leads into the fourth category, *Erroneous Judgement*.<sup>245</sup> The section begins with the assertion of the need for a person to “always obey the certain judgment of his conscience. If he were deliberately to act against it, he would condemn himself.”<sup>246</sup> However, it follows that due to ignorance a person can show poor judgement preceding actions or after having committed them.<sup>247</sup> A person is culpable for the evil they commit if they avoid the “personal responsibility”<sup>248</sup> of informing themselves of what they ought to do, and not making an effort “to find out what is true and good.”<sup>249</sup> In cases where the individual is not responsible for the erroneous judgement or an evil action the act is still evil, and the individual is obliged “to correct the errors of moral conscience”.<sup>250</sup>

The CCC repeats the role of the Magisterium in the case of the erroneous conscience, thus further emphasising its significance. The CCC lists “assertion of a mistaken notion of autonomy of conscience, rejection of the Church's authority and her teaching” as being “at the source of errors of judgment in moral conduct.”<sup>251</sup> The two points about the mistaken notion of autonomy of conscience and rejection of Church teaching authority are very closely linked. The former is a key cause of the latter, which will be further explored in the next chapter of this thesis.

It is erroneous to claim that conscience exists with neither obligation to the objective standard and claims of the natural law on the individual, nor against the obligation to correct and conform the erroneous conscience is false. The individual becomes culpable for any wrongdoing that could have been easily corrected by seeing clarification about a particular matter of doubt. For the Catholic, particularly the Catholic parliamentarian, the obligation to conform the precepts of right action – “to do good and to avoid evil” and correction of any judgements about an action contrary

---

<sup>244</sup> CCC, 1786 - 1789, [http://www.vatican.va/archive/ENG0015/\\_P61.HTM](http://www.vatican.va/archive/ENG0015/_P61.HTM) (Accessed 28 August 2016).

<sup>245</sup> CCC, 1790 - 1794, [http://www.vatican.va/archive/ENG0015/\\_P62.HTM](http://www.vatican.va/archive/ENG0015/_P62.HTM) (Accessed 28 August 2016).

<sup>246</sup> CCC, 1790.

<sup>247</sup> Ibid.

<sup>248</sup> CCC, 1791.

<sup>249</sup> Ibid.

<sup>250</sup> CCC, 1793.

<sup>251</sup> CCC, 1792.

to the constant teachings of the Magisterium is also obligatory. The obligation exists, therefore, to imbibe and follow the teachings of the Church and the determinations of the Magisterium about the application of the moral law to new cases. What, then, does this mean for the catholic politician? As with all members of the Catholic Church, a Catholic Parliamentarian has an obligation to form his or her conscience throughout life. The need is particularly acute in the formation of policy, composition of proposed legislation and voting for or against Bills that may come before Parliament.

A key danger for the Catholic in politics is to face pressure to vote contrary to Church teachings and to excuse themselves by claiming to be voting in accordance with their conscience. They can experience the problem of an erroneous conscience, whereby their formation is mistaken, but sources are available to them to know what the Church teaches on a particular subject, whether it concerns marriage, bioethics, euthanasia, or abortion. Developing understanding of what the Church teaches can be a significant way for the Catholic politician to form his or her way to articulate what is at stake in a particular policy issue or decision. Other areas of application of Church teaching to policy include the areas of workplace relations, aged care, taxation and social welfare issues.<sup>252</sup> The moral questions, however, are the more significant flashpoints.

#### *Fides et Ratio* (1998)

Pope John Paul II spent a considerable part of his pontificate treating subjects of reason, conscience, natural law and public life. In contrast to a more aggressive secularism that demands conformity to its anti-religious standards or departure from the public square,<sup>253</sup> the need for clarity, focus and courage is called for. To address

---

<sup>252</sup> See examples of these discussed in Robert Gascoigne, 'The presence of Catholics in Australian politics: An ecclesial perspective', in *The Australasian Catholic Record*, Vol. 92, No. 1, Jan 2015, 3-15.

<sup>253</sup> See for example Angela Shanahan, 'Space for religion in public square becoming cramped', in *The Australian* online, 24 October 2015, <http://www.theaustralian.com.au/opinion/columnists/angela-shanahan/space-for-religion-in-public-square--becoming-cramped/news-story/4c92b06d7f4595084aae4047b0ee222c> (Accessed 7 October 2016) and Archbishop Anthony Fisher, *Should Bakers be Required to Bake Gay Wedding Cakes? The State of Our Democracy and of Religious Liberty in Contemporary Australia: Acton Lecture on Religion and Freedom*, Centre for Independent Studies, St Leonards, 14 October 2015,

the growing divide between faith and reason John Paul II sought to renew the strength of connection between them in his Encyclical *Fides et Ratio*.<sup>254</sup> To achieve this, he traces the confidence that Saint Paul has in the human capacity to use reason to reach knowledge of God, the cause at “the origin of all perceptible reality.”<sup>255</sup> Yet pride wounded reason by Original Sin, whereby our first parents thought themselves both “sovereign and autonomous” in thinking “they could ignore the knowledge that comes from God.”<sup>256</sup> John Paul II relates that Paul taught that “it was part of the original plan of the creation that reason should without difficulty reach beyond the sensory data to the origin of all things: the Creator. But because of the disobedience by which man and woman chose to set themselves in full and absolute autonomy in relation to the One who had created them, this ready access to God the Creator diminished.”<sup>257</sup> Reason can therefore perceive God, but the effects of Original Sin mean that the level of difficulty in realising this is raised. Importantly, however, it remains possible to achieve.

Pope John Paul II elaborates on the significance of the tree of knowledge on the Garden of Eden, symbolising that “man was in no position to discern and decide for himself what was good and what was evil, but was constrained to appeal to a higher source.”<sup>258</sup> The rational order in man, as established by God, therefore had a key structural limitation. Man was not, and could not be autonomous in the moral order apart from God. The effect of pride was to blind man to this reality “into thinking themselves sovereign and autonomous, and into thinking that they could ignore the knowledge which comes from God.”<sup>259</sup> The effect on reason was to wound it to the point “that from then on its path to full truth would be strewn with obstacles. From that time onwards the human capacity to know the truth was impaired by an aversion to the One who is the source and origin of truth.”<sup>260</sup> John Paul II, sees however that

---

<http://www.ceosyd.catholic.edu.au/wyd2016/Documents/20151015-acton-lecture.pdf> (Accessed 7 October 2016).

<sup>254</sup> Pope John Paul II, *Encyclical Letter, Fides et Ratio: Faith and Reason*, 14 September 1998, Libreria Editrice Vaticana, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091998\\_fides-et-ratio.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091998_fides-et-ratio.html) (Accessed 7 October 2016).

<sup>255</sup> *Ibid.*, Paragraph 22.

<sup>256</sup> *Ibid.*

<sup>257</sup> *Ibid.*

<sup>258</sup> *Ibid.*

<sup>259</sup> *Ibid.*

<sup>260</sup> *Ibid.*

the “coming of Christ was the saving event which redeemed reason from its weakness, setting it free from the shackles in which it had imprisoned itself.”<sup>261</sup>

This weakness has as its remedy the Cross of Christ, which presents the path to truth.<sup>262</sup> Pope John Paul II discusses the folly of the cross to rational philosophers, in that at the human level the cross makes no sense. It is the dividing point, and the “true key-point, which challenges every philosophy.”<sup>263</sup> He adds that it “is here that every attempt to reduce the Father's saving plan to purely human logic is doomed to failure.”<sup>264</sup> Yet he sees hope. Using the imagery of the reef that may endanger shipping, he turns the image into the point of a new horizon.

The preaching of Christ crucified and risen is the reef upon which the link between faith and philosophy can break up, but it is also the reef beyond which the two can set forth upon the boundless ocean of truth. Here we see not only the border between reason and faith, but also the space where the two may meet.<sup>265</sup>

In the Cross, the folly of reason lies in the paradox of how “death could be the source of life and love.”<sup>266</sup> The redemption of man, achieved through the crucifixion of God made man was not an act of obligation on the part of God, to make valid restitution for the severing of the relationship between God and man through Original Sin. Pope John Paul II refers to it as “the gratuitous nature of the love revealed in the Cross of Christ.”<sup>267</sup> On the relationship between the Cross and reason, Pope John Paul II states that reason “cannot eliminate the mystery of love which the Cross represents, while the Cross can give to reason the ultimate answer which it seeks.”<sup>268</sup>

To help show the path of harmony between faith and reason, John Paul II draws upon the work of Thomas Aquinas, who wrote of this harmony. The light of faith and the light of reason come from God, and therefore “there can be no contradiction between

---

<sup>261</sup> Ibid.

<sup>262</sup> Ibid., Paragraph 23.

<sup>263</sup> Ibid.

<sup>264</sup> Ibid.

<sup>265</sup> Ibid.

<sup>266</sup> Ibid.

<sup>267</sup> Ibid.

<sup>268</sup> Ibid.

them.”<sup>269</sup> He also supports Aquinas’ recognition that nature “could contribute to the understanding of divine Revelation.”<sup>270</sup> John Paul II outlines the nexus between faith and reason and the mutual confidence that exists.

Faith therefore has no fear of reason, but seeks it out and has trust in it. Just as grace builds on nature and brings it to fulfilment, so faith builds upon and perfects reason. Illumined by faith, reason is set free from the fragility and limitations deriving from the disobedience of sin and finds the strength required to rise to the knowledge of the Triune God.<sup>271</sup>

As with the exercise of conscience, and the meeting of human reason with the Divine and eternal law through the natural law, “Faith is in a sense an ‘exercise of thought’; and human reason is neither annulled nor debased in assenting to the contents of faith, which are in any case attained by way of free and informed choice.”<sup>272</sup> Acts of faith must, therefore, include the exercise of reason.

In tracing the decline of the link between faith and reason, John Paul II refers to a rise in a scientific “positivistic mentality” as part of the crisis of rationalism that “not only abandoned the Christian vision of the world, but more especially rejected every appeal to a metaphysical or moral vision.”<sup>273</sup> Modern philosophy has also set itself in explicit opposition to Christian revelation, whereby faith and its contents are reduced to “dialectical structures which could be grasped by reason.”<sup>274</sup> This modern rationalist mentality is the intellectual climate in which the Catholic parliamentarian finds himself or herself today. However in *Fides et Ratio*, Pope John Paul II expresses confidence in both the rational capacity of individuals to both have confidence in the exercise of reason, while not fearing a need to compromise in the exercise of faith, but to have full confidence in the interplay and mutual strengthening of both. The confidence in both the exercise of faith and reason can also, therefore, extend to informing and guiding the Catholic parliamentarian in the public square.

---

<sup>269</sup> Ibid., Paragraph 43.

<sup>270</sup> Ibid.

<sup>271</sup> Ibid.

<sup>272</sup> Ibid.

<sup>273</sup> Ibid., Paragraph 46.

<sup>274</sup> Ibid.



*Veritatis Splendor* (1993)

In *Veritatis Splendor* John Paul II is concerned to meet the problem of the exaggerated autonomy of the self via human reason, whereby there is claim of a separate order that is relevant to this world and another that pertains to salvation.<sup>275</sup> Other claims include that Divine Revelation is not permanent, nor therefore are there any permanent or binding norms. In the area of moral norms, the Magisterium of the Church is denied doctrinal competence.<sup>276</sup> However, human reason discovers and applies the Moral Law, and does not create it.<sup>277</sup> Seeking to re-educate the faithful, he reiterates the role of the eternal law and the natural law. In particular he points out how the natural law is the eternal law “implanted in beings endowed with reason.”<sup>278</sup>

John Paul II uses the foundation of the natural law for his treatment of conscience. He restates the consistency of Church teaching on the nature of conscience, in harmony with Apostolic Tradition, as the place where the relationship between man’s freedom and God’s Law is lived out.<sup>279</sup> Conscience is the witness of God Himself in the person, calling forth obedience to certain acts in different situations.<sup>280</sup> Conscience applies the natural law to specific circumstances,<sup>281</sup> does not establish Law, but rather gives witness to it.<sup>282</sup> He is careful to point out that the conscience is prone to error, and that when the Magisterium makes determinations it “brings to light the truths” which a conscience “ought already to possess” and is therefore not a rival or an impediment to the free action of conscience.<sup>283</sup> The competence and role of the Magisterium is reasserted in relation to revelation as well as the natural law: “Her charge is to announce and teach authentically that truth which is Christ, and at the same time with her authority to declare and confirm the principles of the moral order which derive from human nature itself.”<sup>284</sup>

---

<sup>275</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., Paragraph 37.

<sup>276</sup> Ibid., Paragraphs 36-37.

<sup>277</sup> Ibid., Paragraphs 40-41.

<sup>278</sup> Ibid., Paragraphs 42-44.

<sup>279</sup> Ibid., Paragraph 54.

<sup>280</sup> Ibid., Paragraph 58.

<sup>281</sup> Ibid., Paragraph 59.

<sup>282</sup> Ibid., Paragraph 60.

<sup>283</sup> Ibid., Paragraph 64.

<sup>284</sup> Ibid.

The Catholic parliamentarian, like all other persons, engages directly with the Divine and eternal law through their use of reason, to determine the good in each situation and reject the bad. Persons do not create the Law, but apply it in different circumstances. The Catholic parliamentarian needs to know, however, that the Magisterium does not inhibit his or her freedom of conscience, but reinforces it because it leads them to a fuller grasp of the truth and acts as a corrective to the likelihood of any error. The Catholic politician, like all Catholics, can look to the teaching Magisterium as a genuine source of assistance, not as an unwelcome threat to autonomy and aid them in decision-making across a range of problems.

### *Evangelium Vitae* (1995)

The fundamental and practical importance of the Encyclical *Evangelium Vitae*<sup>285</sup> is that Pope John Paul II proposes the ingredients of the “culture of life”, which then can inform and guide pro-life policy that parliamentarians can follow and implement. By actions of the Ordinary Magisterium<sup>286</sup> he reaffirms the Church’s perennial teaching against; taking the life of the innocent,<sup>287</sup> direct abortion, where abortion is purposefully willed,<sup>288</sup> and euthanasia.<sup>289</sup> In doing so, he is also addressing what he terms the “culture of death,” which he diagnoses as a problem located, not only in the moral conscience of the individual, but of the moral conscience of society: “in a way it too is responsible, not only because it tolerates or fosters behaviour contrary to life,

---

<sup>285</sup> Pope John Paul II, *Encyclical: Evangelium Vitae: The Gospel of Life*, op. cit.

<sup>286</sup> The Ordinary Magisterium will be discussed at fuller length in Chapter Three.

<sup>287</sup> Pope John Paul II, *Encyclical: Evangelium Vitae*, op cit. Paragraph 57: “Therefore, by the authority which Christ conferred upon Peter and his Successors, and in communion with the Bishops of the Catholic Church, I confirm that the direct and voluntary killing of an innocent human being is always gravely immoral. This doctrine, based upon that unwritten law which man, in the light of reason, finds in his own heart (cf. Rom 2:14-15), is reaffirmed by Sacred Scripture, transmitted by the Tradition of the Church and taught by the ordinary and universal Magisterium.”

<sup>288</sup> Ibid., Paragraph 62: “Therefore, by the authority which Christ conferred upon Peter and his Successors, in communion with the Bishops-who on various occasions have condemned abortion and who in the aforementioned consultation, albeit dispersed throughout the world, have shown unanimous agreement concerning this doctrine-I declare that direct abortion, that is, abortion willed as an end or as a means, always constitutes a grave moral disorder, since it is the deliberate killing of an innocent human being. This doctrine is based upon the natural law and upon the written Word of God, is transmitted by the Church's Tradition and taught by the ordinary and universal Magisterium.”

<sup>289</sup> Ibid., Paragraph 65: “Taking into account these distinctions, in harmony with the Magisterium of my Predecessors and in communion with the Bishops of the Catholic Church, I confirm that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person. This doctrine is based upon the natural law and upon the written word of God, is transmitted by the Church's Tradition and taught by the ordinary and universal Magisterium.”

but also because it encourages the ‘culture of death’, creating and consolidating actual ‘structures of sin’ which go against life.”<sup>290</sup>

The key danger that John Paul II identifies to the moral conscience at the individual and the social level is “confusion between good and evil, precisely in relation to the fundamental right to life.”<sup>291</sup> As a remedy, he proposes a “culture of life” which is intended to assist with the formation of consciences of all those affected, including those in politics. The culture of life begins with “the inescapable responsibility of choosing to be unconditionally pro-life.”<sup>292</sup> Hence, the rejection on any compromise with the intrinsic value of human life, as a starting point, reorients the individual and the outward focus of the individual. The individual conscience most explicitly applies this principle to any and all work done to meet the culture of death in all licit endeavours in society and conscientiously builds up a culture of life, which is the “the fruit of the culture of truth and of love.”<sup>293</sup>

John Paul II speaks of his concern that the politician might, in democratic society, separate “the realm of private conscience from that of public conduct.”<sup>294</sup> He attacks the ethical relativism that gives rise to this thinking and points out that the moral value of a democracy “depends on conformity to the moral law to which it, like every other form of human behaviour, must be subject.”<sup>295</sup> The first and fundamental principle he identifies is the “inviolable right to life of every human being,” which the state cannot with any legitimacy legislate against.<sup>296</sup> He is consistent with the tradition as expressed by St Augustine and Thomas Aquinas in that civil law that violates the natural law, as in the cases of pro-abortion and pro-euthanasia laws, “ceases by that very fact to be a true, morally binding civil law.”<sup>297</sup> The Pope reinforces this teaching, labelling abortion and euthanasia laws as “crimes which no human law can claim to legitimize.”<sup>298</sup> He adds a stern stipulation:

---

<sup>290</sup> Ibid., Paragraph 24.

<sup>291</sup> Ibid.

<sup>292</sup> Ibid., Paragraph 28.

<sup>293</sup> Ibid., Paragraph 77.

<sup>294</sup> Ibid., Paragraph 69.

<sup>295</sup> Ibid., Paragraph 70.

<sup>296</sup> Ibid., Paragraph 71.

<sup>297</sup> Ibid., Paragraph 72.

<sup>298</sup> Ibid., Paragraph 73.

There is no obligation in conscience to obey such laws; instead there is a grave and clear obligation to oppose them by conscientious objection.<sup>299</sup>

John Paul II identifies the positive contribution that the culture of life can make in the political arena where if “charity is to be realistic and effective, it demands that the Gospel of life be implemented also by means of certain forms of social activity and commitment in the political field, as a way of defending and promoting the value of life in our ever more complex and pluralistic societies.”<sup>300</sup> The role of the legislator merits a specific reference as although “laws are not the only means of protecting human life, nevertheless they do play a very important and sometimes decisive role in influencing patterns of thought and behaviour.”<sup>301</sup> Parliamentarians, he notes “have a duty to make courageous choices in support of life, especially through legislative measures.”<sup>302</sup> He notes that the democratic system, “where laws and decisions are made on the basis of the consensus of many”<sup>303</sup> may serve to weaken the “the sense of personal responsibility in the consciences of individuals invested with authority”<sup>304</sup> yet he calls upon them to stand firm because “no one can ever renounce this responsibility, especially when he or she has a legislative or decision-making mandate, which calls that person to answer to God, to his or her own conscience and to the whole of society for choices which may be contrary to the common good.”<sup>305</sup> He then restates the teaching of the Church about the moral force of law being dependent upon its conformity to the Moral Law; “I repeat once more that a law which violates an innocent person's natural right to life is unjust and, as such, is not valid as a law.”<sup>306</sup> For this reason calls upon all political leaders not to pass laws which “disregard the dignity of the person.”<sup>307</sup>

As an integral part of building a culture of life, Pope John Paul II stresses the importance of the role of marriage. Contraception, as part of the culture of death is “opposed to the virtue of chastity in marriage.”<sup>308</sup> In his commentary upon the

---

<sup>299</sup> Ibid.

<sup>300</sup> Ibid., Paragraph 90.

<sup>301</sup> Ibid.

<sup>302</sup> Ibid.

<sup>303</sup> Ibid.

<sup>304</sup> Ibid.

<sup>305</sup> Ibid.

<sup>306</sup> Ibid.

<sup>307</sup> Ibid.

<sup>308</sup> Ibid., Paragraph 13.

culture of death, he observes that “sexuality too is depersonalized and exploited,”<sup>309</sup> which contributes to the artificial separation of the “meanings, unitive and procreative, inherent in the very nature of the conjugal act, are artificially separated: in this way the marriage union is betrayed and its fruitfulness is subjected to the caprice of the couple.”<sup>310</sup> He does not mention contraception explicitly here, but it is what causes “sexuality to be depersonalized and exploited” in the way described. Children are “the supreme gift of marriage”<sup>311</sup> where husband and wife share in “God’s lordship”<sup>312</sup> which is a “responsibility which reaches its highest point in the giving of life through procreation by man and woman in marriage.”<sup>313</sup> Through marriage “a man and woman joined in matrimony become partners in a divine undertaking: through the act of procreation, God’s gift is accepted and a new life opens to the future.”<sup>314</sup>

As part of the culture of life, John Paul II proposes the existence of “marriage and family counselling agencies” to help nurture marriages, “in supporting and accompanying every family in its mission as the ‘sanctuary of life’.”<sup>315</sup> Marriage is also the foundation of the family.<sup>316</sup> The nature of the family is described as “as a community of life and love” with a mission to “guard, reveal and communicate love.”<sup>317</sup> Within the family, and by extension within marriage “it is a matter of God’s own love, of which parents are co-workers and as it were interpreters when they transmit life and raise it according to his fatherly plan.”<sup>318</sup> Pope John Paul II exalts the status of marriage as the cornerstone of family life in and of itself and as an essential part of the culture of life. He is careful to defend it from the attacks of modern society, expressed by the promotion of contraception. His work in this Encyclical is one of the most significant of his whole pontificate and has been one of the most emphatic and valuable expressions of the Ordinary Magisterium in recent times.

---

<sup>309</sup> Ibid., Paragraph 23.

<sup>310</sup> Ibid.

<sup>311</sup> Ibid., Paragraph 26.

<sup>312</sup> Ibid., Paragraph 43.

<sup>313</sup> Ibid.

<sup>314</sup> Ibid.

<sup>315</sup> Ibid., Paragraph 88.

<sup>316</sup> Ibid., Paragraph 90.

<sup>317</sup> Ibid.

<sup>318</sup> Ibid.

The attack on marriage that has emerged during the last twenty years in the form of redefining marriage to state that it comprises two people of the same sex should be contrasted against the teachings presented in *Evangelium Vitae* about marriage, its role and its direct connection with the work of God. By the time of his death in 2005, the push to redefine marriage to include two people of the same sex was beginning to achieve major political victories in countries such as Holland and Canada, but during the last ten years it has grown more substantial in power. A statement from the Magisterium during John Paul II's pontificate was issued in 2003 by the CDF, the *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*<sup>319</sup> with the following directive:

When legislation in favour of the recognition of homosexual unions is proposed for the first time in a legislative assembly, the Catholic lawmaker has a moral duty to express his opposition clearly and publicly and to vote against it. To vote in favour of a law so harmful to the common good is gravely immoral.<sup>320</sup>

An important part of *Evangelium Vitae* is its discussion of the action of limiting harm. John Paul II exhibited a healthy realism in acknowledging that the prevention of the passage of “crimes which no human law can claim to legitimize”<sup>321</sup> is not always possible. A parliamentarian can seek to lessen the “negative consequences” of such a law in seeking to restrict its impact.<sup>322</sup> He is careful, however, to restate that “from the moral standpoint, it is never licit to cooperate formally in evil” and that each individual bears moral responsibility for the actions they perform, and will be judged by God accordingly.<sup>323</sup>

---

<sup>319</sup> Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*, op. cit..

<sup>320</sup> Ibid., Paragraph 10.

<sup>321</sup> Pope John Paul II, *Encyclical: Evangelium Vitae*, op. cit., Paragraph 73.

<sup>322</sup> Ibid.: “In a case like the one just mentioned, when it is not possible to overturn or completely abrogate a pro-abortion law, an elected official, whose absolute personal opposition to procured abortion was well known, could licitly support proposals aimed at limiting the harm done by such a law and at lessening its negative consequences at the level of general opinion and public morality. This does not in fact represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit its evil aspects.”

<sup>323</sup> Ibid., Paragraph 74. The whole passage is pertinent and therefore worth citing here:

“In order to shed light on this difficult question, it is necessary to recall the general principles concerning cooperation in evil actions. Christians, like all people of good will, are called upon under grave obligation of conscience not to cooperate formally in practices which, even if permitted by civil

For the Catholic parliamentarian there are clear guidelines issued in *Evangelium Vitae*. These can be summarised as: the formal prohibitions on cooperation with evil;<sup>324</sup> the necessity of compliance with natural law;<sup>325</sup> the legitimacy of restricting the impact of an evil law, but not using this as a pretext for cooperation with it;<sup>326</sup> and the obligations for parliamentarians to account for their actions before God.<sup>327</sup> Being in parliament does not relieve a Catholic parliamentarian from conforming to the Moral Law. In this Encyclical cooperation with abortion and euthanasia laws is prohibited. From the CDF document in 2003, this can also be extended to the redefinition of marriage. Pope John Paul II has made teaching on these matters abundantly clear, and the Catholic parliamentarian is obliged to inform himself or herself of them.

### **III. Role of Conscience and Natural Law in Church Teaching**

#### **Introduction**

The role of conscience is to apply the natural law to differing circumstances. The preceding sections examined the natural law, its meaning and significance and when established moved to a discussion of conscience.<sup>328</sup> The most significant recent magisterial developments in the Church's understanding of conscience are reflected in the teachings of John Paul II, including further examination on how the Church's teachings are to be applied in concrete circumstances. This Section will examine both natural law and conscience operating together in context of modern discussions about

---

legislation, are contrary to God's law. Indeed, from the moral standpoint, it is never licit to cooperate formally in evil. Such cooperation occurs when an action, either by its very nature or by the form it takes in a concrete situation, can be defined as a direct participation in an act against innocent human life or a sharing in the immoral intention of the person committing it. This cooperation can never be justified either by invoking respect for the freedom of others or by appealing to the fact that civil law permits it or requires it. Each individual in fact has moral responsibility for the acts which he personally performs; no one can be exempted from this responsibility, and on the basis of it everyone will be judged by God himself (cf. Rom 2:6; 14:12)."

<sup>324</sup> Ibid., Paragraph 73.

<sup>325</sup> Ibid., Paragraph 72.

<sup>326</sup> Ibid., Paragraph 73.

<sup>327</sup> Ibid., Paragraph 74.

<sup>328</sup> The role of conscience to apply judgement according to precepts of the Natural Law explains the order of this discussion. There cannot be a discussion of conscience without a fundamental grasp of the nature and identity of the Natural Law. This section, Section III, extends discussion from Section II.

the role of conscience, the prevailing presence of Newman and how his contribution to the modern discussion on conscience is to be appreciated and understood in the light of revisionist attempts to present a radically new foundation for an understanding of conscience. The treatment of the revisionist school of moral theology is a precursor to a more detailed examination in Chapter Three of this thesis.

## The Second Vatican Council and Conscience

The final document of the Second Vatican Council, *Gaudium et Spes* (hence *GS*), contained doctrinal teaching applied to current issues, one being on the topic of conscience. Paragraph 16 contains the major treatment of conscience, and makes important use of the understanding of conscience as taught by Pius XII. Paragraphs 43 and 50 assist in clarifying the treatment of conscience in the document.<sup>329</sup>

Paragraph 16 of *GS* refers to the voice of conscience communicating to the person practical judgements according to circumstance: “do this, shun that.”<sup>330</sup> The same Paragraph also speaks of a right or “correct conscience.”<sup>331</sup> If there is a right or “correct conscience,” by implication there is its antithesis, a ‘not-right’ conscience and therefore presumes the potential of the right formation of conscience. *GS* drew upon the teaching of Pius XII, who makes clear that both the natural law and Revelation form part of the Moral Law the Church has a duty to preserve and expound upon.<sup>332</sup> The custody and exposition of the natural law, therefore, lies unequivocally under the authority of the Catholic Church, which also gives it a consequent authority over guiding conscience, pointing to how it is to be best formed. The implication is that individuals identifying as Catholics must seek clarification from the Church when in doubt about the understanding of the natural law as it applies in different circumstances, that is, if one thinks an action is right and the same person knows the Church teaches the opposite, then one must defer to the

---

<sup>329</sup> There are incidental references to Conscience in Paragraphs 8, 31, 47 and 87.

<sup>330</sup> II Vatican Council, *Gaudium et Spes*, op. cit., Paragraph 16.

<sup>331</sup> Ibid.

<sup>332</sup> Pope Pius XII, ‘Broadcast Message on The Christian Conscience as an Object of Education (23rd March 1952)’, in *Catholic Documents*, VIII, July 1952, 2.



Church in recognition of the binding authority of the Church's Magisterium. In the realm of moral action, the Catholic Church has a legitimate authority to both guide and interpret the precepts of natural law and its application.

The first section of GS Paragraph 16 refers to engagement of the individual conscience with an external law to himself, yet this law places claims on his obedience. This is human reason apprehending the natural law through the engagement of his conscience with the natural law, the imprint of the eternal law on human reason. The Council explains that "man has in his heart a law written by God; to obey it is the very dignity of man; according to it he will be judged. Conscience is the most secret core and sanctuary of a man."<sup>333</sup> There is an obligation to follow the prompts of the natural law, placed there, "in his heart", "written", or authored by God and by so doing fulfil the potential dignity available to each person.<sup>334</sup> The reference to heart is a biblical reference to the inner being of man, his conscience.<sup>335</sup> This teaching does not incorporate the sacramental order and thus applies universally to both the Baptised and non-Baptised. The Council reaffirms this by stating "Christians are joined with the rest of men in the search for truth, and for the genuine solution to the numerous problems which arise in the life of individuals from social relationships."<sup>336</sup> The search for truth involves all persons in seeking to obey the prompting of conscience to follow what is right and avoid what is wrong. In the fulfilment of conscience, the realisation of truth, we fulfil the law "by love of God and neighbor."<sup>337</sup>

By the correct formation of conscience, the nature of which is not examined in this Paragraph, the Council posits that "blind choice" gives way to the striving "to be guided by the objective norms of morality."<sup>338</sup> What these are, and where to find them, is also not provided in this Paragraph. The final part of the Paragraph makes quick reference to an erring conscience that does not lose "its dignity," as a result of "invincible ignorance."<sup>339</sup> This is contrasted to the man who disregards "truth and goodness" and to the conscience afflicted by "habitual sin" causing a gradual

---

<sup>333</sup> II Vatican Council, *Gaudium et Spes*, op. cit., Paragraph 16.

<sup>334</sup> Ibid.

<sup>335</sup> Fisher, *Catholic Bioethics for a New Millennium*, op. cit., 43.

<sup>336</sup> II Vatican Council, *Gaudium et Spes*, op. cit.

<sup>337</sup> Ibid.

<sup>338</sup> Ibid.

<sup>339</sup> Ibid.

sightlessness in conscience.<sup>340</sup> No remedy is described for the erring conscience, invincible ignorance or the culpability of the individual for their disregard for the proper formation of their conscience.

In Paragraph 43 the context shifts to the Christian in the secular world. “Laymen” are expected to know that in general, “the function of their well-formed Christian conscience to see that the divine law is inscribed in the life of the earthly city.”<sup>341</sup> The Council advises the individual layman to consult their priests for “spiritual light and nourishment”, but counsels that priests cannot be relied upon as experts covering every topic, or that that is “their mission.”<sup>342</sup> It is emphasised that the layman is to give “close attention to the teaching authority of the Church”, which begins to resolve some of the unanswered parts of Paragraph 16, and also be “enlightened by Christian wisdom.”<sup>343</sup> The layman is to use these to “take on his own distinctive role.”<sup>344</sup> The onus is individual to inform his own conscience, using authoritative Magisterial teaching, while not relying as heavily on priests to cover all topics. At this point the layman is called to give “close attention” to the Magisterium, but the obligation to follow it is not mentioned here. Notably however, in *Veritatis Splendor*, the “Church puts herself always and only at the service of conscience,”<sup>345</sup> thus sharing responsibility with the individual in the formation of conscience. In the context of marriage guidance, however, GS provides the resolution in Paragraph 50, where spouses “must always be governed according to a conscience dutifully conformed to the divine law itself, and should be submissive toward the Church's teaching office, which authentically interprets that law in the light of the Gospel.”<sup>346</sup> This is a clear affirmation of the authority and competence of the Magisterium in relation to the formation of conscience. In order to flesh out how the individual Catholic follows the Magisterium, we now turn to John Henry Newman’s much misunderstood analysis of conscience.

---

<sup>340</sup> Ibid.

<sup>341</sup> Ibid., Paragraph 43.

<sup>342</sup> Ibid.

<sup>343</sup> Ibid.

<sup>344</sup> Ibid.

<sup>345</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., 64.

<sup>346</sup> II Vatican Council, *Gaudium et Spes*, op. cit., Paragraph 50.

## ***Newman, Conscience, the Magisterium and the Development of 'Primacy of Conscience'***

John Henry Newman describes the importance of conscience in one of his most significant passages on the subject, where conscience is a “messenger” from God, who “both in nature and in grace, speaks to us behind a veil, and teaches and rules us by His representatives.”<sup>347</sup> Conscience, then, is a form of Divine ambassador that quietly guides us with authority. Newman also acknowledges that God speaks to us through conscience, employing both natural and supernatural means of communicating. However, contemporary misunderstanding of what Newman was saying and how this is to be applied has led to the modern idea of ‘Primacy of Conscience’. This Section will explore what Newman has said about the same concept and how others have misapplied his exposition on conscience, providing a pathway to what can be called dissent.

Newman praises and points out the significance of conscience: “Conscience is the aboriginal Vicar of Christ.”<sup>348</sup> In the sense that Newman is describing an alternative binding authority using the expression “Vicar of Christ” there is an allusion to another Magisterium that is a legitimate alternative to the papal Magisterium. In reality there is not, and this is not the intent of Newman but it appears very attractive for thinkers who prefer a rival alternative to the Magisterium of the Church. The use of the term “aboriginal” by Newman is noteworthy. His classical scholarship indicates a strong likelihood of a proper etymological grasp of the word. The Latin origin of the words “*ab originie*” means “from<sup>349</sup> the beginning; origin; source.”<sup>350</sup> Therefore conscience in this expression is more likely the Vicar of Christ that existed from the beginning of time, with the creation of man – Adam and Eve, as the authoritative witness of Christ “from the beginning.”<sup>351</sup>

---

<sup>347</sup> John Henry Newman, ‘Letter to the Duke of Norfolk: 5. Conscience’, in *Newman Reader — Works of John Henry Newman*, 2007, The National Institute for Newman Studies, <http://www.newmanreader.org/works/anglicans/volume2/gladstone/section5.html> (Accessed 24 December 2015).

<sup>348</sup> Ibid.

<sup>349</sup> “Ab” in its transferred, altered or metaphorical sense either in time or other relations is “from” in in D. P. Simpson, *Cassell’s New Latin-English English –Latin Dictionary*, Cassell, London, Second Edition, 1962, 1.

<sup>350</sup> “origo”, in Ibid., 416.

<sup>351</sup> Ibid.

Revisionists use the quote “Conscience is the aboriginal Vicar of Christ,”<sup>352</sup> as well as the toast to conscience first before toasting the Pope. This is in reference to Newman’s illustration of the significance of conscience in the hypothetical after-dinner toasts - should he have to bring religion into them, in his explanation about the role of conscience in the LDN.<sup>353</sup> In addition, a quote from GS is used in isolation to support establishing distance from unwelcome Church teaching using conscience. The text from GS reads:

Conscience is the most secret core and sanctuary of a man. There he is alone with God, Whose voice echoes in his depths.<sup>354</sup>

Taken in isolation, neither anyone nor any authority is welcome in the “secret core and sanctuary of a man” besides the person in question. The self is the ultimate arbiter of what he or she interprets as being the encounter with God and there is no place for an authoritative teaching authority. Brennan uses this quote,<sup>355</sup> as does the late Ted Kennedy in his work: *Who is Worthy? The role of Conscience in restoring hope to the Church*.<sup>356</sup> The use of these sources creates the impression that the Church, facilitated by Newman’s work, supports the autonomy of the self via conscience to the exclusion of any additional authority including the same authority that sanctioned this view – the Church. This view is echoed in the work of theologian Linda Hogan who states that “we must give careful consideration to the teachings that come from the magisterium,” however the “Christian tradition” insists that “moral responsibility and choice reside ultimately with each individual.”<sup>357</sup> She finds the proposition repugnant, as she understands it, of “export(ing) our moral choices, or hand(ing) over our decision making to any other person or body.”<sup>358</sup> Instead,

---

<sup>352</sup> John Henry Newman, ‘Letter to the Duke of Norfolk: 5. Conscience’, op. cit.

<sup>353</sup> “I add one remark. Certainly, if I am obliged to bring religion into after-dinner toasts, (which indeed does not seem quite the thing) I shall drink—to the Pope, if you please,—still, to Conscience first, and to the Pope afterwards.” In Ibid.

<sup>354</sup> II Vatican Council, *Gaudium et Spes*, Paragraph 16, op. cit.

<sup>355</sup> Frank Brennan, op. cit., 34. This quote includes an inclusive language translation presented by Brennan.

<sup>356</sup> Ted Kennedy, *Who is Worthy? The role of Conscience in restoring hope to the Church*, Pluto Press, Annandale, Sydney, 2000, 30. Of note, both of these authors attack Cardinal Pell for rejecting the concept of “the primacy of conscience” and the three quotes form a significant part of their armoury. Conscience, for this way of thinking, becomes the ultimate judge of what is right or wrong, the ultimate arbiter of everything, subjecting all to it, including the teachings of Ordinary Magisterium. From here, they part company from Newman and, arguably, the Church.

<sup>357</sup> Linda Hogan, *Confronting the Truth: Conscience in the Catholic Tradition*, Paulist Press, New York/Mahwah, NJ, 2000, 171.

<sup>358</sup> Ibid.

obedience is reserved for our own “discernment of the Spirit” and “we must adhere to our own consciences.”<sup>359</sup> One should never show “blind submission” in “obedience” against one’s own judgement “even to the magisterium of the church.”<sup>360</sup> In her comments, “blind submission” is an extreme caricature of the necessary assent to Magisterial teaching despite the Catholic favouring a view to the contrary.<sup>361</sup>

The revisionist appropriation of Newman and GS Paragraph 16 leaves the Magisterium without credibility because it is said to be using its authority to advocate a disregard for itself. Thus there is a fundamentally irrational proposal from the institution established by Divine Authority to preserve, guard and teach all that Christ left in public revelation for the salvation of souls to teach against itself.

This thinking creates a framework for the Catholic politician to claim to be following Church teachings, but to defer to their own authority in place of that which they owe to the Church. The presence of an alternative to the constant teachings of the Magisterium, which also is presented as acceptable to the Magisterium, provides theological cover for the politician to disregard his or her obligations as a Catholic in public life. Newman, however, argues that conscience has its limitations and this is why the papacy is required. This thesis will explore Newman’s analysis further ahead in this chapter.

To return to the language of John Paul II, conscience calls to mind that secret place within our hearts, deep in the quiet of souls, in which the singular voice of God draws us to him in truth and love. The sheer immediacy of conscience requires of us a respect and attentiveness to its formation, whereas the papacy sits outside of ourselves as a divine instrument given for the good of the whole Body of Christ. We are, therefore, only *less often* in contact with the Divine and eternal law through the Papal teaching authority. This understanding is the more accurate rendering of the “primacy of conscience” and the “aboriginal Vicar of Christ” – we are most often and more immediately in contact with the Divine and eternal law via the natural law though conscience, than we are by papal intervention. To set conscience as superior

---

<sup>359</sup> Ibid.

<sup>360</sup> Ibid.

<sup>361</sup> Ibid

to the Magisterium, however, is false and misunderstands how the both complement each other, and Newman moves to the importance of the papacy to conscience in the next part of the LDN.

Overlooked by many, therefore, is that conscience is not fail safe in its apprehension of the natural law. For example, Ted Kennedy quotes from Newman's LDN at length in his Appendix II of *Who is Worthy?*,<sup>362</sup> but does not cite Newman's references to the weakness of conscience. In extolling conscience and remarking on the importance of the papacy to uphold the importance of conscience and our obedience to it, Newman also says that a Pope's reason for existence (*raison d'être*) is to champion both the Moral Law and conscience. Newman states: "the fact of his mission is the answer to the complaints of those who feel the insufficiency of the natural light; and the insufficiency of that light is the justification of his mission."<sup>363</sup> The capability of the natural light is therefore recognised by others as not being able to perceive the Divine law, via the natural law, sufficiently to grasp it for certain.

Newman refers to the light in the same sense as in John 1:9; being that "Light which enlighteneth every man that cometh into the world."<sup>364</sup> This light extends to all persons and is given independently of Baptism. The insufficiency of perceiving this light is where the natural law is not clear enough to judge upon and identify what is right or wrong. Newman explains that human limitations weaken the ability of persons to accurately apprehend the Divine Law via the natural law in the exercise of their own reason. The "first element in religion" is a person's "sense of right and wrong."<sup>365</sup> This sense is subject to a wide range of shortcomings and weaknesses, such as how easily it can be confused, misled, wrongly educated, and also subject to the human failings of pride and various passions leaving it "so unsteady in its course."<sup>366</sup> Newman concludes about the reliability of this human sense of right and wrong, which is determined via conscience and "is at once the highest of all teachers,

---

<sup>362</sup> Ted Kennedy, *Who is Worthy?* Op. cit., 117-122.

<sup>363</sup> John Henry Newman, 'Letter to the Duke of Norfolk: 5. Conscience', op. cit.

<sup>364</sup> Ibid.

<sup>365</sup> Ibid.

<sup>366</sup> Ibid.

yet the least luminous; and the Church, the Pope, the Hierarchy are, in the Divine purpose, the supply of an urgent demand.”<sup>367</sup>

Note that the papacy is necessary because the individual conscience is fallible, as its ability to perceive and judge can be unreliable. For Newman, the role of the papacy, in its formal teaching and binding capacity, does not clash with conscience. He stresses that conscience is “a dutiful obedience to what claims to be a divine voice, speaking within us” and “is not a judgment upon any speculative truth, any abstract doctrine, but bears immediately on conduct, on something to be done or not done.”<sup>368</sup> From this foundation he judges that “conscience cannot come into direct collision with the Church's or the Pope's infallibility; which is engaged in general propositions, and in the condemnation of particular and given errors.”<sup>369</sup> Therefore, he balances judgment of an immediate act against more “general propositions”, which are expected to be followed, as these fall under “truth” and “any abstract doctrine.”<sup>370</sup> However, Newman outlines areas in which conscience and Papal authority can clash, but these areas fall into the categories of papal legislation, directives “orders” or similar. This includes papal policy in general.<sup>371</sup>

But a Pope is not infallible in his laws, nor in his commands, nor in his acts of state, nor in his administration, nor in his public policy. Let it be observed that the Vatican Council has left him just as it found him here.<sup>372</sup>

Newman does not draw into scope any aspect covering the teaching of faith or morality into these categories of non-infallibility. The boundaries of fallibility are firm, inasmuch for Newman where the pope is “not infallible” does not involve questions of doctrine – faith or morals. The pope does intervene to remove areas of doubt in matters where the conscience can make a wrong judgement in applying teachings of the Magisterium to newer developments in technology to the Moral Law. However, the borders of fallible and not infallible are considered contestable by

---

<sup>367</sup> Ibid

<sup>368</sup> Ibid.

<sup>369</sup> Ibid.

<sup>370</sup> Ibid.

<sup>371</sup> Ibid.

<sup>372</sup> Ibid.

revisionist scholars. Such discussion is outside the scope of Newman's discussion. He concludes that there is no true contest between papal infallibility and conscience because they operate in different spheres. In particular, this lack of real contest in the area of faith and moral teaching does not extend to where the individual conscience may legitimately dissent, namely non-infallible areas. However, Newman equates these to non-doctrinal areas of papal activity. This does not support any claim to Newman's work that dissent is possible against Church teachings on the basis of the exercise of the individual conscience. Newman continues:

Since then infallibility alone could block the exercise of conscience, and the Pope is not infallible in that subject-matter in which conscience is of supreme authority, no deadlock, such as is implied in the objection which I am answering, can take place between conscience and the Pope.<sup>373</sup>

Newman, therefore, says nothing about any scope for rejecting formally proposed church teaching based on one's own conscience. What he discusses instead refers to matters of papal policy and other non-doctrinal areas, that is, "the supreme, though not infallible Authority of the Pope."<sup>374</sup>

Here revisionists fail to note the difference, and overlook the distinction made by Newman concerning the separate scope of conscience and the role of the Magisterium. The action of prevailing against "the voice of the Pope", as Newman outlines, does not touch the areas of doctrine, but its method is employed by those seeing to justify dissent from the Church's teachings.<sup>375</sup> He says that such an action "must follow upon serious thought, prayer, and all available means of arriving at a right judgment on the matter in question."<sup>376</sup> Thus, even when contemplating rejection of aspects of papal policy and bureaucracy, one is still to exercise prudent, prayerful caution.

---

<sup>373</sup> Ibid.

<sup>374</sup> Ibid.

<sup>375</sup> Ibid.

<sup>376</sup> Ibid.



## The Influence of Developments in Natural Law on Contemporary Discussions of Conscience

There is an ongoing discussion and debate about the role of conscience in the Church and its role for the Catholic believer. There are essentially two schools of thinking. The first is to show the constancy of the teaching of the Church on the subject of natural law, conscience and the Catholic. For example William May shows how the natural law remains the individuals participation in the eternal law, and, the conscience discovers the natural law, applies it and also provides an internal witness to the conformity or otherwise to that Law.<sup>377</sup> He adds that there exist universally binding principles of the natural law, without exception, and that these are always violated in cases of the killing of: unborn children, suffering individuals and the self, in the form of suicide.<sup>378</sup> The teaching itself has been constant, throughout the Church's history, and he provides examples from the ancient *Didache*, through the teachings of Aquinas, the Vatican Council, Second Vatican Council and through to the teachings of Pope John Paul II.<sup>379</sup> The principles of the natural law are not limited to these precepts, however.

Additionally, as seen, Anthony Fisher has also sought to represent the traditional Church teaching on natural law and conscience. He has stressed that conscience is something interior to a person, not a "satellite navigator."<sup>380</sup> Hayden Ramsay reminds us that particular norms or precepts have "obligatory force" and that conscience informs us of what actions are to be done or not done.<sup>381</sup> By "obligatory force" Ramsay refers to "moral norms (that) embody obligations for all who recognize them."<sup>382</sup> Germain Grisez and John Finnis reaffirm the significance of Aquinas' teachings on the natural law, especially as the founding self-evident and irreducible principle of Natural law that "Good is to be done and pursued, and evil is to be avoided,"<sup>383</sup> is coupled with the potential of human reason to embrace

---

<sup>377</sup> William E. May, 'Conscience Formation and the Teaching of the Church', in *Why Humanae Vitae was Right: A Reader*, ed. Janet Smith, Ignatius Press, San Francisco, 1993, 365-382.

<sup>378</sup> *Ibid.*, 375.

<sup>379</sup> *Ibid.*

<sup>380</sup> Fisher, *op. cit.*, 38-69.

<sup>381</sup> Hayden Ramsay, 'Conscience: Aquinas – With a Hint of Aristotle', in *Sophia*, 40:2, 2001, 22.

<sup>382</sup> *Ibid.*

<sup>383</sup> Germain G. Grisez, "First Principle of Practical Reason, *op. cit.*, 195. See in particular John Finnis, *Natural Law & Natural Rights*, Second Edition, Oxford University Press, Oxford, 2011 and John Finnis, *Aquinas: Moral, Political, and Legal Theory*, Oxford University Press, Oxford, 1998.

supernational faith. Grisez and Finnis have re-presented Aquinas in a contemporary context, but due to the subject matter of human nature, in a timeless way as well.<sup>384</sup> In terms of conscience and the individual, Grisez is unequivocal in asserting that Catholics have an obligation to conform their conscience to the teaching of the Catholic Church and draws from scripture to the Second Vatican Council to support his views.<sup>385</sup>

To these one can also add the contribution of Cardinal Josef Ratzinger, and later as Pope Benedict XVI, whose thought about Newman, therefore, is particularly relevant. In 1990 Cardinal Ratzinger spoke on the centenary of Newman's death, where it was "from Newman that we learned to understand the primacy of the Pope."<sup>386</sup> In his remarks about freedom of conscience, he turned to Newman's contribution that it "is not identical with the right 'to dispense with conscience, to ignore a Lawgiver and Judge, to be independent of unseen obligations.'"<sup>387</sup> Therefore Ratzinger explicitly rejects the claims of those who would claim freedom of conscience can be identified with disregard for law and obligation. Conscience involves acknowledging obligations before Divine Authority. He also represents Newman's presentation of the interdependency of conscience and the Papacy where "conscience in its true sense is the bedrock of Papal authority; its power comes from revelation that completes natural conscience, which is imperfectly enlightened, and 'the championship of the Moral Law and of conscience is its *raison d'être*'."<sup>388</sup> There is a mutual interplay of the role and authority of conscience and the papacy. They work together, and one does not validate the disregard of the other.

In 1991 in an address to the 10<sup>th</sup> Workshop for Bishops in February 1991, Dallas, Texas, *Conscience and Truth*, Ratzinger stresses that Newman struggled against liberalism in religion. As a key element of this struggle he defends truth against subjectivist claims, highlighting the crucial role of conscience, where "conscience

---

<sup>384</sup> Grisez, *ibid.*, 200-201 and Finnis, *Aquinas: Moral, Political, and Legal Theory*, *ibid.*

<sup>385</sup> Germain G. Grisez, *The Way of the Lord Jesus: Volume 1, Christian Moral Principles: Chapter 23: Question G: Why must Catholics conform their consciences to the teaching of the Church*, Franciscan Herald, Chicago, 1983, <http://twotlj.org/G-1-23-G.html> (Accessed 6 October 2016).

<sup>386</sup> Joseph Cardinal Ratzinger, *Presentation By His Eminence Card. Joseph Ratzinger on the Occasion of the First Centenary of the Death of Card. John Henry Newman*, Rome, 28 April 1990, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900428\\_ratzinger-newman\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900428_ratzinger-newman_en.html) (Accessed 29 November 2016).

<sup>387</sup> *Ibid.*

<sup>388</sup> *Ibid.*

signifies the perceptible and demanding presence of the voice of truth in the subject himself. It is the overcoming of mere subjectivity in the encounter of the interiority of man with the truth from *God*.”<sup>389</sup> This address is also significant because Brennan uses it to validate his own ideas. Brennan notes that “Ratzinger happily adopts Newman’s approach to authority and conscience, noting that Newman embraced ‘a papacy not put in opposition to the primacy of conscience but based on it and guaranteeing it’.”<sup>390</sup> Brennan then proceeds to quote Pope Benedict XVI in support of his claims:

The true sense of this teaching authority of the Pope consists in his being the advocate of the Christian memory. The Pope does not impose from without. Rather, he elucidates the Christian memory and defends it. For this reason the toast to conscience indeed must precede the toast to the Pope because without conscience there would not be a papacy.<sup>391</sup>

From Brennan’s reading of the address by Ratzinger we have a timid portrayal of the role of the papacy in relation to conscience, where the “primacy of conscience” comes before a papacy that exists for its sake and support. The direct quote used indicates a non-imposing role for the papacy in relation to conscience, that again is relegated to a lack of precedence due to the order of the toast that Newman uses, where conscience is first before the papacy.

The mutual interplay of papacy and conscience is missed by Brennan, nor is there a pre-eminence of conscience over the papacy that Brennan implies. This reading suits the idea of conscience, and thereby the individual, as having in principle supremacy over external sources of authority. In the same address of Ratzinger, Brennan overlooks the context Ratzinger placed the “primacy of conscience” comment, which was “in contrast to mistaken forms of ultra-Montanism,” where “Newman embraced an interpretation of the papacy which is only then correctly conceived when it is

---

<sup>389</sup> Joseph Cardinal Ratzinger, *Conscience and Truth*, Eternal Word Television Network, Irondale, Alabama, 1991, <http://www.ewtn.com/library/curia/ratzcons.htm> (Accessed 28 November 2016). See *Conscience and Truth* also republished in Joseph Cardinal Ratzinger, *On Conscience: Two Essays by Joseph Ratzinger*, The National Catholics Bioethics Center, Philadelphia and Ignatius Press, San Francisco, 2007, 25. Italics in original of book.

<sup>390</sup> Brennan, *Acting on Conscience*, op. cit., 43.

<sup>391</sup> Ibid.

viewed together with the primacy of conscience, a papacy not put in opposition to the primacy of conscience but based on it and guaranteeing it.”<sup>392</sup> Brennan does not account for the corrective that Newman was discussing regarding ultra-Montanism, which was, and is, a sentimental identification with the person of the pope, a devotion to him and a direct identification with his temporal affairs.<sup>393</sup> Brennan also does not account for Ratzinger’s critical evaluation of the “expression of the freedom of the subject” at the expense of authority.<sup>394</sup> Nor does he account for Ratzinger/Benedict XVI’s persistent presentation of Newman’s writings on conscience about the pre-eminence of truth which both conscience and the papacy have mutual roles in revealing and guaranteeing, especially in the case of the papacy for the latter, as representative of the Magisterium.

As Pope Benedict XVI, in advice given to the Bishops of the Episcopal Conference of England and Wales on their "Ad Limina" Visit, in 2010 he reiterates Newman’s defence of truth.<sup>395</sup> He also counters the link between Newman and dissent, where he states that dissent must be recognised for what it is “and not to mistake it for a mature contribution to a balanced and wide-ranging debate.”<sup>396</sup> Against this, he proposes Cardinal Newman, who realised that it “is the truth revealed through Scripture and Tradition and articulated by the Church’s Magisterium that sets us free.”<sup>397</sup> This is a further correction of a liberal misinterpretation of the “primacy of conscience”, invoked by Newman’s “toast to conscience first” that holds Newman “put the authority of his own conscience above that of the pope’s.”<sup>398</sup> Rather Ratzinger reads Newman as holding that the papal office guarantees “the primacy of conscience,”<sup>399</sup> and while the same office is infallible it is also constrained by

---

<sup>392</sup> Joseph Cardinal Ratzinger, *Conscience and Truth*, op. cit.

<sup>393</sup> See Patricia Byrne CSJ, ‘American Ultramontanism’, in *Theological Studies*, 56, 1995, 307, <http://cdn.theologicalstudies.net/56/56.2/56.2.5.pdf> (Accessed 28 December 2016).

<sup>394</sup> Joseph Cardinal Ratzinger, *Conscience and Truth*, op. cit.

<sup>395</sup> Pope Benedict XVI, *Address of His Holiness Benedict XVI to the Bishops of the Episcopal Conference of England and Wales on their "Ad Limina" Visit*, Consistory Hall, 1 February 2010, Libreria Editrice Vaticana, [https://w2.vatican.va/content/benedict-xvi/en/speeches/2010/february/documents/hf\\_ben-xvi\\_spe\\_20100201\\_bishops-england-wales.html](https://w2.vatican.va/content/benedict-xvi/en/speeches/2010/february/documents/hf_ben-xvi_spe_20100201_bishops-england-wales.html) (Accessed 29 November 2016).

<sup>396</sup> Ibid.

<sup>397</sup> Ibid.

<sup>398</sup> Tracey Rowland, *Ratzinger’s Faith: The Theology of Pope Benedict XVI*, Oxford University Press, 2008, 81.

<sup>399</sup> Ibid.

Scripture and Tradition, that is, “the pope cannot do whatever he likes.”<sup>400</sup> This further corrects Brennan’s reading of Ratzinger on Newman and conscience.

### *Revisionist Considerations*

Contrary voices, revisionist thinkers in moral theology,<sup>401</sup> hold that norms that follow universally binding principles of natural law contain no absolute truth.<sup>402</sup> The implication is, therefore, if truth is no longer absolute then it can only be relative to situations, persons and development in human understanding. Charles Curran, for example, warns against complete codification of the natural law, which he claims robs it “of its dynamic character,”<sup>403</sup> implying that it is neither fixed nor unchanging. The defence of the autonomy of the individual conscience in respect to the prerogative of any other authority has been asserted by Linda Hogan, with especial reference to the Church’s Magisterium.<sup>404</sup> She places a strong focus on different determinations of moral acts and how these need to be evaluated in relation to a particular situation, and not independently of it.<sup>405</sup>

For Hogan, the Church is open to change in the area of “nondefinitive authoritative teaching”<sup>406</sup> of which she explains that most of the Church’s “moral pronouncements” have fallen into over its history.<sup>407</sup> Hogan reduces the moral teachings of the Church to a relegated category of “nondefinitive”, which means that they can be easily set aside. Her use of “nondefinitive authoritative teaching” is an echo of what Curran refers to as “noninfallible hierarchical Church teachings,”<sup>408</sup> but there are distinctions in terminology. Curran states that “noninfallible teaching does

---

<sup>400</sup> Ibid., 81-82.

<sup>401</sup> A short overview of revisionist thinkers in moral theology will follow in the next paragraphs, but it will operate as both a précis and anticipation of a more thorough treatment in Chapter Three of this thesis.

<sup>402</sup> William E. May, ‘Conscience Formation and the Teaching of the Church’, op. cit., 375. May lists Charles Curran, Philip Keane and Timothy O’Connell as examples.

<sup>403</sup> Charles E. Curran, ‘The Christian Conscience Today’, *Christian Morality Today*, Notre Dame Indiana, Fides Publishers, 1966, 13-25, reprinted in C. Ellis Nelson, ed., *Conscience: theological and psychological perspectives*, Newman Press, New York/Paramus/Toronto, 1973, 137.

<sup>404</sup> Hogan, op. cit.

<sup>405</sup> Ibid., 167.

<sup>406</sup> Ibid., 173.

<sup>407</sup> Ibid.

<sup>408</sup> Charles E. Curran, *Faithful Dissent*, Sheed & Ward, Kansas City, Missouri, 1986, 54-62.

not involve matters of dogma but rather those things that are more peripheral and removed from the core of the faith.”<sup>409</sup> In this category he explains that “by definition, noninfallible church teachings are fallible.”<sup>410</sup> Hogan allows the possibility of the teaching to remain authoritative but would agree with Curran in that the fallible nature of certain Church teachings mean they are open to change.

Moving away from a teaching authority seen as teaching in nondefinitive and noninfallible categories, an alternative viable source of authority is sought. Hogan agrees with Curran in there is a “formative role that the subject’s historical and cultural positioning plays in how human beings come to know moral truth” and that it is necessary to “acknowledge the contextual nature of the human capacity to apprehend the truth.”<sup>411</sup> In common with Hogan and Curran, Jesuit theologian James Keenan places an emphasis on “human experience and reflection” as “one of the most indispensable sources of moral knowledge.”<sup>412</sup> A legitimate and alternative source of moral authority rests with man and his experience. This is a legitimate source of knowledge, but the error is upholding it as an alternative to the Magisterium. Keenan also points out that conscience “becomes the point of departure” for revisionists, and the “locus for development of moral judgement.”<sup>413</sup> Human experience, as distinct from Church teaching authority provides moral knowledge and this moral knowledge informs the moral judgements that inform and guide conscience.

Therefore, the first school of thinking on conscience and the natural law maintains their traditional application and understanding in a Catholic context. The second school represents a clear departure from the traditional school, one that stresses the dynamic nature of the natural law, the increased autonomy of the subject’s use of conscience and the generally unwelcome problem that the teaching Magisterium represents as an impediment to a person’s autonomy and personal development. The

---

<sup>409</sup> Charles E. Curran, *Loyal Dissent: Memoir of a Catholic Theologian*, Georgetown University Press, Washington DC, 2006, 62.

<sup>410</sup> *Ibid.*, 114.

<sup>411</sup> Linda Hogan, ‘Marriage Equality, Conscience, and the Catholic Tradition’, in David E. DeCross and Kristin E. Heyer, eds, *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, Orbis Books, Maryknoll, New York, 2015, 88.

<sup>412</sup> James F. Keenan S. J., *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences*, Bloomsbury Publishing PLC, London, 2010, 88.

<sup>413</sup> *Ibid.*, 97.

second school provides a framework for a Catholic politician to draw upon to disregard his or her obligations as a Catholic in the formation of conscience and diminish recognition of the authoritative role and place of the Magisterium of the Church.

#### ***IV. Conclusion***

This Chapter has examined the importance of natural law in understanding the meaning of informing one's own conscience, as well the relationship between natural law and both the eternal law and Divine Law. For all persons, the natural law is an imprint of the eternal law in human reason, and is therefore accessible to all. The natural law represents universal binding principles that can be apprehended by all through reason to a full or partial degree. Individuals engage with irreducible propositions, such as "do good and avoid evil," and build other dependent principles and implications contingent upon them. The application of these principles are by way of practical judgement through the conscience, which forms part of human reason. The principles are immutable, universal and hold without exception.

However, the ability of conscience to apprehend the natural law accurately has been obscured due to sin and human imperfection. For the Catholic the Divine remedy has been the institution of the teaching authority of the Church, which supports conscience, providing the clarity of truth that the conscience is seeking to perceive and apply. If the Catholic holds a position that is clearly contradicted by the Church, then they ought to conform their consciences to what the Church teaches.

Catholic Parliamentarians are obliged to inform their consciences and use judgements in their determinations. However, there is a danger of the parliamentarian disregarding these and following a popular proposal despite it being inconsistent with the natural law. The application of conscience does not legitimise or justify the rejection of Church teaching, particularly in questions concerning the moral law. The role of the Catholic parliamentarian is the pursuit of the common good, which has a supernatural end, and this can never involve formal cooperation with evil. On a personal level, the Catholic parliamentarian should recognise that he or she occupies

a position of authority in society “not by their own right, but by the mandate and in the place of the Divine King.”<sup>414</sup>

The following chapter will discuss the role of the Magisterium in informing the Catholic conscience and include a discussion of how this relates to making everyday decisions as a Catholic in public life. It will then contrast this with the development in the revisionist school of moral theology and examine its characteristics in detail and study the revolt against *Humanae Vitae* in 1968 as the historic event that revealed the extent, nature and strength of the revisionist movement and the role conscience has in its framework.

---

<sup>414</sup> Pope Pius XI, *Quas Primas*, op cit. Paragraph 24.



# Chapter 3 - The Magisterium and Everyday Catholic Life

## ***Implications for Informing Conscience in Public Life***

The development in the Church's understanding of its own teaching authority, the Magisterium and the obligations of conscience in relation to it, have moved into nuanced areas since the Vatican Council during the nineteenth century. There is clarity however over the binding authority the Magisterium has in the formation of conscience and the obligations that Catholics have to both inform and conform practical judgments according to the natural law and the various clarifications that the Church may determine on certain questions. These determinations may be in a Solemn or Extraordinary form of the Magisterium,<sup>415</sup> or by the Ordinary Magisterium<sup>416</sup> that upholds the doctrine of the Church in varying circumstances. The important issue here is that the Catholic in everyday life has a duty to inform himself or herself of what the Church teaches in the areas of matters of faith and morality and adhere to them. There are different kinds of assent, as instructions from the CDF indicate in *Donum Veritatis*,<sup>417</sup> however, the common aspect is assent. The exception, however, is in the unusual and exceptional circumstances in which a Pope or bishop might digress from Catholic teaching, in which a Catholic is not bound to

---

<sup>415</sup> When Pope Pius IX defined the dogma of the Immaculate Conception it was an act of the Extraordinary Magisterium. See Pope Pius IX, *Ineffabilis Deus: On the Immaculate Conception*, 8 December 1854, <http://www.papalencyclicals.net/Pius09/p9ineff.htm> (Accessed 29 April 2015).

<sup>416</sup> When Pope Paul VI reiterated the Church's constant teaching against abortion, contraception and direct sterilization in *Humanae Vitae* it was an act of the Ordinary Magisterium: "Therefore We base Our words on the first principles of a human and Christian doctrine of marriage when We are obliged once more to declare that the direct interruption of the generative process already begun and, above all, all direct abortion, even for therapeutic reasons, are to be absolutely excluded as lawful means of regulating the number of children. Equally to be condemned, as the magisterium of the Church has affirmed on many occasions, is direct sterilization, whether of the man or of the woman, whether permanent or temporary. Similarly excluded is any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means." See Pope Paul VI, *Humanae Vitae: On the Regulation of Birth*, op. cit., Paragraph 14.

<sup>417</sup> Congregation for the Doctrine of the Faith, *Donum Veritatis: On the Ecclesial Vocation of the Theologian*, 24 May 1990, Paragraphs 23-24, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900524\\_theologian-vocation\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900524_theologian-vocation_en.html) (Accessed 23 December 2016).

follow such teaching. Opposition to error is an incumbent responsibility of all the faithful. This applies no less to Catholic Parliamentarians.

This Chapter will examine the Magisterium and how the Church itself has refined its own understanding of what comprises the teaching authority and the extent of its competence. It will also explore the role of the Magisterium in contrast to the revisionist movement in theology, which constitutes a rival system of approach to moral theology to one faithful to Apostolic Tradition, demonstrating that the revisionist argument regards authority, including the Magisterium, as unhelpful and unwelcome inhibitors to self-development and personal maturity. This Chapter will also examine the significance of the first major conflict between revisionism and the Church which occurred over the encyclical *Humanae Vitae* in 1968 and draw implications from this and what this means for the individual Catholic and the Catholic Parliamentarian.

### ***Revisionism and John Henry Newman***

I add one remark. Certainly, if I am obliged to bring religion into after-dinner toasts, (which indeed does not seem quite the thing) I shall drink—to the Pope, if you please,—still, to Conscience first, and to the Pope afterwards.<sup>418</sup>

As examined in Chapter Two of this thesis, Newman has been adopted by revisionist thinkers to support their view of conscience being independent of and unfettered by any external authority. Newman is employed to support the idea that the individual conscience is supreme and that this supremacy extends to areas of doctrine. In the area of conscience it remains critical to co-opt the pre-eminence of Newman's thinking and influence to this end. The problem is, however, that this is in fact a misuse and misrepresentation of Newman's thinking, especially in the selective

---

<sup>418</sup> Newman, John Henry, 'Letter to the Duke of Norfolk: 5. Conscience', op. cit.

citation of some of his more vivid imagery such as conscience being the aboriginal vicar of Christ and the above toast to conscience before the pope.<sup>419</sup>

In the revisionist concept of ‘the primacy of conscience’,<sup>420</sup> an individual Catholic may approach a topic, take into account competing views and then determine what is a morally good act without deference to the Magisterium.<sup>421</sup> Former graduate of the Angelicum and the Alphonsian Academy in Rome, and retired lecturer in scripture, theology and ethics at the Australian Catholic University, Brian Lewis has tried to defend the concept of the primacy of conscience by equating it with the traditional teaching of the Church on conscience as outlined in Chapter Two of this thesis. But he sees the Magisterium as supporting the primacy of conscience and not acting as a corrective to any contrary position the Catholic may seek to entertain that is at odds with Church teaching, nor does he allow for the weakness that Newman identifies with the conscience that demands a papacy as a corrective. Lewis only sees it as a prop for the primacy of conscience.<sup>422</sup> Therefore we are left with a concept of conscience that that is beholden to truth, bound to follow the “erroneous conscience,” but without any obligation to seek correction of this, especially from the Magisterium.<sup>423</sup> He therefore has not challenged the supremacy of the individual conscience for the Catholic over any binding guidance from the Magisterium. He has reinforced the original problem of the primacy of conscience, not corrected it or

---

<sup>419</sup> See discussion in Chapter Two of the etymological origin of the word “aboriginal” and an explanation of its meaning as likely to be understood by Newman in his time under the heading *Newman, Conscience, the Magisterium and the Development of ‘Primacy of Conscience*.

<sup>420</sup> Of note, not all revisionist thinkers may hold a universal understanding of conscience that is at odds with Apostolic teaching and the Magisterial custody of the same teaching, but support for this stance is not evident. This is not to say it does not exist, but at best is not forthcoming when referencing the topic. The more prominent voices that appear in this thesis are consistent in either downplaying or dismissing the role of conscience as being formed in harmony with, and conforming to, Apostolic Tradition. Future explicit differentiation from these views would be a welcome advance.

<sup>421</sup> See references to discussion in Chapter One, using Brennan, *Acting on Conscience*, op. cit. Brennan will also be discussed in this section subsequently. Other concrete examples of the role primacy of conscience plays in the public square in Australia will be found in Chapter Four of this thesis.

<sup>422</sup> “The toast to conscience must indeed have primacy over the toast to the Pope because without conscience there would not be a papacy. All power that comes from without, whether civil or ecclesiastical, is power of conscience and exists for the sake of conscience.”

In Brian Lewis, ‘The Primacy of Conscience’, in *Australian eJournal of Theology*, 6 (February 2006), 6, [http://aejt.com.au/\\_data/assets/pdf\\_file/0005/395195/AEJT\\_6.12\\_Lewis.pdf](http://aejt.com.au/_data/assets/pdf_file/0005/395195/AEJT_6.12_Lewis.pdf) (Accessed 16 October 2016).

<sup>423</sup> *Ibid.*, 6-7.

provided any genuine clarity. Primacy of conscience, as he intends it to mean, is a principle that can extend to any subject area of application to the moral law.

As set out in *Donum Veritatis*, the Magisterium does not function as “something extrinsic to Christian truth nor is it set above the faith.”<sup>424</sup> Instead it “arises directly from the economy of the faith itself, inasmuch as the Magisterium is, in its service to the Word of God, an institution positively willed by Christ as a constitutive element of His Church.”<sup>425</sup> The Magisterium “renders” a “service to Christian truth” for the benefit of all in the Church “called to enter the liberty of the truth revealed by God in Christ.”<sup>426</sup> The function of the Magisterium, then is to affirm and guard the faith of the Catholic Church for its members, and that it is not in addition to the faith as revealed by Christ, but forms an essential part of it. There is also an explicit restatement here of the crucial role of the Magisterium in protecting the faithful from erroneous teaching, “at all times and in diverse situations.”<sup>427</sup>

The document further indicates that the competence of the Magisterium extends to guarding and “loyally expounding the deposit of divine revelation.”<sup>428</sup> In this instance the document refers to Magisterial authority over contingent teachings that support the truths of faith and thereby also receive their authority from the truths of faith.

The Magisterium can make a pronouncement "in a definitive way" on propositions which, even if not contained among the truths of faith, are nonetheless intimately connected with them, in such a way, that the definitive character of such affirmations derives in the final analysis from revelation itself.<sup>429</sup>

---

<sup>424</sup> Congregation for the Doctrine of the Faith, *Donum Veritatis: On the Ecclesial Vocation of the Theologian*, op. cit., Paragraph 14. *Donum Veritatis* is extremely important in understanding how the nature of the Magisterium has increased in self-understanding since the revolt against *Humanae Vitae* in the late 1960s. It summarises and re-presents the refinements attained since the late 1960s to the time of its promulgation, hence it has been heavily relied upon in this thesis. This is not to assert, however, that such development has reached an end point.

<sup>425</sup> Ibid.

<sup>426</sup> Ibid. See also Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., Paragraph 64, where he echoes this, stating “The Church puts herself always and only at the *service of conscience*, helping it to avoid being tossed to and fro by every wind of doctrine proposed by human deceit (cf. *Eph 4:14*), and helping it not to swerve from the truth about the good of man, but rather, especially in more difficult questions, to attain the truth with certainty and to abide in it.”

<sup>427</sup> Congregation for the Doctrine of the Faith, *Donum Veritatis*, ibid.

<sup>428</sup> Ibid. Paragraph 16.

<sup>429</sup> Ibid.

The Magisterium legitimately concerns itself with the moral law, aiding believers discern acts which conform to the moral law and those that “because intrinsically evil, are incompatible with such demands.”<sup>430</sup> “It is a doctrine of faith that these moral norms can be infallibly taught by the Magisterium.”<sup>431</sup> The moral law, according to the CCC, “prescribes for man the ways, the rules of conduct that lead to the promised beatitude; it proscribes the ways of evil which turn him away from God and his love.”<sup>432</sup> The first principles are loving God, loving neighbour and not doing evil to another.<sup>433</sup>

The concern with the moral law also extends to the natural law, echoing and re-presenting a key teaching of *Humanae Vitae*<sup>434</sup> on the competence of the Magisterium in these areas.

By reason of the connection between the orders of creation and redemption and by reason of the necessity, in view of salvation, of knowing and observing the whole moral law, the competence of the Magisterium also extends to that which concerns the natural law.<sup>435</sup>

*Donum Veritatis* further stresses that the Ordinary Magisterium extends beyond the issue of “an infallible definition or in a ‘definitive’ pronouncement,” to “the proposal

---

<sup>430</sup> Ibid.

<sup>431</sup> Ibid.

<sup>432</sup> CCC, 1950, [http://www.vatican.va/archive/ENG0015/\\_P6T.HTM](http://www.vatican.va/archive/ENG0015/_P6T.HTM) (Accessed 12 December 2016).

<sup>433</sup> Ronald Lawler, OFM Cap, ‘The Love of God and Mortal Sin’, in William May, ed. *Principles of Catholic Moral Life*, Franciscan Herald Press, Chicago, Illinois, 1981, 196.

<sup>434</sup> Pope Paul VI, *Humanae Vitae: On the Regulation of Birth*, 25 July 1968, op. cit., Paragraph 4.

<sup>435</sup> Congregation for the Doctrine of the Faith, *Donum Veritatis*, op. cit. Of note, not only the featured revisionists in this thesis and the overwhelming, but not entire, thrust of the revisionist approach dissent from Magisterial teaching about its competence to decide on matters of natural law. Authors such as Frank Mobbs, who does not fit in the revisionist school, yet draws heavily from them, argues that the Magisterium should restrict itself in the scope of its authority to the revelation of Christ, denying its competence over natural law (page 301). Though a thorough evaluation of Mobbs is out of scope for this thesis, he does not appear in his work to evaluate: St Augustine’s presentation of the relationship between the eternal law and the natural law – the imprint left by the ring in man; Newman’s exposition of conscience, the natural law and the papacy in his *Letter to the Duke of Norfolk*; the significance of Christ, the Word, the Divine Logos – uncreated Wisdom, as presented in John 1, which he touches upon but does not explore (page 198), and the implications for the teaching Magisterium; the unity of origin of the natural law and explicit divine revelation and its implications; and he denies the competence for the Magisterium to define the parameters of its authority. Many of the sources he draws upon for support find a place in the revisionist school, such as Richard McCormick SJ, Bernard Häring, Hans Kung and Karl Rahner. See Frank Mobbs, *Beyond Its Authority? The Magisterium and Matters of Natural Law*, EJ Dwyer, Alexandria NSW, 1997.

of some teaching which leads to a better understanding of Revelation in matters of faith and morals and to moral directives derived from such teaching.”<sup>436</sup>

The degrees of teaching in the Magisterium are covered explicitly in Paragraphs 23-24. The first section treats the level of assent required for teachings of faith that have a divine origin, and it extends to both the Extraordinary and using the terminology from the Vatican Council, “the ordinary and universal Magisterium.”<sup>437</sup>

When the Magisterium of the Church makes an infallible pronouncement and solemnly declares that a teaching is found in Revelation, the assent called for is that of theological faith. This kind of adherence is to be given even to the teaching of the ordinary and universal Magisterium when it proposes for belief a teaching of faith as divinely revealed.<sup>438</sup>

The category of teaching authority moves to where “truths” about faith and morals are proposed “in a definitive way” by the Magisterium, “even if not divinely revealed.”<sup>439</sup> There is a contingent reason why the competence of the Magisterium extend to this area of teaching, not directly concerning Revelation, but in that it is so closely linked with Revelation that “these must be firmly accepted and held.”<sup>440</sup> From this point the document explores further the nuances and degrees of teaching within the competence of the Ordinary Magisterium.

When the Magisterium does not intend to act definitively, but to “better aid the understanding of Revelation and make explicit its contents, or to recall how some teaching is in conformity with the truths of faith, or finally to guard against ideas that are incompatible with these truths, the response called for is that of the religious submission of will and intellect.”<sup>441</sup> The response required of the faithful is to be understood “within the logic of faith and under the impulse of obedience to the faith.”<sup>442</sup>

---

<sup>436</sup> Ibid. Paragraph 17.

<sup>437</sup> Ibid. Paragraph 23.

<sup>438</sup> Ibid.

<sup>439</sup> Ibid.

<sup>440</sup> Ibid.

<sup>441</sup> Ibid.

<sup>442</sup> Ibid.

For the Catholic in everyday life, these clarifications show that there are areas beyond the questions pertaining directly to revelation that the Magisterium has an interest in teaching on, that remain within its ambit of authority in safeguarding the deposit of faith as part of Apostolic Tradition. To these the Catholic must also pay attention to and follow trustingly, and note that these still pertain to faith and morals, as distinct from other categories. These teachings, or laws, are there to be understood in tradition that is rooted in the personhood and salvific action of Christ. Each individual Catholic has a moral responsibility to work with an informed conscience, and an informed conscience takes into account Church teaching, which is what has been in discussion here. This contrasts with the claims of the revisionists.

While revisionism has already been discussed somewhat in Chapter Two, it is worthwhile to look again at its broad outlines. In his survey of the Revisionist Project, Brian Johnstone presents the concept of “Revisionist” as identifying “a particular contemporary movement and the authors who support it.”<sup>443</sup> He describes the contours of this movement.

The word is used by commentators to refer to a rather broad range of argument and opinion which has emerged, notably after the Second Vatican Council (1962-1965), which has favoured the use of new styles of moral reasoning and has supported conclusions which sometimes differ from previously held views and from official teaching of the Magisterium of the Catholic Church. According to Richard A. McCormick, SJ the change which has been taking place could be called a revolution.<sup>444</sup>

Therefore, there are two key distinguishing features of revisionist thinking according to Johnstone, using new ways of moral decision making and reaching conclusions independently from the teaching of the Magisterium. If this description is to be accepted then some implications can be drawn. There is a general starting period of the movement from the recent Council, which embraces newer approaches to

---

<sup>443</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, in *Studies in Christian Ethics*, August 1992, Vol. 5:2, 18, <http://sce.sagepub.com/content/5/2/18.full.pdf>, (Accessed 18 June 2016). See also Keenan’s work on the history of moral theology: Keenan S. J., *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences*, op cit.

<sup>444</sup> Ibid.

thinking in the area of moral theology, by way of “moral reasoning.”<sup>445</sup> Conclusions are reached from this new methodology that are at variance with the Magisterium. Some conclusions agree with the Magisterium, others do not, but the important point to grasp is that the authority of the Magisterium has no definitive sway on the methodology embraced. This is a theological approach, emerging from a Catholic context, which has severed itself from deference to the teaching authority of the Church. The approach embraced is therefore independent of the Church and McCormick refers to it as a “revolution,”<sup>446</sup> though the approach is more accurately considered as a significant departure from Catholic theology.

Johnstone defines the emergent tradition from Catholicism that characterises revisionism, not as having the same meaning as the handing over of doctrines and practices that are merely “hallowed by the past”, as he characterises what Apostolic Tradition<sup>447</sup> may be, but tradition in the revisionist meaning is simply “continued rational argument.”<sup>448</sup> This new meaning of tradition has the ability to change over time to meet the challenge of an ‘epistemological crisis’, occurring when “a tradition-constituted inquiry, by its own standards, becomes unable to make further progress.”<sup>449</sup> By this he refers to argument and inquiry methods that had become sterile and incapable of meeting the challenges new questions bring. At this point it becomes necessary to shift to new frameworks of thinking, understanding and explaining, or “paradigms.”<sup>450</sup> The requirement of the “continuing search for truth” demands this shift.<sup>451</sup> By way of correction, however, Pope John Paul II addressed the issue concerning the necessary role of the Magisterium in providing guidance to help lead man to all truth, against the claims of an autonomy of reason. as discussed in Chapter Two of this thesis in reference to *Veritatis Splendor*.<sup>452</sup>

Notably, the revisionist movement began within the tradition of Catholic theology and despite this it represents a digression from within the same tradition. The self-reliant rationalism, “continued rational argument,” inherent in the new meaning

---

<sup>445</sup> Ibid.

<sup>446</sup> Ibid.

<sup>447</sup> See *Key Concepts* Section preceding Chapter One.

<sup>448</sup> Johnstone, op., cit., 19.

<sup>449</sup> Ibid.

<sup>450</sup> Ibid., 19-20.

<sup>451</sup> Ibid.

<sup>452</sup> See for example Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., Paragraph 37.



given to the term ‘tradition’ provides a clue to the possible reasons for this. However, the theoretical factors that influenced the composition and development of revisionism are generally out of scope for this thesis.

The revisionist project addresses itself to “a clearer exposition of a theological vision and its relation to the other zones of inquiry.”<sup>453</sup> Revisionism sought to redress the “detachment of moral theology from a fundamental Christian vision, particularly as provided by the Scriptures.”<sup>454</sup> This was acknowledged by the Second Vatican Council and Johnstone pays particular tribute to the work of Bernard Häring to “relate the Bible to moral theology, and to deal with all questions of moral theology in the light of fundamental, theological concerns.”<sup>455</sup>

Johnstone is careful to note that the revisionist treatment of ecclesiology, focusing upon the community that embodies a particular tradition and the “institutionalised processes for settling controversies and deciding on authoritative teaching and discipline” is not “the same thing as a rejection of the authority of the Magisterium.”<sup>456</sup> This is difficult to sustain given the freedom implicit in the revisionist project not to be bound to Magisterial teaching. The concept of tradition has changed, as has the notion of ecclesiology, now focused on the community in which a tradition is followed, rather than the tradition itself, especially in the Apostolic sense. In the context of this thesis, the Catholic parliamentarian that claims to be within a tradition, as distinct from following Apostolic Tradition, is rejecting the same Apostolic Tradition as binding upon him or her. The action amounts to a rejection of Catholicism, but the parliamentarian may not fully realise it, as the revisionist theological outlook purports to be a legitimate aspect of Catholicism, only different in some respects. This is an example of how deeply problematic this area of theology is.

A more recent development from within revisionism can be considered in light of Pope Francis’s encyclical *Laudato Si*, which can be considered through the work of Australian theologian Daniel Fleming, who focuses on how conscience is formed within local communities using recent developments in neurobiology understanding

---

<sup>453</sup> Johnstone, op., cit., 20.

<sup>454</sup> Ibid.

<sup>455</sup> Ibid.

<sup>456</sup> Ibid., 22.

human choices.<sup>457</sup> He explores how new developments in the sciences can help Catholic theological ethics education form consciences within various communities, particularly in schools and at tertiary levels of education.<sup>458</sup> To his credit, he seeks to improve the methodology of communication so Magisterial teaching will not “fall on deaf ears.”<sup>459</sup> Fleming discusses knowledge about ethics and commitment to ethical responsibility of which both “are required in the formation of conscience.”<sup>460</sup> Fleming cites the authority of the CCC, statements by Pope John Paul II and Pope Francis about how the Church calls for the task of the education of Conscience.<sup>461</sup> He cites and argues consistently with Paragraph 1784 of the CCC which discusses the need for the “lifelong task” of the education of conscience to help “the child to the knowledge and practice of the interior law recognised by conscience.”<sup>462</sup> He cites *Veritatis Splendor* Paragraph 64 in stressing that “the Church puts herself always and only at the *service of conscience*” but relates it to the section of Paragraph 1784 of the CCC that states:

Prudent education teaches virtue; it prevents or cures fear, selfishness and pride, resentment arising from guilt, and feelings of complacency, born of human weakness and faults. The education of the conscience guarantees freedom and engenders peace of heart.<sup>463</sup>

Importantly, he links the formation of conscience to the teaching of virtue, and from *Veritatis Splendor* Paragraph 64, he also stresses the responsibility for the formation of conscience rests with the individual and that this must be done “with due attention to the teaching of the Church.”<sup>464</sup> Not mentioned from Paragraph 64, however, is the stress upon the importance of truth and the role the Magisterium has in defending and teaching what pertains to the true and the good where it “is the ‘heart’ converted to the Lord and to the love of what is good which is really the source of *true*

---

<sup>457</sup> Daniel J. Fleming, ‘From Theory to Praxis: Challenges and Insights for Conscience Formation Today’, in Yiu Sing Lúcas Chan, James F Keenan, and Shaji George Kochuthara eds, *Doing Asian Theological Ethics in a Cross-Cultural and Interreligious Context*, Dharmaram Publications, Dharmaram College, Bengaluru, India, 2016, 295-298.

<sup>458</sup> *Ibid.*, 302.

<sup>459</sup> *Ibid.*, 294.

<sup>460</sup> *Ibid.*, 304.

<sup>461</sup> *Ibid.*, 292-294.

<sup>462</sup> *Ibid.*, 292-293.

<sup>463</sup> *Ibid.*, 293.

<sup>464</sup> *Ibid.*, 294.

judgments of conscience.”<sup>465</sup> After all, the Church’s “charge is to announce and teach authentically that truth which is Christ, and at the same time with her authority to declare and confirm the principles of the moral order which derive from human nature itself”<sup>466</sup> and that this “in no way undermines the freedom of conscience of Christians.”<sup>467</sup> Hence what Fleming says is correct, but the sections of Paragraph 64 he cites lack the teeth of the remainder of the same Paragraph in terms of the role of truth and the decisive role the Magisterium has in defining and reinforcing this.

Fleming discusses *Laudato Si'*, claiming that it has a similar emphasis to CCC Paragraph 1784 concerning “conscience formation in responding to the various moral issues the encyclical raises, with the final chapter devoted to calls for more robust moral education including some practical suggestions for this.”<sup>468</sup> Fleming summarises the argument as being “unless there is a shift from theoretical observations to some form of moral conversion, the quality of response to the various crises the encyclical focuses on is severely impaired.”<sup>469</sup> Hence, the Magisterium is cited to mandate Fleming’s project, but his efforts are primarily directed to guide and advise others in ways consistent with magisterial teaching but not reliant upon it. He is seeking ways to assist the formation of consciences that are based upon current scientific knowledge, also seeing a legitimate role for the evaluation of emotion and human experience. Insofar as this is consistent with Magisterial teaching, it can serve a good purpose.

As is apparent from Johnstone’s overview, the key “paradigm shift” that occurs in moral theology in the revisionist project is the shift, or “transition” from the paradigm of law to the paradigm of the person.<sup>470</sup> Johnstone sees the “paradigm of law” as being constructed in the Seventeenth Century. The vision guiding the paradigm of law “is of God who rules all by will, expressed in law.”<sup>471</sup> In the paradigm of law, the “moral life is envisioned as setting oneself in appropriate relationship to law, through obedience expressed in free acts.”<sup>472</sup> Conscience, in this

---

<sup>465</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., Paragraph 64.

<sup>466</sup> Ibid.

<sup>467</sup> Ibid.

<sup>468</sup> Fleming, op. cit., 23.

<sup>469</sup> Ibid.

<sup>470</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, op. cit., 25.

<sup>471</sup> Ibid.

<sup>472</sup> Ibid

case, acts like a judge above the parties of law and freedom, determining what the limits of law are and the relative extent of liberty. The revisionist project sees the paradigm of law use the “language of law” and pastoral action is expressed by “legal control and sanction” where the “fundamental question is: what is lawful? Sin is the breaking of a law.”<sup>473</sup> Given this characterisation, the labelling of those who seek to follow the Moral Law and be guided by the teaching authority of the Church, in understanding the Moral Law, as legalist or rigorist is a small step.

In contrast to the “paradigm of law” is the “paradigm of the person.”<sup>474</sup> The paradigm of the person is guided by the vision of God relating to humanity “as person to person”<sup>475</sup> and “invokes intimacy, friendship, (and) compassion.”<sup>476</sup> Language, the moral life and pastoral action centre upon the concept of “personal relationship” and the Holy Trinity is viewed as “the origin of personal relationships.”<sup>477</sup> Instead of abstract questions of law, which serves to place the new concept in sharper relief, in this paradigm the “fundamental question is: how do I enter into and sustain authentic personal relationships. Sin is broken relationship.”<sup>478</sup> With sin now being “broken relationship,” the nature of sin becomes relative to the level and value of the relationship being broken, rather than a clear understanding of the concept of transgression. A person could violate a teaching or moral precept in some cases and claim not to be breaking a relationship in the process.

Sin, however, is a broken relationship with God, but this is not Johnstone’s focus. What Johnstone is focusing on is a subjective understanding of the breaking of relationships between persons. He posits a naturalistic concept of sin, rather than an emphasis on the violation of objective Law, the separating of oneself from God. The sense of wrongdoing, of “broken relationship” can also be perceived by the individual conscience through knowledge of having transgressed the natural law, and this applies to all persons. For the Catholic believer, however, this also is an

---

<sup>473</sup> Ibid.

<sup>474</sup> Ibid.

<sup>475</sup> Ibid.

<sup>476</sup> Ibid.

<sup>477</sup> Ibid.

<sup>478</sup> Ibid.

acknowledged transgression of Divine Law in recognising the supernatural context of the action.

Complementing Johnstone's naturalistic focus is the concept of the fundamental option, which is explained by theologian Bernard Häring as where man "is thoroughly seen in dependence on God, the ultimate origin, and called to give his response to God by the whole orientation of his/her life towards God as the ultimate end."<sup>479</sup> There can be, however, a fundamental option against God, and this is characterised by some mortal sins, though mortal sin is given a relative interpretation.<sup>480</sup> Häring acknowledges that "there are moments in a person's history when a concrete act may reverse the fundamental option."<sup>481</sup> He argues that "there can be no mortal sin without a fundamental option or intention to that turns one's basic freedom towards evil."<sup>482</sup> This statement supports an earlier one where he identifies the correct understanding of the fundamental option "where the option for good and for God is not uprooted, there is no mortal sin even though there can be no grave sin."<sup>483</sup> In *Veritatis Splendor*, Pope John Paul II is a critic of this idea. Rather than an overall direction or selected "option" characterising the morality of individual acts, he stresses that "negative moral precepts, those prohibiting certain concrete actions or kinds of behaviour as intrinsically evil, do not allow for any legitimate exception. They do not leave room, in any morally acceptable way, for the "creativity" of any contrary determination whatsoever. Once the moral species of an action prohibited by a universal rule is concretely recognized, the only morally good act is that of obeying the moral law and of refraining from the action which it forbids."<sup>484</sup> Hence Pope John Paul II identifies the same flaw that characterises Johnstone's work insofar as it deflects from the violation of objective Law, which constitutes the separating of oneself from God that can occur in and of itself in a single act.

---

<sup>479</sup> Bernard Häring C.S.S.R., *Free and Faithful in Christ: Moral Theology For Priests and laity: Volume I General Moral Theology*, St Paul Publications, Homebush NSW, 1978, 164.

<sup>480</sup> *Ibid.*, 213-214.

<sup>481</sup> *Ibid.*, 213.

<sup>482</sup> *Ibid.*, 215.

<sup>483</sup> *Ibid.*, 214.

<sup>484</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, Paragraph 67, op. cit.

The difficulty with these characterisations of the “paradigm of law” and the “paradigm of the person”<sup>485</sup> is that they are, in essence caricatures and thereby reductionist in their capacity to be applied. All questions must be refracted through these prisms of perception and thought, compartmentalised and either dismissed or approved of as criteria is met or unmet. In these characterisations, which are oversimplifications, there are echoes of the oversimplifications in a Marxist outlook, where everything is seen through the lens of class struggle and the revolutionary law of history, or also in those kinds of feminism that offer an overly-simplistic account of a “patriarchy” that serves as the cause for all of society’s ills. Instead of these characterisations, the authentic lens for the traditional understanding of the moral law lies in the Magisterium as the upholder of Apostolic Tradition. However, in the revisionist perspective repeatedly presented by prominent authors in this thesis anything that may require adherence to the moral law as an absolute can be claimed to belong to the “paradigm of law” and easily dismissed.<sup>486</sup>

To a great degree this is what happened. The manifestation of the “paradigm of law” is found in the tradition of the manuals of moral theology. This concept will be explored further in this Chapter, with particular reference to the work of Charles Curran. Johnstone remarks that the manuals of theology were a “certain ‘style’ of doing moral theology.”<sup>487</sup> In describing the system that the revisionist project transitions from, the “paradigm of law,”<sup>488</sup> what may be presented as characterising it can be collectively downplayed, dismissed and potentially disparaged.

This was a combination of a benign religious conception of God and the divine-human relationships, with a way of moral reasoning. Since the practitioners were still working within the paradigm of law, they insisted on maintaining the integrity of the system of moral laws. The system was codified in the manuals of moral theology.<sup>489</sup>

---

<sup>485</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, op. cit., 25.

<sup>486</sup> Any explicit, public declaration to the contrary by a revisionist scholar who rejects the rebellious and dissident thrust of the revisionist movement in general would be welcome. Evidence challenging this standard outlook presented in revisionist literature needs to be forthcoming.

<sup>487</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, 27.

<sup>488</sup> Ibid., 25.

<sup>489</sup> Ibid., 27.

To maintain the “integrity of the system of moral laws”, the practitioners, existing within a “paradigm of law,”<sup>490</sup> expressed this system in the “manuals of moral theology.”<sup>491</sup> However, the application of the principles of moral law into “pastoral counselling” was found “strained,” a source of “dissatisfaction” and “bordering...on sophistry” against “the face of concrete human experience.”<sup>492</sup> The inadequacy of the “paradigm of law”<sup>493</sup> could not meet the newly perceived needs of “concrete human experience.”<sup>494</sup> Hence its rationale is eclipsed. This rationale reveals the misuse of personal experience as an authority as it eclipses the claims of the moral law upon persons. There could be better ways to apply the same law, but it appears to have been considered inadequate in its entirety and therefore in its entirety rejected, including the binding authority of the moral law.

### ***The Development of Revisionist Moral Theology***

The conspectus of the development in Revisionist Moral Theology will now be traced using two theologians, James F Keenan SJ<sup>495</sup> and Linda Hogan.<sup>496</sup>

James Keenan SJ frames the development of moral theology as influenced by the language of the search for moral truth, which is “categorically expressed differently in different periods of time and place.”<sup>497</sup> The contextualising of moral theology as determined by time and place is reinforced by the explanation of the nature of moral theology as “responding to the practical challenges of each period of history.”<sup>498</sup> The constant, however, lies in moral theology itself, “the overarching concept about the Church’s moral response to Christ.”<sup>499</sup> Having established that the response of moral theology can change relative to time, location and circumstance, he explains how from the sixteenth to the twentieth centuries, the system of theological manuals

---

<sup>490</sup> Ibid., 25.

<sup>491</sup> Ibid., 27.

<sup>492</sup> Ibid.

<sup>493</sup> Ibid., 25.

<sup>494</sup> Ibid., 27.

<sup>495</sup> James F. Keenan S. J., *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences*, op. cit.

<sup>496</sup> Linda Hogan, *Confronting the Truth: Conscience in the Catholic Tradition*, op. cit.

<sup>497</sup> James F. Keenan S. J., *A History of Catholic Moral Theology in the Twentieth Century*, op. cit., 5.

<sup>498</sup> Ibid., 6.

<sup>499</sup> Ibid., 5.

taught what a morally upright stance was, and how to avoid sin, while in the twentieth century the Revisionists proposed that through Charity we become disciples of Christ.<sup>500</sup> He has established a framework to justify rejection of the manual system of moral theology, and contingent themes and principles, while extolling the merits of the new.

### **The Manual System of Moral Theology**

There are legitimate criticisms of the structure of the manuals and of ways of undertaking moral theology that were limited to their use. However, as guides for priests in the confessionals, the use of the manual system served a need in the life of the Church. It does not mean, however, that other potentials are not explored or cannot be developed as well. This is a situation of improving an existing methodology, while concurrently developing others. The situation can easily be a question of “both and”, rather than “either or.” Further investigation into the nature of the revisionist project, however, reveals its requirement for a “paradigm shift”<sup>501</sup> in approach to moral theology. Revisionism creates an alternate framework and outlook of moral theology which has resulted in an alternate and competing view of conscience. This result, however, was never necessary in undertaking an effective critique of the manualist system and approach to moral theology.

For Keenan, the authors of the theological manuals saw that the role of the moral theologian was to assist the priest in the confessional.<sup>502</sup> Importantly, he observed, these “were not designed to help one become a disciple (of Christ), but rather to keep a penitent from being lost forever.”<sup>503</sup> The examination of the attitude of the revisionists towards the manuals, the embodiment of the “paradigm of law”,<sup>504</sup> helps to understand the nature of their “paradigm shift”<sup>505</sup> in their theological approach. This examination will also help to understand what is now considered unacceptable

---

<sup>500</sup> Ibid.

<sup>501</sup> Ibid., 25.

<sup>502</sup> Ibid., 11.

<sup>503</sup> Ibid., 12.

<sup>504</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, op. cit., 25.

<sup>505</sup> Ibid.



to the “paradigm of the person”<sup>506</sup> and will assist to reveal what part of the constant teachings of the Church has been rejected and why.

Keenan explains that differing manualist authors operated on a system of probalism, where both the lay person and the priest were free in conscience “to accept any opinion so long as it was well-argued and from an authoritative source.”<sup>507</sup> Probalism is a way of evaluating differing degrees of opinion about moral acts during uncertainty. A person could make a legitimate choice between respected manualists with a credible argument. Interpretations of moral actions remained strict, “unless a weightier argument could be made for a more lenient interpretation.”<sup>508</sup>

In evaluating the work of Henry Davis SJ, author of the work *Moral and Pastoral Theology*,<sup>509</sup> Keenan discusses Davis’ developing approach to moral theology through the eight editions of his work.<sup>510</sup> Davis’ work is not beyond critical evaluation, but is of interest in where Keenan targets his investigations. Keenan observes that Davis includes the teachings based on new papal documents and statements, and developments in Canon Law. In addition he focuses upon Davis’ contributions on conscience. He is critical of Davis’ a-historical approach to the natural law, regarding it as “invariable and universal,” and highlights Davis’ following of the traditional teaching and understanding of the natural law, especially of the natural law being the participation of the “rational creature in the Eternal Law.”<sup>511</sup>

Keenan uses his critique of Davis to demonstrate the inadequacy of the manualist system. In referencing Davis’ reliance upon eternal principles based upon “God-given natural rights” and applying them to particular cases, Keenan describes this as “legalism.”<sup>512</sup> This legalism was “a way of discerning right from wrong.”<sup>513</sup> This is Johnstone’s “paradigm of law.”<sup>514</sup> The inadequacy of this legalism was that the

---

<sup>506</sup> Ibid.

<sup>507</sup> Keenan, op. cit., 13.

<sup>508</sup> Ibid., 14.

<sup>509</sup> Henry Davis SJ., *Moral and Pastoral Theology*, in Four Volumes, Seventh Edition, Sheed and Ward, New York, 1958.

<sup>510</sup> Keenan, op. cit., 18-25.

<sup>511</sup> Ibid., 21.

<sup>512</sup> Ibid., 25.

<sup>513</sup> Ibid.

<sup>514</sup> Ibid.

“system of laws was rooted in a metaphysical world, distinct from the ambiguities and apparent contradictions of everyday ordinary life.”<sup>515</sup> Keenan’s problem is more so with a “universal law that never changes”<sup>516</sup> than the accurate or otherwise application of the law by any manualist. He reveals that his problem is with an unchanging universal law when he discusses how the manualist applies the law in new cases “but the law remained intact.”<sup>517</sup> The “probable certitude” of the applications of the universal law into the new cases by the manualist was based on these universal and unchanging principles.<sup>518</sup> The suggestion is fair, therefore, to claim that were the method something other than the manualist, but that it also sought to apply the “universal law that never changes,”<sup>519</sup> it also would be considered inadequate and need to be replaced. This also indicates a critical confusion that exists within revisionism, where the unchanging principles of the moral law are confused with a lack of subtlety and personal relevance in the prescriptions of the moral law that appear in the older theological manuals.

The frustration with unchanging principles exists on the basis that it, the manualist approach, does not admit new principles. Keenan cites the new principle of the “intrinsic dignity of human life”<sup>520</sup> as incompatible with manualist thinking nor clearly present there. Keenan is not correct to characterise this as a new principle as; the natural law principle of doing no harm, the Commandment “Thou Shalt not kill,” the teaching about Baptism bringing the baptised into Divine Sonship to which all have the capacity to enter into, and the traditional teaching about the rational capacity to participate in the Divine Law and the eternal law via the natural law are already well established. Using the manualist Henry Davis SJ, whom Keenan critically evaluates,<sup>521</sup> we find in the exposition of the natural law the importance of the first precept where “good is to be done and evil avoided” applied to the order of precedence in the precepts of natural law where “a man first of all has a natural

---

<sup>515</sup> Ibid.

<sup>516</sup> Ibid.

<sup>517</sup> Ibid.

<sup>518</sup> Ibid.

<sup>519</sup> Ibid.

<sup>520</sup> Ibid.

<sup>521</sup> Ibid., 18-25.

inclination to preserve his life.”<sup>522</sup> In teaching about the Fifth Commandment, Thou Shalt not kill, Davis explains that in presenting this Commandment affirmatively “this precept commands us to preserve our own lives and the lives of those whose temporal care is committed to us.”<sup>523</sup> Davis further explains that though the natural law “man enjoys the use not the dominion of his life,”<sup>524</sup> because “God only is the Author of life,”<sup>525</sup> thus identifying the basis of inherent human dignity. As an effect of Baptism, Davis lists: “Aggregation to the kingdom of Christ, incorporation in the mystical body of Christ, spiritual regeneration to divine sonship.”<sup>526</sup> Davis does not elaborate on the significance of participation in divine sonship, which would have been beneficial, but it is present. On the rational capacity of individuals to participate in the eternal law he states that “the rational creature,” the individual person, “has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the Natural Law.”<sup>527</sup> From these explanations it is possible to infer that the principle of “intrinsic dignity of human life”<sup>528</sup> was clearly present in the manualist tradition, is in direct harmony with it, though despite not being expressed in these exact terms. Keenan is rewriting history from the perspective of the victor. The question, therefore, is about realisation and refined understanding of the particular teaching. The manualist writer may not have used the expression “intrinsic dignity of human life,”<sup>529</sup> but the ingredients to make such a determination were present, irrespective of the criticisms of the form in which these were presented.

Certainty, clarity and conforming to natural law appear characteristic of the rejection of the manualist systems, as seen for example, in discussion of the focus of the manuals by Linda Hogan. She expressed concerns that the manuals “focused on the

---

<sup>522</sup> Henry Davis SJ, *Moral and Pastoral Theology in Four Volumes: Volume One: Human Acts, Law, Sin, Virtue*, Fourth Edition, Sheed and Ward, London, 1943, 126. The 1943 edition is used for reasons of accessibility.

<sup>523</sup> Henry Davis SJ, *Moral and Pastoral Theology in Four Volumes: Volume Two: Commandments of God Precepts of the Church*, Fourth Edition, Sheed and Ward, London, 1943, 141.

<sup>524</sup> Ibid

<sup>525</sup> Ibid.

<sup>526</sup> Henry Davis SJ, *Moral and Pastoral Theology in Four Volumes: Volume Three: The Sacraments in General, Baptism, Confirmation, Holy Eucharist, Penance, Indulgences, Censures*, Fourth Edition, Sheed and Ward, London, 1943, 40.

<sup>527</sup> Henry Davis SJ, *Moral and Pastoral Theology in Four Volumes: Volume One*, op. cit., 124.

<sup>528</sup> Keenan, op. cit., 25.

<sup>529</sup> Ibid. 25.

acts themselves rather than on any other features of the situation.”<sup>530</sup> Additionally, Hogan casts the categorisation in the manuals of the kinds of sins according to the violation of their virtues, the Commandments, and the sacraments in canon law context in a negative light because the manuals frame “morality entirely in a penitential context.”<sup>531</sup>

Her evaluation of the treatment of conscience by the manualists sets it in a context of legalism. She criticises this treatment of conscience in this period because “conscience was not interpreted as expressing an autonomy in the moral realm.”<sup>532</sup> The autonomy of conscience to determine what is morally right is desired independently of a “legalistic framework.”<sup>533</sup> She criticises the manualist tradition because “the parameters of morally acceptable behaviour were already delineated by church law.”<sup>534</sup> The Church, therefore, and its insistence upon the competence of its Magisterial authority is associated with the manualist tradition and is viewed as an impediment to individual autonomy. In short, the Magisterium and the full authority that it claims for itself is unwelcome and not a part of the revisionist project.

She reinforces this perspective by juxtaposing a conflict between the “objective and subjective poles of morality, between divine law and conscience.”<sup>535</sup> There is no conflict, as the exposition of Newman on the subject of conscience has demonstrated. Law, however, Hogan posits is a threat to freedom.

Ultimate responsibility for ethical decisions is located with the person.  
Yet, the boundaries of ethical inquiry are drawn very tightly by the law.  
Law limits the scope of moral questioning.<sup>536</sup>

For Hogan, “conscience of the manuals had the rhetoric of autonomy, but without the freedom.”<sup>537</sup>

---

<sup>530</sup> Hogan, op. cit., 97.

<sup>531</sup> Ibid.

<sup>532</sup> Ibid.

<sup>533</sup> Ibid.

<sup>534</sup> Ibid.

<sup>535</sup> Ibid., 98.

<sup>536</sup> Ibid.

<sup>537</sup> Ibid.

Reviewing the manual system of the 1940s and 1950s that was eclipsed, Richard McCormick SJ writes that “Concretely, it was all too often one-sidedly confession-oriented, magisterium-dominated, canon law-related, sin-centered, and seminary-controlled. In many books and articles Bernard Häring has excoriated this as “legalism.””<sup>538</sup> Keenan also concludes that the “metaphysical foundations of the moral manuals undermined our ability to witness to the way moral truths and their norms are developed, shaped and received.”<sup>539</sup>

The breakthrough from the manualist system of thinking and undertaking moral theology was achieved by Bernard Häring during the 1950s. From this turning point, Keenan celebrates in stating that there are “new foundational premises, or expanded older ones,” the promotion of “new truths, new values, new virtues, new self-understanding and even new norms.”<sup>540</sup>

Keenan then identifies four of these “new values” and examines them. These are sanctity of life, consistent life ethics, the preferential option for the poor and solidarity.<sup>541</sup> A detailed examination of these is beyond the scope of this thesis, however some of these are extensions of known principles, such as the sanctity of life, and others such as the preferential option for the poor, though encouraged, have cautions attached to them by the Magisterium.<sup>542</sup> These “new values” are more in the category of the expanded older premises. That they are hailed as new, and that there

---

<sup>538</sup> Richard A. McCormick SJ, ‘Moral Theology 1940-1989: An Overview’, in *Theological Studies*, 50, 1989, 3, <http://cdn.theologicalstudies.net/50/50.1/50.1.1.pdf> (Accessed 31 October 2016). Also cited in Keenan, op. cit., 83.

<sup>539</sup> *Ibid.*, 84.

<sup>540</sup> *Ibid.*

<sup>541</sup> *Ibid.*

<sup>542</sup> See for example:

But the “theologies of liberation”, which reserve credit for restoring to a place of honor the great texts of the prophets and of the Gospel in defense of the poor, go on to a disastrous confusion between the ‘poor’ of the Scripture and the ‘proletariat’ of Marx. In this way they pervert the Christian meaning of the poor, and they transform the fight for the rights of the poor into a class fight within the ideological perspective of the class struggle. For them the ‘Church of the poor’ signifies the Church of the class which has become aware of the requirements of the revolutionary struggle as a step toward liberation and which celebrates this liberation in its liturgy.’

Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the “Theology Of Liberation”*, 6 August 1984, IX.10, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19840806\\_theology-liberation\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19840806_theology-liberation_en.html) (Accessed 31 October 2016).

are a range of new developments indicate a re-creation of something without precedent, rather than some kind of organic growth from prior understandings.

Revisionist theology representatives also claim to have made progress in the development of moral theology by incorporating contemporary human experience into their work. It “differentiates the reformers from the moral manualists.”<sup>543</sup>

Richard McCormick claims that “we now are more aware than ever that one of the richest and most indispensable sources of moral knowledge is human experience and reflection. To be ignorant of it or to neglect it is to doom moral theology to irrelevance and triviality.”<sup>544</sup> There is however, wisdom to be gained from human experience, but in and of itself it is no sure guide. Experiences are not definitive and the subjective experience of one can vary from another, just as rationalisations from human experience need not conform to the natural law.

### **The Role of Bernard Häring and the Second Vatican Council**

The role of Bernard Häring shifting moral theology away from the manual system is decisive.<sup>545</sup> In addition to the critique he made of the limitations of the manual system, he adds the necessity of orienting moral theology “towards a notion of moral truth that could be realized from the depths of persons.”<sup>546</sup> Truth can be known and revealed “through profound life experiences,” where Bernard Häring “found that truth not primarily in what persons said, but in how they acted and lived.”<sup>547</sup> Häring himself states that a “sincere conscience is, for everyone, the supreme authority under God.”<sup>548</sup> He adds that our “conscience does not receive so much light and impulse from abstract laws as from the exemplary person who lives truthfully under the authority of his conscience and respects wholly the conscience of others.”<sup>549</sup> In keeping with his reorientation of the sources of authority emanating from persons, the “hierarchical authority” must also unite with the theologians, who “are, together,

---

<sup>543</sup> Keenan, op. cit., 88.

<sup>544</sup> Richard A. McCormick, SJ, ‘Moral Theology 1940-1989: An Overview’, op. cit., 20.

<sup>545</sup> Keenan, op. cit., 91.

<sup>546</sup> Ibid., 89.

<sup>547</sup> Ibid.

<sup>548</sup> Bernard Häring C.S.S.R., *Free and Faithful in Christ*, op. cit., 282.

<sup>549</sup> Ibid.

leaders and learners in a pilgrim Church.”<sup>550</sup> Listening to the people has become a key criterion for the legitimacy of the leadership of the pope, bishops and theologians.<sup>551</sup> Häring is resolute when he declares that “Nobody possesses a monopoly of truth, and nobody can hope to be inspired by the Spirit unless he honors the Holy Spirit who works in all and for all.”<sup>552</sup> This is a profound shift towards individual sovereignty as a key component or source for the legitimacy of proper ecclesiastical authority, which thereby incorporates a purely subjective component subject to inconsistencies inherent in human limitation. In consequence, what Häring has identified can shift from person to person, from group to group, and can be deliberately constructed to produce a desired result by the parameters used in selection and identification of a predefined group.

Much can be learned from personal experience, but it should not be characterised as rival or replacement of the authority of the Magisterium. If genuine determinations can be made from case examples of personal experience, while not upholding these determinations as an alternate authority to what the Church teaches, then it presents an additional source of knowledge that can be used in harmony with Church teaching and authority. However a potential misuse of knowledge gained from the analysis of human experience is when it is set against Church teaching, or is established as an alternate authority to the Magisterium of the Church. Thus the theological misuse of personal experience may become a rival and alternative to the Magisterium, and subjectivises the nature of interpretation of what the individual may perceive to be the Moral Law. It becomes an elevation of the subjective perception to the definitive authority of interpretation and behaviour.

A prime historic example of the effect of the theological misuse of personal experience is found in the example of Father Josef Fuchs (1912-2005), who was a German Jesuit teaching at the Gregorian University in Rome and who played an important role in the Birth Control Commission as established by Pope John XXIII.<sup>553</sup> Fuchs himself was appointed by Paul VI to the commission as the new pope sought to counterbalance moves by sitting members to change the Church’s

---

<sup>550</sup> Ibid., 283.

<sup>551</sup> Ibid.

<sup>552</sup> Ibid.

<sup>553</sup> This Commission will be discussed in more detail later in this Chapter.

teaching on birth control. According to Keenan, “Fuchs began listening to the testimony of married couples and eventually abandoned his conviction that moral truth was founded necessarily and primarily in long-held norms articulated by the magisterium.”<sup>554</sup> From this point of change of orientation to the case example rather than the magisterium, he saw that the testimonies of married couples demonstrated that they understood that the “various claims on them was more comprehensive and more adequate than the general teachings of Rome.”<sup>555</sup> For Fuchs, from this finding he “acknowledged here that one found moral truth through the discernment of an informed conscience confronting reality.”<sup>556</sup> This also assists in explaining the unwelcome regard that is held towards the Magisterium, as revealed in the statements by Linda Hogan.<sup>557</sup>

Keenan points out that in the three volume landmark work by Bernard Häring, *The Law of Christ*, Häring stresses what the essence of moral theology should be. Häring says:

The principle, the norm, the center, and the goal of Christian Moral Theology is Christ. The law of the Christian is Christ Himself in Person. He alone is our Lord, our Saviour. In Him we have life and therefore also the law of our life. Christian life may not be viewed solely from the point of formal enactment of law and not even primarily from the standpoint of the imperative of the divine will. We must always view it from the point of view of the divine bounty: God wills to give himself to us.<sup>558</sup>

There exists in these lofty statements a shift away from law and a reduction in its emphasis. A reemphasis on the following of Christ, as rightly should be done, makes this easier. This, however, is juxtaposed with what had been occurring previously. Was there an absence of emphasis on Christ? There was, apparently, from the nature of the criticism a lesser emphasis on Christ, which needed rectification. What should not be forgotten, however, that in having the renewed focus of moral theology on

---

<sup>554</sup> Keenan, op. cit., 120.

<sup>555</sup> Ibid., 121.

<sup>556</sup> Ibid.

<sup>557</sup> Hogan, op. cit., 171.

<sup>558</sup> Bernard Häring, C.S.S.R., *The Law of Christ: Moral Theology for Priests and Laity - Volume One: General Moral Theology*, translated by Edwin G. Kaiser C.P.P.S., The Mercier Press, Cork, Ireland, 1961, vii.



Christ Himself, are His own words when He says “If you love me, you will keep my commandments”<sup>559</sup> and “He who has my commandments and keeps them, he it is who loves me; and he who loves me will be loved by my Father, and I will love him and manifest myself to him.”<sup>560</sup> What are commandments if not laws? Christ has made this statement twice in the same passage of St John’s Gospel. Following God’s Law, therefore, is the definitive test of an individual’s love for God, consistent with the man who is “blessed” who “delights in the law of the Lord” in Psalm 1.<sup>561</sup>

Keenan observes that from this renewed foundation of moral theology in Christ, Häring identifies the “true basis of morality” as human freedom and this freedom “depends on our knowledge of God, the development of our consciences and the realization through action of our responsibility.”<sup>562</sup> This is a significant shift and is Chapter Four of Häring’s first volume.<sup>563</sup> Under the subsection *Human freedom as Basis of Morality* Häring states that;

Freedom exists only in those profound depths of personality where the convictions are formed and positions taken, accepting the divine summons or revolting against it. In essence freedom is the power to do good.<sup>564</sup>

What Häring has done, and revisionists follow, is the relocation of the source of morality to the individual self, as the characteristic of freedom is located in the self and not outside of the self. Certainly there is the response to Christ, the conformance to Christ’s freedom, but it originates in this aspect of the self, first and foremost. With the achievement of that shift from engagement with the natural law and the following of it, and the established references to deference to the Magisterium as already covered in this thesis, the elevation of the self’s role as foundational will not

---

<sup>559</sup> John 14:15, *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway, <https://www.biblegateway.com/passage/?search=john+14&version=RSVCE> (Accessed 11 December 2016).

<sup>560</sup> John 14:21, in *ibid.*

<sup>561</sup> Psalm 1, *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway, <https://www.biblegateway.com/passage/?search=Psalm+1&version=RSVCE> (Accessed 21 November 2016).

<sup>562</sup> Keenan, *op. cit.*, 91.

<sup>563</sup> Häring, *op. cit.*, 99-223.

<sup>564</sup> *Ibid.*, 99.

welcome a rival. This shift is a refined level of seduction. Not for nothing does McCormick refer to this paradigm shift as a “revolution.”<sup>565</sup>

Keenan observes that the realisation of that human freedom Häring identifies as the true basis of morality includes the development of our consciences.<sup>566</sup> Conscience is “the voice of God that we must obey in freedom. We need to form our consciences and, generally speaking, ought to observe the claims of the law.”<sup>567</sup> There is no reference to the claims of the Magisterium as a key part of the formation of the individual Catholic conscience in this.

The idea of conscience as in the context of human freedom being the true basis of morality was taken to the Second Vatican Council, where Häring made a pivotal contribution. *The Law of Christ* meant that revisionism was “contemporary moral theology.”<sup>568</sup> Keenan notes that the document *Optatum Totius*, the *Decree on Priestly Training* contained what he described as a “terse manifesto of the revisionists’ agenda” in moral theology.<sup>569</sup> The passage itself states:

Special care must be given to the perfecting of moral theology. Its scientific exposition, nourished more on the teaching of the Bible, should shed light on the loftiness of the calling of the faithful in Christ and the obligation that is theirs of bearing fruit in charity for the life of the world.<sup>570</sup>

What should be noted about this text is that it is not restating a truth on either questions of faith or morals and applying it to a particular circumstance, and thus is not within the scope of the work of the Ordinary Magisterium. What it is, however, is a statement of policy that concerns what direction the teaching of moral theology

---

<sup>565</sup> Brian V. Johnstone, ‘The Revisionist Project in Roman Catholic Moral Theology’, op. cit., 18.

<sup>566</sup> Keenan, op. cit., 91.

<sup>567</sup> Ibid., 94.

<sup>568</sup> Ibid., 95.

<sup>569</sup> Ibid.

<sup>570</sup> Ibid. The text comes directly from II Vatican Council, *Optatum Totius: Decree on Priestly Training*, 28 October 1965, Paragraph 16,

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decree\\_19651028\\_optatam-totius\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_optatam-totius_en.html) (Accessed 1 November 2016).

should take at this time. Newer circumstances may necessitate a revision of this “manifesto.”<sup>571</sup>

In 1978, when reflecting on this passage, Häring noted that prior to the Council “it was an unfortunate custom to refer to Scripture only after having presented one’s own system, and to do so particularly in order to present proof-texts for the norms already established once and forever. Our quite different approach is to look first and mainly to the biblical perspective to find, in a vision of wholeness, the value and meaning of the Christian life.”<sup>572</sup> The biblical perspective is very important, and the refocus upon it can be seen as a key, but the fundamental point is the paradigm shift from law to person as described.

Keenan attributes Paragraph 16 of *Gaudium et Spes* (GS), on the definition of conscience, to Häring’s influence to which it was “evidently indebted.”<sup>573</sup> This is significant because the content of GS in a key text on conscience in the Council was taken from Häring’s theology, indicating the potential to interpret the text in a framework of understanding established and set by Häring. This would become increasingly significant as will be explored in the section on *Humanae Vitae* that Häring was one of its key dissenters and conscience played a very important part in this dissent.

Keenan states that “conscience becomes the point of departure for revisionists.”<sup>574</sup> The teaching of conscience in Paragraph 16 of GS, on its own, is a revisionist ideal expressed. The absence of the need to reference the Magisterium in this citation is the most likely reason, as Keenan later laments, that the teaching of the Magisterium and the role of divine law was mentioned later in GS in reference to restricting birth control methods contrary to the content of Paragraph 16.<sup>575</sup> Hence revisionist thought that encapsulates a rejection, or at the least a great diminishing, of the role of the Magisterium found its way into isolated texts within the Second Vatican Council documents and was exploited afterwards in the crisis over *Humanae Vitae*.

---

<sup>571</sup> Keenan, op. cit., 95.

<sup>572</sup> Bernard Häring C.S.S.R., *Free and Faithful in Christ*, op. cit., 7.

<sup>573</sup> Keenan, op. cit., 96-97.

<sup>574</sup> *Ibid.*, 97.

<sup>575</sup> *Ibid.*, 97-98.

## The Revolution Defines its Predecessors

As the self-described revolution in, or more precisely ‘departure from’, moral theology established itself and in intellectual circles the new proponents of revisionism cemented their authority, the new movement needed to find a pathway to separate itself from the thinking and approach to moral theology that had preceded it. The revisionist movement had to classify patterns of thought and approaches to moral theology that did not fit within its own paradigm and relegate them into an undesirable category. Labelling these as Manualist, or Classicist, a term that will be explored further in this section, serves a useful purpose, as these include areas of thought and teaching that require a definitive assent to Magisterial teaching. Keenan also examines the role of Häring’s disciples, Charles Curran and Marciano Vidal as building on the former’s legacy.<sup>576</sup> All three were to encounter problems with the Congregation for the Doctrine of the Faith on questions of orthodoxy, which was a consequence of adherence to revisionist theological principles. The point is also, however, that the direct links in revisionist scholarship between the founder, Häring, and followers in the same school of revisionist thought are clear, particularly in the case of Curran.

### *Differences between the Classicist and Historicist Worldview*

#### ***Bernard J.F. Lonergan SJ - Classicist and Historicist Approaches to Theology***

Having established revisionism as an influential school of theology, this new alignment of moral theologians needed to characterise approaches other than itself that cannot be reconciled or assimilated. Keenan tellingly heads his next chapter *The Neo-Manualists*. He cites the key work of Bernard Lonergan SJ, published in 1967, from an address given in 1966, and titled *The Transition from a Classicist World-View to Historical Mindedness*<sup>577</sup> where “Lonergan’s distinction between the

---

<sup>576</sup> Ibid., 98-104.

<sup>577</sup> Bernard J.F. Lonergan, SJ, ‘The Transition from a Classicist World-View to Historical Mindedness’, in *A Second Collection*, ed. W. F.J. Ryan, SJ., and B. J. Tyrell,

classicist and the historicist became foundational.”<sup>578</sup> Revisionists became strongly associated with historicists, the concept of which will be examined further in this section in detail, and “their opponents were usually classicists.”<sup>579</sup>

Lonergan characterises these divisions in approaches to theology as “enormous,” in “horizon” and “in total mentality.”<sup>580</sup> The historical perspective is legitimised as being needed for “effective witness and mission.”<sup>581</sup> In his portrayal of the classicist mentality he presents this mentality upholding that there is an unchanging human nature that acknowledges “a supernatural order, a divine law, and a positive ecclesiastical law.”<sup>582</sup> He describes it as working “methodically from the abstract and universal towards the more concrete and particular,” and this includes “applying a variety of universal to concrete singularity.”<sup>583</sup> He is sceptical that the classicist mentality “will arrive at a law demanding the change of laws, forms, structures, methods.”<sup>584</sup> His reasoning is that “universals do not change; they are just what they are defined to be; and to introduce a new definition is, not to change the old universal, but to place another new universal beside the old one.”<sup>585</sup> He grants that both Divine Law and natural law are immutable, but he disapproves of Catholics against “change.”<sup>586</sup> The CCC, however, contains the teaching of a single unchanging human nature: “Created in the image of the one God and equally endowed with rational souls, all men have the same nature and the same origin.”<sup>587</sup> He is unclear about what he means by classicists opposing a “change of laws, forms, structures, methods.” What laws? Are these human laws? We do not know. The inclusion of the content in his discussion about classicism that acknowledges “a supernatural order, a divine law, and a positive ecclesiastical law”<sup>588</sup> indicates that classicism is synonymous with Catholicism.

---

SJ., The Westminster Press, Philadelphia, 1974, 1-9, Kindle Edition, [https://www.amazon.com/dp/B00T9ZHK8M/ref=rdr\\_kindle\\_ext\\_tmb#reader\\_B00T9ZHK8M](https://www.amazon.com/dp/B00T9ZHK8M/ref=rdr_kindle_ext_tmb#reader_B00T9ZHK8M) (Accessed 4 November 2016).

<sup>578</sup> Keenan, op. cit., 111.

<sup>579</sup> Ibid., 115.

<sup>580</sup> Lonergan, op. cit.

<sup>581</sup> Ibid.

<sup>582</sup> Ibid.

<sup>583</sup> Ibid.

<sup>584</sup> Ibid.

<sup>585</sup> Ibid.

<sup>586</sup> Ibid.

<sup>587</sup> CCC, 1934, [http://www.vatican.va/archive/ENG0015/\\_P6P.HTM](http://www.vatican.va/archive/ENG0015/_P6P.HTM) (Accessed 5 November 2016).

<sup>588</sup> Lonergan, op. cit.

The historicist approach begins at the point “from people as they are.”<sup>589</sup> The people are “performing intentional acts. They are experiencing, imagining, desiring, fearing; they wonder, come to understand, conceive; they reflect, weigh the evidence, judge; they deliberate, decide, act.”<sup>590</sup> This view sees man as “a concrete aggregate developing over time”<sup>591</sup> and this description romanticises the rationalist human being, assuming too much intentionality in the human person. It also raises question of what the level of intentionality is in what people do and whether the historicist approach be sufficiently secure in its assumptions.

In this view “intentionality, meaning, is a constitutive component of human living.”<sup>592</sup> He reinforces the fluidity “intentionality, (and) meaning” of “this component”, which “is not fixed, static, immutable, but shifting, developing, going astray, capable of redemption; on this view there is in the historicity, which results from human nature, an exigence for changing forms, structures, methods; and it is on this level and through this medium of changing meaning that divine revelation has entered the world and that the Church’s witness is given to it.”<sup>593</sup>

Hence, human nature is changeable and with it “meaning” and intention.

“Historicity” is therefore a medium for perpetual meaning change. Divine Revelation enters the world through the prism of “historicity” and the Church gives witness to this. What this means is that we can never grasp the meaning of Divine Revelation in such ways that can be understood in a definite sense and then conveyed in a definite sense to others in the present and across time. The ability to determine and convey a teaching in theology from a historicist perspective is reduced to persons or entities that can dominate the discourse at any particular time, and who best may capture and incorporate whatever convenient opinion prevails at any given time. This will, by necessity, give way to the next shift or changing form of human nature to reflect the next human need or fashionable preference that human interest and experience elicits.

---

<sup>589</sup> Ibid.

<sup>590</sup> Ibid.

<sup>591</sup> Ibid.

<sup>592</sup> Ibid.

<sup>593</sup> Ibid.

In addition to the principle of change reflecting human experience, the other prominent factor is the turning away from “supernatural order, a divine law, and a positive ecclesiastical law.”<sup>594</sup> Instead the historicist builds his theological perspective of human experiences, expecting change, with foundations thereby set upon moveable sands, and with full knowledge and consent to accommodate the principle of change.

### ***Charles Curran - Classicist and Historicist Approaches to Theology***

Taking up this theme in 1970, Charles Curran<sup>595</sup> also explains the differences between the classicist and historicist world view. He begins his examination with the classicist worldview emphasising that it is characterised by “the static, the immutable, the eternal, and the unchanging.”<sup>596</sup> It also “speaks in terms of substances and essences” where “time and history are ‘accidents’ which do not really change the constitution of reality itself,”<sup>597</sup> as well as expressing “certitude.”<sup>598</sup>

In contrast, Curran states that “growth, dynamism, and progress therefore receive little attention.”<sup>599</sup> In Chapter Two of this thesis we have already seen that he views natural law as dynamic, rather than static, a view embraced by Frank Brennan.<sup>600</sup> His view of the natural law as dynamic implies that Divine Law and the eternal law must also change, as the natural law is an imprint of the Divine Law and eternal law on each person. The further implication is that God changes. However, the CCC quotes

---

<sup>594</sup> Ibid.

<sup>595</sup> Charles E. Curran, ‘Natural Law in Moral Theology’, in *Contemporary Problems in Moral Theology*, 1970, rpt. in *Readings in Moral Theology No. 7: Natural Law and Theology*, Charles E. Curran and Richard A. McCormick, SJ eds., Paulist Press, New York/Mahwah, 1991, 247-295.

<sup>596</sup> Ibid. 264.

<sup>597</sup> Ibid.

<sup>598</sup> Ibid.

<sup>599</sup> Ibid.

<sup>600</sup> See Frank Brennan, *Acting on Conscience: How can we responsibly mix law, religion and politics?*, op. cit., 32:

Many Catholics now share the contemporary era’s pessimism about an all-embracing natural law based on a single static human nature that permits a wholesale determination of what is right and wrong in each and every situation. That pessimism is heightened when the church hierarchy’s reading of what is natural differs from that of other people who in good faith reflect on their own human reality, concluding that what is natural to the church hierarchy is not self-evidently natural to them.

James 1:17 that in God "there is no variation or shadow due to change."<sup>601</sup> There is one qualification, however, and it is not to the detriment of the static nature of the natural law. Through the inquiries into and contemplation of the Catholic faith, and by use of our reason, aspects of the natural law are being revealed – in a sense human engagement with God through the natural law and conscience is “dynamic” but it in no way implies a changing natural law. This is ongoing and is connected to life experience and represents development in knowledge, not a change in reality itself. Hence our actions do not make the law, and persons do not create the Law, but it forms a process of apprehending new aspects of it. There is more of the natural law to discover and the experience of further discovery builds upon itself. What this means is that a new discovery can lead to the understanding that there is more to discover by both the fact of law and by implication. An example is the discovery of principles, accompanied by their formal declaration, and implications of the natural law through the Nürnberg Trials following the Second World War. Principle IV, for example, represents a codification of individual responsibility independent of the claims of acting on the basis of superior orders: “The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.”<sup>602</sup>

By contrast to the classicist world view, the historicist world view “emphasizes the changing, developing, evolving, and historical. Time and history are more than mere accidents that do not really change essential reality. Individual and particular differences receive much more attention.”<sup>603</sup> In this world the shift of emphasis is away from the permanent and fixed, to the fluid and ever changing. The underlying principle is change.

Concerning the individual, a classicist “worldview is interested in the essence of human beings, which is true at all times in history and in all civilizations and circumstances” whereas the historicist perspective would emphasise “the individual

---

<sup>601</sup> CCC, 212, [http://www.vatican.va/archive/ENG0015/\\_P16.HTM](http://www.vatican.va/archive/ENG0015/_P16.HTM) (Accessed 6 November 2016).

<sup>602</sup> United Nations, *Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal: 1950, 2005*, [http://legal.un.org/ilc/texts/instruments/english/draft\\_articles/7\\_1\\_1950.pdf](http://legal.un.org/ilc/texts/instruments/english/draft_articles/7_1_1950.pdf) (Accessed 10 December 2016).

<sup>603</sup> Charles E. Curran, ‘Natural Law in Moral Theology’, op. cit., 264-265.



traits that characterize the individual.”<sup>604</sup> The historicist worldview holds that “the world is not static but evolving.”<sup>605</sup> Again the underlying principle of the world and reality is “progress, growth, and change.” Curran contrasts this against “cold, chaste, objective order and harmony.”<sup>606</sup>

Curran then explores the theological methodologies that differ as a consequence of there being two worldviews. He characterises the classicist methodology as being “abstract, *a priori*,<sup>607</sup> and deductive.”<sup>608</sup> He states that the classicist methodology “wants to cut through the concrete circumstances to arrive at the abstract essence which is always true, and then works with these abstract and universal essences.”<sup>609</sup> He then provides an applied example from the area of moral theology where “the first principles of morality are established, and then other universal norms of conduct are deduced from these.”<sup>610</sup>

By contrast, the “historical methodology tends to be concrete, *a posteriori*,<sup>611</sup> and inductive.”<sup>612</sup> The historical approach does not see circumstances as indicators of “immutable essences.”<sup>613</sup> Instead “the concrete, the particular, and the individual are important for telling us something about reality itself.”<sup>614</sup> In the historicist approach “principles are not deduced from other principles.”<sup>615</sup> Instead “the modern person observes and experiences and then tentatively proceeds to conclusions in a more inductive manner.”<sup>616</sup>

Lonergan and Curran show that there is a clear perspective of what “classicism” and “historicism” is, as reflected in their approaches to theology, and this tradition is

---

<sup>604</sup> Ibid., 265.

<sup>605</sup> Ibid.

<sup>606</sup> Ibid.

<sup>607</sup> “An *a priori* proposition is one that can be known to be true, or false, without reference to experience, except in so far as experience is necessary for understanding its terms.” Cf. Anthony Flew, ed., *A Dictionary of Philosophy*, Second edition, Pan Books, London, 1979, 16.

<sup>608</sup> Charles E. Curran, ‘Natural Law in Moral Theology’, op. cit., 265.

<sup>609</sup> Ibid.

<sup>610</sup> Ibid.

<sup>611</sup> “An *a posteriori* proposition can be known to be true, or false, only by reference to how, as a matter of contingent fact, things have been, are, or will be.” Cf. Anthony Flew, ed., *A Dictionary of Philosophy*, op. cit.

<sup>612</sup> Charles E. Curran, ‘Natural Law in Moral Theology’, op. cit., 265.

<sup>613</sup> Ibid.

<sup>614</sup> Ibid., 266.

<sup>615</sup> Ibid.

<sup>616</sup> Ibid.

further reinforced by the representation of both by Keenan. These terms emanated from the body of thought that rejects the traditional teaching authority of the Catholic Church and seeks to forge a path, as far as possible, free from the Magisterium. Credibility for these developments is sought by claiming adherence to the infallible Magisterium, but as this infrequently operates it poses no real problem. The creation of the term “historicist”, being an approach to theology, acts to have the approach legitimised as an equal if not superior option to Catholic moral theology, instead of the role of alternative that it occupies. The effect is that “historicism” becomes a legitimate option under the single canopy of Catholic moral theology. However, historicist moral theology is not merely a critique of the manualist system of presenting moral theology, which is subject to critique and improvement, but a wholesale replacement of it and, more significantly, a rejection the traditional Catholic orthodoxy it reflects and the substitution of something entirely different in its place.

In summary, the classicist approach to moral theology, and to theology in general, is that it presupposes an objective order that can be both apprehended and conformed to. This view describes the alignment of individual actions with the constant teachings of the Church about natural law, conscience and the authority of the Magisterium when these are relevant to a particular situation. The historical approach to theology rejects this view and substitutes it for an ever-shifting reality that defines conclusions about moral principles and required actions based on circumstance and human experience. Circumstance and human experience may provide important general insights, but these also have unpredictable foundations. Conclusions drawn from responses to circumstances change as becomes appropriate for newer circumstances. The important point is that it occurs without deference to Magisterial authority – except when it acts at its most solemn level. Given that this is highly infrequent, it leaves open a broad expanse of action and decision possibilities with limited restrictions. It also discourages authoritative reference to the Ordinary Magisterium, usually noting that it is part of “noninfallible teaching” that can be ignored. The concept of “noninfallible teaching” will be encountered in the controversy over *Humanae Vitae*.

## Church Hierarchy Labelled New Manualists

Keenan notes with disapproval that in response to the more recent direction taken in moral theology “the hierarchy began to teach even more frequently using the methodology of the manualists.”<sup>617</sup> Keenan discusses his frustration with the lack of fulfilment of the promise that the revisionist project began with, including its program incorporated in a directive within the Second Vatican Council decree *Optatum Totius*, the *Decree on Priestly Training*, discussed earlier in this Chapter. The way in which Keenan characterises the actions of the hierarchy in relation to the revisionist methodology, casts in sharp relief the directions revisionism is moving moral theology. This is against the way the Magisterium uses and develops moral theology to teach, guide and instruct the faithful consistent with Apostolic Tradition.

Keenan states that “like the manualists, popes and bishops believed that moral truth was found primarily in norms and principles.”<sup>618</sup> They “began to assert that consistency was a constitutive guarantor of the truthfulness of their claims and began to preserve their own teachings as normative by citing them, updating them and commenting upon them.”<sup>619</sup> He adds that “a central feature of any contemporary papal or episcopal document was and is the frequent citation of previous teaching moments by such authorities.”<sup>620</sup> These characteristics are directly identified with the practices of the manualists for the past three centuries and are labelled as “ecclesiastical positivism.”<sup>621</sup> Keenan adds that by “the end of the twentieth century, bishops saw the pope and his curial officials (and themselves) as competent to describe moral matters.”<sup>622</sup> Keenan continues to state that whereas the manualists had behaved in this way, this was now being replicated by the “emerging moral magisterium.”<sup>623</sup>

The surprising aspect of Keenan’s statements is that he has given a general description of how the Ordinary Magisterium works without demonstrating an awareness that he is doing so. Popes and bishops will quote their predecessors to

---

<sup>617</sup> Keenan, op. cit., 118.

<sup>618</sup> Ibid.

<sup>619</sup> Ibid.

<sup>620</sup> Ibid.

<sup>621</sup> Ibid.

<sup>622</sup> Ibid.

<sup>623</sup> Ibid., 119.

demonstrate a consciousness of precedent and the authority of what has been established by Apostolic Tradition. Instead, Keenan relegates the method of the Magisterium's work together with an earlier manualist age that does not share the insights found in the work of revisionist theologians. This is not to insulate the manualist tradition from critique, however, which had limitations in its form. Characteristic of the manualist approach was to assert a teaching or behaviour requirement without further exploration of the development of the moral life of the individual. A key example of this, as cited earlier in this chapter, was Henry Davis' reference to one of the effects of Baptism being the "spiritual regeneration to divine sonship."<sup>624</sup> Davis is right to mention it, there being no question as to the accuracy of content, but he provides no further explanation as to its significance. Keenan, however, confuses an appraisal of the approach of the manuals with the way the Ordinary Magisterium operates and his identification of the methodology of the same with the manualist tradition serves to delegitimise the work of the latter.

Keenan's reaction extends to the notion that a bishop should have as an advisor one or more of the many "contemporary moral theologians"<sup>625</sup> in order that the bishop is able to demonstrate credibility in the area of moral theology. Instead the bishops, he opines, "often derive 'expert' advice from those considerably at odds with recent developments."<sup>626</sup> He disparages those who undertake an alternate form of moral teaching, who pursue "moral truth" "in specific and (possibly) long-held propositional utterances."<sup>627</sup> He contrasts this against those moral theologians that undertake "scientific research," which he describes as "their continuous search for critical moral truth."<sup>628</sup> This work involves the pursuit of "moral truth in the person of Christ and the realization of that truth in the very human lives of Christians."<sup>629</sup> All areas of moral theology must be passed through this lens.

Keenan refers to moral teaching developing "on two different tracks."<sup>630</sup> This is true, but of the examples he has provided one is consistent with Catholicism, being in harmony with the Magisterial teaching office, while the other is decidedly different.

---

<sup>624</sup> Henry Davis SJ, *Moral and Pastoral Theology in Four Volumes: Volume Three*, op. cit.

<sup>625</sup> Keenan, op. cit., 119.

<sup>626</sup> Ibid.

<sup>627</sup> Ibid., 120.

<sup>628</sup> Ibid., 119.

<sup>629</sup> Ibid., 120.

<sup>630</sup> Ibid.

As a way to express moral teaching in an approach that tries to account for the everyday experience of individuals, in a way not identifiable with the manualist tradition, Pope Francis attempts to achieve this through his Apostolic Exhortation, *Amoris Laetitia*.

### **Pope Francis, *Amoris Laetitia* and Conscience**

The Post-Synodal Apostolic Exhortation of Pope Francis, *Amoris Laetitia*, refers to conscience in several places.<sup>631</sup> The more significant references occur in Paragraphs 37, 222, 298 and 303. Pope Francis attempts to offer a greater pastorally focussed approach to moral theology for the benefit of both the clergy and the faithful, as befitting a document derived from a Synodal experience of discussion and debate among representatives of the Church around the world. Within this document he discusses the nature of conscience in the context of pastoral care. This is worthy of discussion due to it being the most recent magisterial statement that incorporates the issue of conscience, while incorporating a pastorally sensitive approach to those who may not have a well-formed conscience. However, it does not add new implications of particular relevance to the argument developed in this thesis, as it is not explicitly dealing with those in public life in appealing to conscience, and much of what it examines and seeks to accomplish is outside the scope of this thesis. However, insofar as this document touches upon the individual conscience and the role of the Magisterium, it deserves particular attention.

In Paragraph 37 Pope Francis writes that in “stressing doctrinal, bioethical and moral issues, without encouraging openness to grace” insufficient support is being given to support families and married couples. What he means by “without encouraging openness to grace” is unclear. He decries the inability “to make room for the consciences of the faithful, who very often respond as best they can to the Gospel amid their limitations, and are capable of carrying out their own discernment in complex situations.” There is a contrast posed between “stressing doctrinal,

---

<sup>631</sup> Pope Francis, *Post-Synodal Apostolic Exhortation: Amoris Laetitia: On Love in the Family*, 19 March 2016, Vatican Press, Paragraphs 37, 42, 222, 265, 298, 300 and 303, [https://w2.vatican.va/content/dam/francesco/pdf/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20160319\\_amoris-laetitia\\_en.pdf](https://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf) (Accessed 23 October 2016).

bioethical and moral issues,” and freedom of conscience. He reflects on this in the context of the Church’s broader mission of mercy in his final sentence: “We have been called to form consciences, not to replace them.”<sup>632</sup>

The appeal to an openness to grace rather than over-burdening the emphasis upon “stressing doctrinal, bioethical and moral issues,” which is being open to grace, as both emanating from God, shows the pastoral context Francis seeks to address. It cannot be read as sympathetic to revisionist theologies of conscience because Francis writes from a different context and with a different audience in mind. While some ambiguity can occasionally be read in *Amoris Laetitia*, and it can be dangerous to quote a Pope who has written at length on these topics, it can at least be observed that the kind of antipathy to Magisterial teaching in evidence by writers such as Linda Hogan comes from a specific concern to raise private conscience above what can be formed by the teaching of the Church. Hogan warns against the replacement of conscience by what she views as fixed immutable principles:

If a principle claims that stealing is wrong or killing is wrong, and in the process takes absolutely no account of the circumstances in which these actions are performed, then the role of conscience is redundant. If morality is simply about applying these specific concrete principles to one's actions, then there is no need for conscience. It has no purpose.<sup>633</sup>

---

<sup>632</sup> Ibid., Paragraph 37, 27.

<sup>633</sup> Hogan, op. cit., 123. Some may allude to Aquinas’ judgement in the *Summa Theologica* that “if the need be so manifest and urgent, that it is evident that the present need must be remedied by whatever means be at hand (for instance when a person is in some imminent danger, and there is no other possible remedy), then it is lawful for a man to succor his own need by means of another's property, by taking it either openly or secretly: nor is this properly speaking theft or robbery.” See Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Three Ila Ilae QQ. 1-148 with Synoptical Charts*, trans. Fathers of the English Dominican Province, Rev ed., Benzinger Brothers, New York, 1948, rpt. Christian Classics, Westminster, Maryland, 1981, II-II Q. 66 A.7, Resp., 1475.

“Extreme need,” (Ibid. II-II Q. 66 A.7, Reply Obj. 2) however, is the operative concept in Aquinas’ argument and “extreme need” (ibid.) should be offset by acts of charity by those who “have in superabundance” on the basis of natural law. (Op. cit., Resp., 1474) Aquinas argues that in “cases of need all things are common property, so that there would seem to be no sin in taking another's property, for need has made it common.” (Ibid.) However, note that in prior questions he has condemned theft as a sin (Fifth Article - II-II Q. 66 A.5, Resp., 1473) and a mortal sin (Sixth Article - II-II Q. 66 A.6, Resp., 1474). In certain extreme circumstances, however, taking another’s property is not in the category of theft or robbery. It is not stealing and therefore cannot be used in support of Hogan’s argument. In contemporary Australian society, in many places, “superabundance” (Op cit., Resp., 1474) is spread through organised charities reducing the requirements of “extreme need.” (Op. cit., II-II Q. 66 A.7, Reply Obj. 2, 1475).

This statement can be coupled with her discussion of the nature of the Magisterium when she states: “We cannot export our moral choices or hand over our decision making to any other person or body.”<sup>634</sup> Pope Francis does not make such hard edged statements, but he is concerned to ensure that consciences are formed rather than dictated to, though his precise meaning of this is ambiguous. His presentation in Paragraph 37 is a helpful example of his pastoral focus in this regard.

Paragraph 222 discusses pastoral care of newly married couples and turns to decisions concerning “responsible parenthood,” which he states “presupposes the formation of conscience.”<sup>635</sup> Here the pope restates the section of GS Paragraph 16 that describes conscience as “the most secret core and sanctuary of a person. There each one is alone with God, whose voice echoes in the depths of the heart”<sup>636</sup> He advises that a couple will arrive at a decision more “profoundly free of subjective caprice and accommodation to prevailing social mores” as they try “to listen in conscience to God and his commandments and is accompanied spiritually.”<sup>637</sup>

In Paragraph 298 Francis expresses a sensitive tone to those who are “subjectively certain in conscience” that a second union or marriage can be justified on the basis that the circumstances of the failure of their first marriage was an injustice and had “never been valid.”<sup>638</sup> In this instance he only makes reference to the subjectively certain conscience, which leaves room for it to be considered mistaken. At this point he has only described the plight of those in second unions or marriages with sympathy, and without any kind of correction, but in Paragraph 303 he states that “individual conscience needs to be better incorporated into the Church’s praxis in certain situations which do not objectively embody our understanding of marriage.”<sup>639</sup>

He has changed his line of discourse to aligning the individual conscience with the Church’s pastoral outreach and approach to irregular unions. He does not specify which types here, and therefore leaves open the possibility for it apply to any type.

---

<sup>634</sup> Ibid., 171.

<sup>635</sup> Pope Francis, *Post-Synodal Apostolic Exhortation: Amoris Laetitia*, op. cit., Paragraph 222, 169.

<sup>636</sup> Ibid.

<sup>637</sup> Ibid.

<sup>638</sup> Ibid., Paragraph 298, 228.

<sup>639</sup> Ibid., Paragraph 303, 234.

Already in the document Francis has made reference to the “need to acknowledge the great variety of family situations that can offer a certain stability, but de facto or same-sex unions, for example, may not simply be equated with marriage.”<sup>640</sup>

Implicit in the statement cited above, “individual conscience needs to be better incorporated into the Church’s praxis”<sup>641</sup> is an attempt to shift the individual consciences of the faithful to sympathise with “certain situations” – relationships – that are not marriages. The “Church’s praxis” in this situation is also left unexplained and therefore open to various interpretations.

Realising the boldness of his proposition Francis offers a reassuring tone: “Naturally, every effort should be made to encourage the development of an enlightened conscience, formed and guided by the responsible and serious discernment of one’s pastor, and to encourage an ever greater trust in God’s grace.”<sup>642</sup> Once again, his reference to the trust in God’s grace in this context is unclear, but it appears to be leaning in the direction that he wishes to draw others to. The “enlightened conscience” is one that conforms to his proposal to “be better incorporated” to the concept of the Church’s outreach to untypical unions. To this point there has been no mention of the Magisterium of the Church and the obligations of a deferential conscience detailed in this thesis.

Francis continues, moving beyond the ability of conscience to “recognize that a given situation does not correspond objectively to the overall demands of the Gospel.”<sup>643</sup> He asserts that, rather than Christ’s teaching on marriage as a requirement that can be met with the help of God’s grace, it is an “objective ideal.”<sup>644</sup> Conscience in this situation must see that human complexity may inhibit the realisation of this “ideal.” but that the best that can be attained is being “open to new stages of growth and to new decisions which can enable the ideal to be more fully realized.”<sup>645</sup>

---

<sup>640</sup> Ibid., Paragraph 52, 41-42

<sup>641</sup> Ibid., Paragraph 303, 234.

<sup>642</sup> Ibid.

<sup>643</sup> Ibid.

<sup>644</sup> Ibid., Paragraph 303, 235.

<sup>645</sup> Ibid.



The treatment of conscience by Pope Francis has not developed our understanding of its nature and purpose in any particularly new direction, but represents a shift in emphasis towards the pastoral need to view conscience within the personalised dimensions of complex human relationships, one in which openness to growth, correction and formation are necessary features. In many respects there are significant debates and even conflicts now taking place over the interpretation of this document, but the above has focused on those features relevant to this thesis.<sup>646</sup>

---

<sup>646</sup> This thesis has not examined the major controversial aspects of *Amoris Laetitia*, but draws attention to their existence. E. Christian Brugger, the J. Francis Cardinal Stafford Professor of Moral Theology at St. John Vianney Theological Seminary in Denver and Senior Fellow of Ethics at the Culture of Life Foundation in Washington, D.C., writes:

A group of Argentine bishops (ABs) recently published [pastoral guidelines](#) for implementing Chapter 8 of *Amoris Laetitia* (AL). The ABs tell their clergy that under certain circumstances divorced Catholics in sexually active second unions may receive the Holy Eucharist, even without receiving an annulment.

The ABs sent their guidelines to Pope Francis to ask whether their pastoral approach was consistent with the meaning of AL. Pope Francis replied in a letter on papal stationery saying that their “document is very good and completely explains the meaning of chapter VIII of *Amoris Laetitia*”; he then stated, “There are no other interpretations.” The authenticity of the pope’s letter was [verified](#) on Sept. 12 by the Italian edition of *L’Osservatore Romano* and [reprinted](#) later by Vatican Radio. There no longer seems to be any doubt about where Pope Francis stands on the disputed “Kasper Proposal”.

See: E. Christian Brugger, The Catholic Conscience, the Argentine Bishops, and "Amoris Laetitia", in *The Catholic World Report*, 20 September 2016, [http://www.catholicworldreport.com/Item/5069/The\\_Catholic\\_Conscience\\_the\\_Argentine\\_Bishops\\_and\\_Amoris\\_Laetitia.aspx](http://www.catholicworldreport.com/Item/5069/The_Catholic_Conscience_the_Argentine_Bishops_and_Amoris_Laetitia.aspx) (Accessed 25 October 2016). See also Jessica M. Murdoch, “Creeping Infallibility: Amoris Laetitia and Magisterial Authority”, in *First Things*, 27 September 2016, <https://www.firstthings.com/web-exclusives/2016/09/creeping-infallibility> (Accessed 25 October 2016); Matthew Schmitz, “Has Pope Francis Failed?”, in *The New York Times* online, 28 September 2016, <http://www.nytimes.com/2016/09/28/opinion/has-pope-francis-failed.html?ref=opinion> (Accessed 25 October 2016); and Matthew McCusker, *Key doctrinal errors and ambiguities of Amoris Laetitia*, Voice of the Family, 7 May 2016, <http://voiceofthefamily.com/key-doctrinal-errors-and-ambiguities-of-amoris-laetitia/> (Accessed 26 October 2016).

In addition to this controversy concerns the *Dubia* of the four cardinals, “Carlo Caffarra, archbishop emeritus of Bologna; Raymond Burke, patron of the Sovereign Military Order of Malta; Walter Brandmüller, president emeritus of the Pontifical Committee for Historical Sciences; and Joachim Meisner, archbishop emeritus of Cologne,” who requested clarification about ambiguous teaching in *Amoris Laetitia*, to which Pope Francis has, as at 30 July 2017, so far refused to respond. See Edward Pentin, ‘Full Text and Explanatory Notes of Cardinals’ Questions on ‘Amoris Laetitia’: The full documentation relating to the cardinals’ initiative, entitled ‘Seeking Clarity: A Plea to Untie the Knots in *Amoris Laetitia*.’, in *National Catholic Register*, 14 November 2016, <http://www.ncregister.com/blog/edward-pentin/full-text-and-explanatory-notes-of-cardinals-questions-on-amoris-laetitia> (Accessed 11 December 2016). This action has been supported by the publication of a public letter of support by twenty three Catholic scholars and priests. See Edward Pentin, ‘Catholic Scholars Offer ‘Full Support’ to the Four ‘Dubia’ Cardinals: Twenty-three academics say clarification is urgent as they believe the barque of Peter is "drifting perilously like a ship without a rudder" and shows signs of "incipient disintegration" in *National Catholic Register*, 9 December 2016, <https://www.ncregister.com/blog/edward-pentin/group-of-catholic-scholars-offer->

## ***Humanae Vitae* (1968)**

The new enthusiasm of revisionist theologians was displayed shortly after the Second Vatican Council in reaction to Pope Paul VI's Encyclical on *The Regulation of Birth*.<sup>647</sup> The Council only referred to the issue of birth control, as indicated by Keenan, cited above, but in a way that did not fulfil revisionist expectations.<sup>648</sup>

---

[full-support-to-four-cardinals-and-dubia](#) (Accessed 11 December 2016). Significantly professors John Finnis and Germain Grisez have publicly published their concerns about the “misuse” of *Amoris Laetitia*. See Edward Pentin, ‘Two Leading Philosophers: Errors Derived from Amoris Laetitia Could Do Grave Harm to Many Souls: Professors Germain Grisez and John Finnis warn that to promote such errors in order to “realistically” deal with Catholics influenced by secularised culture is setting aside the Church's tradition and mission’, in *National Catholic Register*, 10 December 2016, <http://www.ncregister.com/blog/edward-pentin/two-leading-philosophers-errors-derived-from-amoris-laetitia-pose-grave-har> (Accessed 11 December 2016). The full statement of Finnis and Grisez can be seen at: John Finnis and Germain Grisez, *The Misuse of Amoris Laetitia to Support Errors Against the Catholic Faith: A letter to the Supreme Pontiff Francis, to all bishops in communion with him, and to the rest of the Christian faithful*, Notre Dame, Indiana, 21 November 2016, <http://www.twotlj.org/OW-MisuseAL.pdf> (Accessed 11 December 2016).

The four ‘Dubia cardinals’ requested an audience with Pope Francis to discuss their “deep concerns” over *Amoris Laetitia* on 6 May 2017, but the Pope has refused to respond. See Edward Pentin, ‘Full Text of Dubia Cardinals’ Letter Asking Pope for an Audience’, in *National Catholic Register*, 19 June 2017, <http://www.ncregister.com/blog/edward-pentin/full-text-of-dubia-cardinals-letter-asking-pope-for-an-audience> (Accessed 29 July 2017) and Edward Pentin, ‘Dubia Cardinals Seek Papal Audience’, in *National Catholic Register*, 19 June 2017, <http://www.ncregister.com/blog/edward-pentin/dubia-cardinals-seek-papal-audience> (Accessed 29 July 2017). Pope Francis has, however, reportedly sent a personal letter of thanks to the Maltese bishops for their heterodox ‘interpretation’ of *Amoris Laetitia*. See Edward Pentin, ‘Pope Francis Thanks Maltese Bishops for ‘Amoris Laetitia’ Guidelines’, in *National Catholic Register*, 6 April 2017, <http://www.ncregister.com/blog/edward-pentin/pope-francis-thanks-maltese-bishops-for-amoris-laetitia-guidelines> (Accessed 29 July 2017). Doctrinal confusion continues with Polish Bishops interpreting *Amoris Laetitia* as having “not changed Church doctrine on Holy Communion for the divorced and civilly remarried, and that they continue not to have access to the Sacraments as the Church considers them to be living in an objective state of adultery.” The same article reports that the “bishops’ conferences of Malta, the Philippines and Germany”, as also in Belgium, have interpreted the same document in a way that draws the opposite conclusion. See Edward Pentin, ‘Doctrinal Anarchy’ as Bishops’ Conflicting Positions on Amoris Laetitia Show’, in *National Catholic Register*, 17 June 2017, <http://www.ncregister.com/blog/edward-pentin/doctrinal-anarchy-as-bishops-conflicting-positions-on-amoris-laetitia-> (Accessed 29 July 2017). On 5 July 2017, Cardinal Joachim Meisner, one of the four ‘Dubia’ Cardinals died, without having the request for an audience with Pope Francis or the Dubia responded to. See Edward Pentin, ‘Cardinal Joachim Meisner Dies at 83’, in *National Catholic Register*, 5 July 2017, <http://www.ncregister.com/blog/edward-pentin/cardinal-joachim-meisner-dies-at-83>, (Accessed 29 July 2017). Pope Francis could end the controversy immediately, but has to date refused to do so. All responsibility is his for doing so, as is for the burden of the consequences.

<sup>647</sup> Pope Paul VI, *Humane Vitae: On the Regulation of Birth*, op. cit.

<sup>648</sup> Keenan, op. cit., 97-98.

## The Papal Birth Control Commission

In 1963 Pope John XXIII established what became known as the Papal Birth Control Commission, which was later expanded in membership by Pope Paul VI on 23 June 1964 and which continued to 1966. Throughout the 1960s Catholics debated contraception with intensity, especially leading to the release of *Humanae Vitae*, with many thinking that Catholic teaching permitted or could permit artificial contraception.<sup>649</sup>

Germain Grisez, in an address given in 1989,<sup>650</sup> describes how from June 1964 to the release of *Humanae Vitae* in 1968 a growing number of Catholics thought the Church's teaching on contraception was in doubt and that they could follow their own conscience on the subject. From 1964 to 1967 Pope Paul VI made statements that allowed for the understanding that the Church could change its teaching on contraception, and after the Commission released its report, Pope Paul VI allowed another fifteen months to pass before the evaluation was complete and issued the papal encyclical *Humanae Vitae*.<sup>651</sup> The expectation of change, combined with a delay in response, worked to the detriment of the release of *Humanae Vitae*.

---

<sup>649</sup> See for example G. Egner, *Birth Regulation and Catholic Belief: A Study in Problems and Possibilities*, Sheed and Ward, London and Melbourne, 1966. Egner could not see a rational defence for the Church's traditional teaching on Contraception to that time. See also William Birmingham ed., *What Modern Catholics Think About Birth Control: A New Symposium*, The New American Library, New York, 1964. This work brought together Catholics for a broad discussion, but the tenor of the book was in favour of change towards contraception. The expression "Modern Catholics" is noted. In *Contraception and Holiness: The Catholic Predicament: A Symposium Introduced by Archbishop Thomas D. Roberts*, Herder and Herder, 1964, New York, 1964, rpt. Collins, London, 1965, the arguments tend towards change. It concludes with a badly grasped understanding of the role of the Ordinary Magisterium by Gregory Baum, who states on page 286 that "the present position of the Catholic Church on birth control does not involve her infallibility." Also see F.H Drinkwater, *Birth Control and Natural Law*, Burns & Oates, London, 1965. Drinkwater passionately argues about the vagueness of the Ordinary Magisterium, pp 39-66, which he terms "this diffused infallibility." (p.46) He promotes the idea of the teaching against birth control being "non-infallible" and agrees with Baum about the permitting of contraception being in harmony with the tradition of the Church. Defending the perennial teaching of the Church was John Marshall M.D., *Catholics, Marriage and Contraception*, Helicon, Dublin, 1965. Marshall wrote "There can be no doubt that the Church has always taught the contraception is wrong." (p.167) He also notes that the "relative silence of the magisterium" is not due to "a lack of certainty, but a lack of the necessity for authoritative teaching." (p.171) This level of understanding grasps the proper role and actions of the Ordinary Magisterium.

<sup>650</sup> Germain Grisez, "The Duty and Right to Follow One's Judgment of Conscience," in *The Linacre Quarterly*: Vol. 56: No. 1, 1989, Article 5, 13-23, [http://epublications.marquette.edu/cgi/viewcontent.cgi?article=1741&context=lnq&\\_ga=1.154935228.589113384.1478172129](http://epublications.marquette.edu/cgi/viewcontent.cgi?article=1741&context=lnq&_ga=1.154935228.589113384.1478172129) (Accessed 6 November 2016).

<sup>651</sup> *Ibid.*, 16.

Between 1964 and 1968 an increasing number of theologians and some bishops expressed the view that the “Church herself was in doubt about the morality of contraception, and that faithful Catholics might rightly form judgments of conscience contrary to previous Catholic teaching on this matter.”<sup>652</sup> In the absence of formal rejection of these claims, ideas about using one’s conscience to support the practice of artificial contraception became widespread, and “many of them reached the judgment of conscience that they might use (or formally cooperate in others’ using) contraception and they acted on that judgment.”<sup>653</sup> Also in this period “some theologians and others began to spread in the Church a nontraditional conception of conscience.”<sup>654</sup>

During this time, in its final Report on 28 June 1966, the Commission majority announced that previous papal condemnations of contraception were not being violated “if we speak of the regulation of conception by using means, human and decent, ordered to favoring fecundity in the totality of married life and toward the realization of the authentic values of a fruitful matrimonial community.”<sup>655</sup> The question of the licitness of contraception shifted to a debate about means of use. Some means of contraception, being “human and decent” are therefore justifiable, based on the idea that the “large amount of knowledge and facts which throw light on today’s world.”<sup>656</sup> This reference to human experience as a moral reference authority reveals a historicist theological worldview influence.

The Majority Report (MR) builds its case further by affirming that a “contraceptive intention” with pure motives is justifiable by its rejection of contraceptive use for “motives spoiled by egoism and hedonism.”<sup>657</sup> The MR reframes what the opposing positions are. Rather than contraception for or against, “between some material conformity to the physiological processes of nature and some artificial intervention”<sup>658</sup> the debate becomes whether contraceptive behaviour is “opposed to

---

<sup>652</sup> Ibid.

<sup>653</sup> Ibid., 16-17.

<sup>654</sup> Ibid.

<sup>655</sup> Papal Birth Control Commission, *Majority Papal Commission Report*, ed. Luke Dysinger O.S.B., Saint John’s Seminary California, 5, [http://ldysinger.stjohnsem.edu/@magist/1963\\_paul6/068\\_hum\\_vitae/majority%20report.pdf](http://ldysinger.stjohnsem.edu/@magist/1963_paul6/068_hum_vitae/majority%20report.pdf) (Accessed 2 November 2016).

<sup>656</sup> Ibid.

<sup>657</sup> Ibid., 6.

<sup>658</sup> Ibid.

a prudent and generous fruitfulness” or is “in an ordered relationship to responsible fruitfulness and which has a concern for education and all the essential, human and Christian values.”<sup>659</sup> This again, drawing upon human experience and not the constant teaching of the Church draws on a historicist perspective and demonstrates evidence of revisionist thinking as evident in the work and approach of Bernard Häring.

The statement also raises the concern about the identity of the “criteria by which to choose a method of reconciling the needs of marital life with a right ordering of this life to fruitfulness in the procreation and education of offspring.”<sup>660</sup> The MR indicated that this is exercised through the individual conscience.<sup>661</sup> It is not surprising that those opposing the teachings of *Humanae Vitae*, such as Philip S. Kaufman, lionise the Majority Report,<sup>662</sup> as it provides a referential platform for dissent against what *Humanae Vitae* would say, an alternate authority to cite.

Kaufman also reports on the level of influence on the MR document of Bernard Häring and how, by 1965, Häring had shifted to a position in favour of artificial birth control.<sup>663</sup> Publicly however, in 1966, Häring was advising one person on the subject of birth control in the press, then in a published work, that “I am happy to note that you will not consider just any method, until its moral licitness has been definitively established by the Church.”<sup>664</sup> He also reminds readers in the same explanation that Paul VI “has expressly warned us not to anticipate his judgement” and to give “the supreme authorities of our Church” our “full obedience.”<sup>665</sup> In 1968 he then willingly joined the opposition to *Humanae Vitae* led by Charles Curran. Curran was “ecstatic” when, after Häring heard the dissenting statement prepared by Curran, Häring “said very quietly, but very firmly, that he would gladly sign and would do whatever he could to help.”<sup>666</sup>

---

<sup>659</sup> Ibid.

<sup>660</sup> Ibid., 7.

<sup>661</sup> Ibid.

<sup>662</sup> Kaufman, op. cit., 30-50,

<sup>663</sup> Ibid. 48.

<sup>664</sup> Bernard Häring C.S.S.R., *Bernard Häring Replies: Answers to 50 Moral and Religious Questions*, trans. Society of St Paul, New York, Geoffrey Chapman Pty Ltd., London, Dublin and Melbourne, 1967, 83.

<sup>665</sup> Ibid.

<sup>666</sup> Charles E. Curran, *Loyal Dissent: Memoir of a Catholic Theologian*, op. cit., 51.

## Open Dissent from *Humanae Vitae*

Häring had no doubt been influenced by the content of the dissenting statement prepared by Curran,<sup>667</sup> which included revisionist ideas. We will now review contents of the dissenting statement against *Humanae Vitae* which brings together revisionist thinking and displays a historicist view on moral theology. The means by which dissent is expressed and actioned is via conscience.<sup>668</sup> The following will be an examination of the ten point 30 July 1968 *Statement by Catholic Theologians* issued the day after the release of the Encyclical.

In Point one, though there is deference given to the Magisterium, the authors draw upon “Christian tradition” to justify the “special responsibility” of the theologians for “evaluating and interpreting pronouncements of the magisterium” of papal statements.<sup>669</sup> Theologians are depicted as having a formal status tasked with functioning as an interpretive lens to determine how others are to understand what Magisterial teachings are, what they mean and how they are to be understood. This is different than helping to explain Magisterial statements.

Point three criticises Paul VI for the “ecclesiology implied and the methodology” he uses, chiding him for holding that the “Church is identical with the hierarchical office.”<sup>670</sup> To dilute the authority of the Magisterium, they draw on the “self-awareness” of the Church as expressed in the Second Vatican Council, where they relegate the Magisterium to only a part of the Church without recognising its competence, employing a revisionist theological outlook in omitting “the special witness of many Catholic couples,” as well as “to the witness of many men of good will” and “modern science” that serve as competing, if not more important sources of authority than the Magisterium itself.<sup>671</sup>

---

<sup>667</sup> For background to the events of the revolt against *Humane Vitae*, see *Ibid.*, 49-69.

<sup>668</sup> Charles E. Curran, et al., *Dissent In and For the Church: Theologians and Humanae Vitae*, Sheed & Ward, New York, 1969, 24-26.

<sup>669</sup> *Ibid.*, 24.

<sup>670</sup> *Ibid.*, 25.

<sup>671</sup> *Ibid.*

In point four the signatories recall the majority view of the Papal Birth Control Commission, and attack the Encyclical for rejecting its conclusions, which were historicist and revisionist. The Commission, however, had only the Magisterial weight Pope Paul was willing to recognise. He was in no way bound to defer to it. Again the signatories challenging the Encyclical condemn the rejection of the views of the “international Catholic theological community” though these have no Magisterial standing. In response to not accepting the views of the MR, they label the Encyclical as holding a “narrow and positivistic notion of papal authority.”<sup>672</sup>

In point five they make no acknowledgement of the legitimate claims of the Magisterium over the guardianship and interpretation of the natural law, reducing the Magisterium to one of many competing philosophical voices on the same topic.<sup>673</sup>

In point six there is reference to the “physicalist” critique of *Humanae Vitae*, which is “overemphasis on the biological aspects of conjugal relations as ethically normative,” placed “apart from the person and the couple,” and is united with an historicist critique of classicism that relies upon a “static worldview which downplays the historical and evolutionary character of humanity in its finite existence.”<sup>674</sup>

Point six also introduces a neo-Malthusian fear of overpopulation that feeds into the narrative of opposition to *Humanae Vitae*, being a threat to the “dignity of millions of human beings brought into the world without the slightest possibility of being fed and educated decently.”<sup>675</sup> Is the implication that contraception is an answer to preventing such a tragedy?

Point eight introduces the claim that there is “common teaching in the Church that Catholics may dissent from authoritative, noninfallible teachings of the magisterium when sufficient reasons for so doing exist.”<sup>676</sup>

---

<sup>672</sup> Ibid.

<sup>673</sup> Ibid.

<sup>674</sup> Ibid., 25-26.

<sup>675</sup> Ibid., 26.

<sup>676</sup> Ibid.

The use of the term “noninfallible teachings of the magisterium” is explained in more detail by Curran in his work *Faithful Dissent*,<sup>677</sup> his account of his being “considered suitable nor eligible to exercise the function of a Professor of Catholic Theology” by the Sacred Congregation for the Doctrine of the Faith.<sup>678</sup> Curran examines noninfallible teaching by largely isolating moral teaching to a predominately human setting, it being “not primarily” based on “faith or the Scripture” but on the natural law.<sup>679</sup> Curran’s foundational understanding about natural law is unorthodox: “The natural law is understood to be human reason reflecting on human nature.”<sup>680</sup>

However, as we have seen in Chapter Two of this thesis, human reason encounters and engages with the imprint of the eternal law and Divine Law through the natural law. That is something significantly different to Curran’s statement. His statement also proposes and strengthens the humanistic underpinning of the thinking that characterises the revisionist and historicist views. Curran states that the moral teachings based on the natural law “are thus somewhat removed from the core of faith and the central realities of faith grounds the possibility of legitimate dissent.”<sup>681</sup> There is a split in his thinking between Faith and Reason. These are far apart from each other, which stems from his view on what the natural law is, rather than engaged directly with each other. This distance in and of itself between them therefore increases the likelihood and validation of dissent. Reality is complex and specific, and in the context of general norms or values decreases the “possibility of certitude.”<sup>682</sup>

Curran’s view of infallible teaching covers the solemn form of the Magisterium, “by pope or council” and he rightly observes that it “has usually come in response to an attack on or a denial of something central to the faith.”<sup>683</sup> He also adds that “Something can be infallible by reason of the ordinary teachings of the pope and all the bishops, but the conditions required for such an infallibility are often difficult to verify.”<sup>684</sup> However, the weight given to particular statements by a pope in an

---

<sup>677</sup> Charles E. Curran, *Faithful Dissent*, op. cit.

<sup>678</sup> *Ibid.*, 270.

<sup>679</sup> *Ibid.*, 61.

<sup>680</sup> *Ibid.*

<sup>681</sup> *Ibid.*

<sup>682</sup> *Ibid.*

<sup>683</sup> *Ibid.*

<sup>684</sup> *Ibid.*



official capacity, usually in an Encyclical, indicates the level of authority he wishes to convey, as discussed at the beginning of this Chapter. The conditions are therefore not difficult to verify.

Infallible teaching is open to development in an understanding of what has been defined as infallible, but Curran also claims it may be in need of “purification”<sup>685</sup> due to “limits and imperfections.”<sup>686</sup> He limits any certitude of infallible teaching to “the extraordinary teaching function of the pope and bishops”<sup>687</sup> and not beyond. However he also warns that “infallible teaching itself is open to development and further interpretation.”<sup>688</sup> In brief, the imprecision of this statement allows for the understanding of infallible teaching to be unreliable and changeable. Coming to the support of Curran was Bernard Häring, who defended him by saying that “Curran has never given the slightest cause to doubt that he fundamentally accepts the teaching authority of the Church, even in the area of noninfallible, reformable teachings.”<sup>689</sup> Yes, this is true, but on Curran’s terms.

Curran has created an understanding of the natural law which is at variance to its established and traditional understanding, given it a humanistic framework and claimed that it lies in the area of noninfallible teachings; severed moral theology from having a supernatural origin and thereby a connection with faith, and limited infallibility to its extraordinary form, while expressing a lack of certitude about its continuing reliability. Curran also does not see the competence of the Ordinary Magisterium extending to morals. The resulting public theological dissent is an uncontroversial development on this platform.

Returning to the 30 July 1968 *Statement by Catholic Theologians*, in point nine the dissenting theologians “conclude that spouses may responsibly decide according to their conscience that artificial contraception in some circumstances is permissible.”<sup>690</sup> By this declaration the action of dissent from Church teachings is

---

<sup>685</sup> Ibid., 61.

<sup>686</sup> Ibid., 60.

<sup>687</sup> Ibid.

<sup>688</sup> Ibid.

<sup>689</sup> Bernard Häring, ‘The Curran Case: Conflict Between Rome and a Moral Theologian’, in Charles E. Curran and Richard A McCormick, SJ., *Readings in Moral Theology No. 6: Dissent in the Church*, Paulist Press, New York/Mahwah, 1988, 372.

<sup>690</sup> Charles E. Curran, et al., *Dissent In and For the Church: Theologians and Humanae Vitae*, op. cit., 26.

validated though the agency of conscience. Conscience is the agency by which the self is established as exercising judgement over the Magisterium in most cases, as the most solemn level of the Magisterium has doubts cast over its reliability. The self, via the conscience in a revisionist and historicist context, replaces Magisterial authority with its own.

### **Curran's Further Development of Conscience**

Curran has stated that “Moral theology ... is primarily a discipline that stands back to understand thematically and scientifically how people make decisions of conscience.”<sup>691</sup> However, he had downplayed his dissent from *Humanae Vitae* purely on the grounds of conscience.<sup>692</sup> He argued that this dissent was not a matter of “Conscience verses authority”<sup>693</sup> He did not present his own systematic view of conscience until 1999. In keeping with his revisionist outlook, there was no place for the Magisterium in his proposals. The closest he came to supporting any role of the Church’s authority was in describing the Church’s role in forming the conscience of the individual Christian through the experience of “teaching.”<sup>694</sup>

Curran supports the “primacy of the subjective” in his theory of conscience and declares that there “is no infallible criteria to determine if the decision of conscience is true” except through the “peace and joy of conscience.”<sup>695</sup> When he makes reference to the Magisterium he places it in the context of the preconciliar “legal model” contained in the manuals of moral theology “that emphasizes the extrinsic character of the law.”<sup>696</sup>

Curran is in undesirable territory as he recounts the interventions of the Magisterium performing its function of “using authority to solve the particular issues that were being debated by moral theologians.”<sup>697</sup> He expresses the revisionist and historicist

---

<sup>691</sup> Charles E. Curran, *The Catholic Moral Tradition Today: A Synthesis*, Georgetown University Press, Washington D.C., 1999, 181.

<sup>692</sup> Charles E. Curran, *Loyal Dissent*, op. cit., 84.

<sup>693</sup> *Ibid.*, 56.

<sup>694</sup> Charles E. Curran, ‘Conscience in the Light of the Catholic Moral Teaching’, in *Conscience: Readings in Moral Theology No. 14*, Paulist Press, New York, Mahwah N.J., 2004, 21.

<sup>695</sup> *Ibid.*, 22.

<sup>696</sup> *Ibid.*, 7.

<sup>697</sup> *Ibid.*

repulsion of the Magisterium as “outside authority often claiming to speak in the name of God” as an attack on the freedom of the individual.<sup>698</sup> One who holds such views about the role of Magisterium in relation to the individual Catholic and professes Catholicism engage in irrationality. It fails the test of the principle of non-contradiction; of claiming to be Catholic and concurrently rejecting a fundamental tenet of the Catholic faith in the existence, purpose and role of the Magisterium.

### **The Extension of Revisionism and Historicism after *Humanae Vitae***

Amplifications of this watershed dissent were forthcoming, as the clash with Pope Paul VI had given revisionism an opportunity to demonstrate its significant theological influence.

That Statement by Catholic Theologians was ultimately endorsed by more than 600 Catholic academicians qualified in the sacred sciences, including moral theologians, canon lawyers, philosophers, biblical scholars and teachers in related specialties.<sup>699</sup>

Different national bishops conferences made statements echoing similar thinking, for example in the *Statement of the German Bishops on Humanae Vitae* declared:

He who thinks that it is permissible for him to deviate in his private theory and practice from a noninfallible teaching of the Church authority – such a case is conceivable in principle – must question his conscience soberly and critically whether he can justify this before God.<sup>700</sup>

Rejection of the teaching of the Ordinary Magisterium, as *Humanae Vitae* was, had the two key ingredients for dissent in the German Bishops statements: noninfallible teaching and conscience.

---

<sup>698</sup> Ibid.

<sup>699</sup> Charles E. Curran, et al., *Dissent In and For the Church: Theologians and Humanae Vitae*, op. cit., viii.

<sup>700</sup> ‘Statement of the German Bishops on Humane Vitae’, in *Catholic Mind*, October 1968, 48-49.

Karl Rahner SJ reinforces the revisionist theological outlook on *Humanae Vitae*, building upon the new approach.

If a Catholic Christian, after sufficient proof of his conscience believes that he has arrived, after full reflection and self-criticism, at a position which dissents from the papal norm and follows it in his married life under the observance of these principles which already have been alluded to frequently as commonly Christian, *then* such a catholic needs to fear no subjective guilt or to consider himself as formally disobedient to the Church authority.<sup>701</sup>

Now, according to Rahner, there is no question of disobedience involved in rejecting the teachings of *Humanae Vitae*. He gives false and misleading counsel against Church teaching on a moral question, convincing Catholics that they can be excused from sin having set their consciences against the legitimate operation of the Ordinary Magisterium. We can also consider the 1974 statement of the Catholic Bishops in Australia, *The application of 'Humanae Vitae'*, to test the established longevity of revisionist views.

It is not impossible, however, that an individual may fully accept the teaching authority of the Pope in general, may be aware of his teaching in this matter, and yet reach a position after honest study and prayer that is at variance with the papal teaching. Such a person could be without blame; he would certainly not have cut himself off from the Church; and in acting in accordance with his conscience he could be without subjective fault.<sup>702</sup>

Blamelessness, remaining in full accord with the Church while rejecting “papal teaching” – not the competence of the Ordinary Magisterium - is the hallmark of the new revisionist and historicist order. The Catholic Bishops of Australia are counselling the Catholics in their collective care that there is a pathway to reject the legitimate acts of the Ordinary Magisterium of the Church.

---

<sup>701</sup> Karl Rahner SJ, ‘On the Encyclical “*Humanae Vitae*”’, in *Catholic Mind*, 66, November 1968, 43.

<sup>702</sup> Nicholas Kerr, *Australian Catholic Bishops’ Statements Since Vatican II*, op. cit.

## Conclusion

The role and purpose of the Magisterium is well-developed in Church tradition, with nuances and subtleties in the extent and application of its authority across Church teaching in the broad area of “faith and morals.” Obedience and assent to the teachings of the Magisterium, whether in its solemn form or in its Ordinary form has been consistently taught and understood, especially in more recent times. Much of the developments in understanding the nature of the Magisterium have come in response to attacks on its authority, especially from new developments in moral theology through the revisionist movement.

Revisionism was a reaction to the limitations of the manual system of moral theology, which focussed upon a restricted application of advising priests in the confessional on how to guide penitents. Though this was a useful application of moral theology it was limiting in its scope and application. Spearheaded by Bernard Häring, revisionism provided not only a critique of the manualist system of moral theology, but opened many horizons of application and development to this new understanding and approach. Unfortunately, in focusing away from law and onto the person, it pursued a subjectivist approach to moral authority and judgements which regards the necessary deference to the Magisterium as unwelcome. In rejecting this foundation of Catholicism it functions not as part of it, but in competition with it.

The point of clash and difference was fully exhibited during the public rejection of *Humanae Vitae* by theologians, some national episcopal conferences, and laity. The means of rejection was by the use of conscience. In justifying this rejection, many dissenting theologians turned to the work of Newman, who made a profoundly significant contribution to the understanding of conscience in relation to Church authority. Unfortunately, he has been misrepresented to suggest that rejection of Church authority can extend to questions of faith and morals as taught by the Ordinary Magisterium, in particular.

For the Catholic parliamentarian, then, he or she faces two separate approaches to questions of Church Authority, reflected in the public arena by two broad sets of approaches to moral theology and conscience. One will rightly stress the need and importance of adhering to the Church’s perennial teaching expressed by the

Magisterium, while the revisionist school of thought will suggest that adherence to the legitimate teaching authority of the Magisterium is of no significance, or is at best an optional source of moral reflection. The Catholic parliamentarian is left to decide upon any 'for or against' issue in whatever way he or she wishes. If under political pressure, the Catholic parliamentarian may find the revisionist option as an easy escape, using the formula of rejecting Church teaching while claiming to be following their conscience. At the same time, however, he or she jettisons a crucial part of what it means to be Catholic and sacrifices the integrity of his or her identity. This thesis will discuss concrete examples of this in Chapter Four, in the context of the *Human Cloning and Other Prohibited Practices Amendment Bill 2007* in that passed in the NSW Parliament of the same year.

## Chapter 4: Faith and Practice: the Fraught Experience of Australian Politicians and Personal Faith

### *Introduction*

In Chapter Three developments in Church teaching on the nature, role and place of the Magisterium were examined, paying particular attention to the growth in understanding of Magisterium and its legitimate authority. An examination of the rise of revisionist theology was traced from its foundations in legitimate critique of the manualist approach to moral theology developed after the Council of Trent, and superseded on the eve of the Second Vatican Council. However, the study also revealed that while the case for reform in moral theology is justifiable, revisionism downplays the significance and importance of the Magisterium to the extent that its interventions are dismissed and ignored, and ultimately the Magisterium is treated with suspicion as if it were an irritant, rather than an authoritative voice.

In this Chapter we return to the circumstances surrounding the intervention by Cardinal Pell, then Archbishop of Sydney, in June 2007 over the proposed NSW *Human Cloning and Other Prohibited Practices Amendment Bill 2007* that became voted into law. Contributions from Catholic public commentators are examined in light of what was gleaned in earlier Chapters of this thesis. A consideration will also be undertaken of the contribution to the debate in the Legislative Council by Liberal MLC Catherine Cusack, due to her reliance upon the contributions of Jesuit theologians, who exhibit a strong influence of revisionist thought in their theological language.

This chapter differs from its predecessors in examination of a concrete political example where the current debates in moral theology Catholic Church's teaching on conscience made a striking entry into NSW politics. The intervention of Cardinal Pell and the NSW Bishops over the *Human Cloning and Other Prohibited Practices Amendment Bill 2007* led to fierce debate and controversy, with the Cardinal being called to answer for his intervention before the NSW Privileges Committee.

Some Catholic parliamentarians discussed the matter in the parliament, Greg Donnelly MLC spoke in support in principle of the Cardinal's intervention, but had

to refrain from detail as he was one of the members of the NSW Privileges Committee that had to oversee the Cardinal's case. Chris Hartcher, the then Member for Terrigal spoke in defence of the intervention of the Cardinal and his appeal to conscience, while Catherine Cusack MLC presented an extensive defence of the revisionist theological concept of conscience. Cusack's defence of dissent from church teaching based on conscience was reinforced by public interventions from Church figures, who provided the public tone and framework for the Church's teaching on conscience based upon a revisionist perspective.

The last part of the Chapter will study the unique example of the late Senator Brian Harradine, not only as a counter example to the revisionist influenced Catholicism under review, but one who brought a positive contribution in his role as a Senator and who upheld the tenets of his Catholic faith in the public square as a Catholic Parliamentarian.

***The Catholic Conscience in Public Life: Cardinal George Pell's intervention in the Embryonic Stem Cell debate June 2007***

Following the passing of the "Patterson Bill" or *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006*, in the Senate by a single vote, before subsequent acceptance by the House of Representatives, a similar Bill entered the NSW Parliament titled the *Human Cloning and Other Prohibited Practices Amendment Bill 2007* to apply the Federal legislation to NSW. Cardinal Pell intervened twice in as many days over the 4<sup>th</sup> and 5<sup>th</sup> June 2007. First, on behalf of all Bishops in NSW, within a 4 June 2007 Media Statement, he said:

No Catholic politician - indeed, no Christian or person with respect for human life - who has properly informed his conscience about the



facts and ethics in this area should vote in favour of this immoral legislation.<sup>703</sup>

On 5 June 2007 *The Daily Telegraph* quoted him as saying on 4 June 2007:

But it is a serious moral matter and Catholic politicians who vote for this legislation must realise that their voting has consequences for their place in the life of the Church.<sup>704</sup>

Spontaneous and voluminous negative reaction followed in both the press and State Parliament, some of which will be examined shortly. He, however, made the mistake of not qualifying precisely what he meant by the word “consequences”. By not doing so he left open the meaning and implication of the term for others to define. The same article in *The Daily Telegraph* is an example of this. The first sentence read:

The threat of excommunication now hangs over Catholic NSW MPs if they support a bill to open the way for therapeutic cloning.<sup>705</sup>

Ranking amongst the strongest comments were from the soon to be Premier of NSW, Nathan Rees, who said

Dr Pell owed Catholic MPs an apology for his remarks. ‘He’s got three options: he can apologise, he can run for parliament or he can invite further comparisons with that serial boofhead Sheik al-Hilali.’<sup>706</sup>

Sheik al-Hilali had recently compared Australian women to meat. The Sheik’s comments were made in response to a spate of gang rapes in Sydney in 2006. Sheik Al-Hilali is reported to have preached in a Ramadan address on adultery in Sydney where he said: "If you take out uncovered meat and place it outside on the street, or

---

<sup>703</sup> Catholic Archdiocese of Sydney, *Media Statement: No Catholic could in good conscience vote for Cloning Bill - NSW Bishops*, 4 June 2007, <http://cathnews.acu.edu.au/706/doc/pell-cloning.pdf> (Accessed 17 January 2016).

<sup>704</sup> ‘Church warning for stem cell vote’, in *Daily Telegraph*, 6 June 2007, 16. See also the same under the heading ‘Church may punt clone MPs’, in *Daily Telegraph*, 5 June 2007, <http://www.dailytelegraph.com.au/news/nsw/church-may-punt-clone-mps/news-story/42309e5de874f1a603564a946bd865e2> (Accessed 12 December 2016).

<sup>705</sup> Ibid.

<sup>706</sup> Jill Rowbotham, ‘Conscience before church, priest urges’, in *The Australian*, 7 June 2007, <http://www.theaustralian.com.au/news/nation/conscience-before-church-priest-urges/story-e6frg6nf-111113695902> (Accessed 26 May 2014).

in the garden or in the park, or in the backyard without a cover, and the cats come and eat it ... whose fault is it, the cats or the uncovered meat? "The uncovered meat is the problem."<sup>707</sup> Rees's quoted comment was the last sentence of his parliamentary speech.<sup>708</sup> The direct comparison made in the NSW Parliament between the intervention of Cardinal Pell to protect innocent life and a deeply derogatory reference to Australian women by Sheik al-Hilali, implying that women who suffer violent sexual attack are not innocent, was made under parliamentary privilege. Rees also referred to comparisons that were already being made between the two. However, far from being called to apologise Catholic MPs should appreciate the Cardinal's concern for innocent life and his pastoral care for their souls, principles directly attached to an ancient moral tradition.

The framing of Cardinal Pell's intervention in the public square was that of the Catholic Church attempting to intimidate Catholic State parliamentarians with threats to follow the Church's position or face the prohibition of Holy Communion or excommunication. Yet as part of the pastoral care for souls and for the urgency of not violating the moral law, the Cardinal, and the NSW bishops, acted in ways consistent with both their office and the Apostolic Tradition they are called to defend and uphold. *The Daily Telegraph*, however, editorialised the threat of excommunication as the Cardinal's "implicit threat".<sup>709</sup>

However, the Cardinal was misquoted in this regard. Many politicians criticised the Cardinal's intervention whether they were in favour or against the Bill, as some following examples shall demonstrate. Those against the Bill used it to bolster their own arguments. See for example Labor's Kevin Greene, who voted against the Bill:

However, I believe that the Catholic Church, having participating (sic) in an intimidatory manner, is sidelined from the argument. As a Catholic I am saddened by the published stance of Cardinal Pell and I

---

<sup>707</sup> Richard Kerbaj, 'Muslim leader blames women for sex attacks', in *The Australian* online, 26 October 2006, <http://www.theaustralian.com.au/news/nation/muslim-leader-blames-women-for-sex-attacks/story-e6frg6nf-111112419114> (Accessed 30 November 2016).

<sup>708</sup> Nathan Rees, NSW Legislative Assembly, Human Cloning and Other Prohibited Practices Amendment Bill 2007, in *Hansard*, 6 June 2007, 874-875, [http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070606/\\$File/541LA009.pdf](http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070606/$File/541LA009.pdf) (Accessed 15 November 2016).

<sup>709</sup> Editorial, *The Daily Telegraph*, 7 June 2007, 29.

make it clear that my decision to vote against the bill should in no way be interpreted as an endorsement of the Cardinal's statements earlier this week. I distance myself completely and totally from the Cardinal's threats. I state again that those who support this legislation should not be exposed to this sort of intimidation. I am sure that, like me, they are appalled by the Cardinal's statements.<sup>710</sup>

Again, the empty indicator of what the “consequences” would be is filled by his critics. Greene refers to them as “threats” but in his statement of 20 August 2007 to the NSW Privileges Committee the Cardinal made clear that:

The phrase “*consequences for their place in the life of the Church*” refers to the effect a seriously wrong decision has on the personal relationship between that individual and God, and that individual and the Church community to which he belongs. These consequences need not be imposed from outside by a third party such as a bishop or priest, but are intrinsic to the infraction itself and loosen the person’s bonds to the Church.

No one is compelled to be or remain a Catholic. Obviously outsiders are not liable to Catholic discipline, and Catholics are able in our situation of religious freedom to ignore or reject any Church sanction.

My task as a Catholic Archbishop is to point out that God judges human conduct, as well as pointing out the importance of Catholics following Church teaching on matters of faith and morals. The vast majority of political matters are for the prudential judgment of each individual Catholic, but the Church is unambiguous that there are certain choices which are intrinsically evil and cannot in good conscience be condoned

---

<sup>710</sup> Kevin Greene, NSW Legislative Assembly, Human Cloning and Other Prohibited Practices Amendment Bill 2007, in *Hansard*, 6 June 2007, 951, [http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LA20070606/\\$File/541LA009.pdf](http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LA20070606/$File/541LA009.pdf) (Accessed 15 November 2016).

or promoted by faithful Catholics – the evil being known through right reason itself, as well as through Catholic faith.<sup>711</sup>

The Greens were especially hostile towards Cardinal Pell, with Lee Rhiannon MLC, requesting that the Legislative Council Privileges Committee inquire into whether the Cardinal was in contempt of Parliament, particularly for the quoted statement referring to “consequences.”<sup>712</sup> The Chair of the NSW Privileges Committee, the Hon Kaye Griffin MLC, defined contempt of Parliament as any “attempt to threaten or intimidate a member in relation to their parliamentary duties, or improperly to influence a member in relation to those duties.”<sup>713</sup> Section 3.2 of the report identifies the “critical feature of contempt” as being “that the relevant conduct must impede the House or a committee, or its members, in the performance of their functions, or have a tendency to produce that result.”<sup>714</sup>

The subsequent inquiry exonerated the Cardinal. The report’s Recommendation stated:

That, as no contempt has been found, no further action be taken in relation to the public comments made by Cardinal Pell concerning ‘consequences’ for members who supported the Human Cloning and Other Prohibited Practices Amendment Bill 2007.<sup>715</sup>

Rather than intimidating the Parliamentarians, the inquiry was meant to intimidate the Church through Cardinal Pell. The Terms of Reference for the Privileges Committee indicated the focus would be on the “consequences for their life in the Church” statement that Cardinal Pell made in the Media Statement issued by the NSW Bishops. These comments were regarded as a possible “contempt of parliament” with impending “action” to “be taken in relation to this matter.”<sup>716</sup>

---

<sup>711</sup> New South Wales Parliament, Legislative Council, Privileges Committee, *Report on comments by Cardinal George Pell concerning the Human Cloning and Other Prohibited Practices Amendment Bill 2007*/ Privileges Committee, Sydney, N.S.W., 2007. – 26 , 32-33, <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5499/Report%20No%2038%20Cardinal%20Pell.pdf> (Accessed 15 November 2016).

<sup>712</sup> Erik Jensen, ‘Pell could be in contempt’, in *The Sydney Morning Herald*, 15 June 2007, <http://www.smh.com.au/news/national/pell-could-be-in-contempt/2007/06/15/1181414522564.html#> (Accessed 12 December 2016).

<sup>713</sup> New South Wales Parliament, Legislative Council, Privileges Committee, op. cit., viii.

<sup>714</sup> Ibid., 8.

<sup>715</sup> Ibid., viii.

<sup>716</sup> Ibid., iv.

Through action taken against Cardinal Pell, the inquiry signalled a warning for the future that the Church hierarchy was not welcome to call Catholics in public life to adhere to their obligations as Catholic individuals, and would invite retaliation from the more powerful public instruments available to the State, such as the Privileges Committee.

Another drama played out in the press: articles and opinion pieces appeared in *The Daily Telegraph*, *The Sydney Morning Herald* and *The Australian* on the same day, 7 June 2007, by, or quoting, current, or former, priests or religious. These articles will be discussed and referenced in this section of the thesis.

Catholic critics of Pell, Dr Paul Brock, Frank Brennan and Paul Collins, used a revisionist perspective of conscience and moral theology. This contributed heavily to the secular critique of Cardinal Pell, providing an unsympathetic public with an articulate alternative. No Catholic defender of the Cardinal came forth in similar prominence to Brock, Brennan or Collins. Though not a Catholic, however, Gerard Henderson wrote in the Cardinal's defence in *The Sydney Morning Herald*:<sup>717</sup>

Pell and Hickey were advising Catholic MPs what was expected of them as members of the Catholic Church. That's all. Some of the critics of the archbishops of Sydney and Perth seem to overlook the fact that no one is compelled to remain a Catholic. Those who do not like the teachings of the church can always leave, as many have done.<sup>718</sup>

However, any uncertain politician, or anyone else taking an interest in the subject at a time when its public significance and receptivity was very high, may regard these dissenting articles as authoritative, or at least influential. First, Brock is well-credentialed and both Brennan and Collins have strong public profiles and all claim to be speaking authoritatively, especially as they claim that a Catholic tradition supports rejection of Catholic teaching though the individual conscience. There were no contrary voices with similar public prestige and standing that were mounting a

---

<sup>717</sup> Gerard Henderson, 'Separation of church and state is fundamental – when it suits' in *The Sydney Morning Herald*, print edition page 11, 19 June 2007, <http://www.smh.com.au/articles/2007/06/18/1182019027502.html?page=fullpage#contentSwap1> (Accessed 30 July 2017).

<sup>718</sup> Ibid.

case against them to challenge their claims. The revisionist voice is well entrenched within the Catholic academic arena, as shown in Chapter Three of this thesis.

Paul Brock, writing in *The Daily Telegraph*, urges “NSW parliamentarians to support the Bill, because it is life affirming and it is the right thing to do”. Having revealed that he has motor neurone disease, he reasons:

During my six years of studying theology and philosophy as part of my 15 years as a Marist Brother in the Catholic Church, I learned about the centuries-old principle of the primacy of one's informed conscience.

That is, when making an important moral or ethical decision a Christian should seek guidance from the Bible; Church teaching, rules and regulations; the civil law and any other relevant legitimate authority. Then, finally, one arrives at one's own final, informed decision and "stands before God" with that decision.

That is why Christians can make decisions that may be in conflict with a particular ruling of their Church.<sup>719</sup>

The revisionist perspective and historicist theological perspective is evident in this contribution by Dr Brock where Church teaching merits an equal consideration with civil law, or “any other relevant legitimate authority.”<sup>720</sup> He ignores the authoritative role that the teaching authority of the Church has in forming the Catholic conscience and the obligation of the individual Catholic to conform his or her conscience to the perennial teachings of the Magisterium of the Church. He presents the revisionist idea that exaggerates the autonomy of the individual conscience to the point where it becomes the highest arbiter of good and evil.

In *The Australian*, Jill Rowbotham, reports Frank Brennan conveying a similar message:

---

<sup>719</sup> Dr Paul Brock, ‘Christian to do the right thing on stem cells’, in *The Daily Telegraph*, 7 June 2007, <http://www.news.com.au/opinion/christian-to-do-the-right-thing-on-stem-cells/story-e6frfs99-1111113696308#ixzz2O4onr9i0>, (accessed 20 March 2013).

<sup>720</sup> Ibid.

Jesuit priest Frank Brennan said Catholic politicians should put conscience before church advice, despite pressure from Sydney Archbishop George Pell for them to follow the official line and vote the bill down.

‘Every catholic is required to form and inform their conscience and to act upon it,’ Father Brennan said. ‘Every Catholic will be informed by statements made by church authorities but...if there be a conflict between the stance of church authority and the individual’s conscience, the individual has no option but to act from their conscience.’<sup>721</sup>

Brennan demonstrates a consistency in his understanding of conscience to the revisionist theologians considered in Chapter Three of this thesis. Pell is concerned to ensure that Catholic parliamentarians who carry deference to their faith are not under the misapprehension that their obligations are somehow negotiable or that they may be put aside upon entering public life. Catholics are not free to disregard Church teachings. He makes an illegitimate claim to assert that Catholics can reject Church precepts through the use of their conscience.

At the same time, in *The Sydney Morning Herald*, laicised priest Paul Collins also attacked Cardinal Pell:

Catholic politicians are not elected just to represent Catholics. They make decisions for the whole community on contentious issues such as therapeutic cloning and stem cell research. Allowing that they act with integrity, they must be given the freedom to make choices on these issues according to their informed consciences. The Catholic tradition is that no one, including bishops, can force or determine another's conscience.<sup>722</sup>

For Collins, the trend is seen again; private conscience is understood to stand above any ecclesiastical obligation that members of the Catholic Church carry. In his view, Catholic politicians must be informed that they act with integrity as long as they

---

<sup>721</sup> Jill Rowbotham, op. cit.

<sup>722</sup> Paul Collins, ‘Pell’s standover tactics are unfit for a pluralist democracy’, in *The Sydney Morning Herald*, 7 June 2007, <http://www.smh.com.au/news/opinion/pell-tactics-unfit-for-a-pluralist-democracy/2007/06/06/1181089149525.html?page=fullpage#contentSwap1> (accessed 16 February 2016).

make choices with an informed conscience. Collins is right to say that bishops cannot 'determine' another's conscience in the Catholic tradition. However, he displays a naivety about the nature of shared mutual obligations in the Church when he assumes that bishops and others have no place in giving clear and authoritative direction on matters of morality.

The moral teaching of the Church carries within it a measure by which all Catholics are called to check their own behaviour. These are not matters of prudential judgment, such as whether military violence is appropriate in every circumstance or whether capital punishment is appropriate in certain cases, but of unambiguous teaching, and it can hardly be argued that any politician in the State Parliament of NSW has any particular authority on defining the limits of conscience over and against the common mind of the Magisterium over two millennia. Collins further ignores the requirement that as Catholics, the Magisterium's role is decisive in its authority to teach and require the assent of all of its members in matters of faith and morals. In acting with integrity, Catholic politicians will not deviate from what the Church teaches. Their integrity should not be determined by the measure of rejection of their Catholic faith. Collins equates an informed conscience as being the basis for rejecting Church teaching when this is clearly false. Collins continues his discussion of Pell's intervention and exhibits the classic symptoms of revisionist thinking which attacks the idea, as Linda Hogan does, of identifying the informing of one's conscience with adherence to Church teachings. Collins finds this similarly repugnant and reminds his readers of other considerations and various complexities that must be given equal weight:

Pell also talks about "properly informed conscience" which he, however, identifies with church teaching. He discounts the other operative issues that also play a part. For conscientious decision making is a complex process as Hockey, a member of Pell's archdiocese, indicates. Faith, compassion, church teaching, one's public role and responsibility to others, as well as a weighing-up of the pros and cons of a moral issue, are all part of decision making.

For the Catholic it involves taking papal teaching seriously - and here remember that the prohibition on therapeutic cloning is not part of the



fundamental deposit of faith. It is a new issue about which there is contention among Catholic moralists.<sup>723</sup>

Collins disregards the prohibitions on cloning contained in *Donum Vitae*<sup>724</sup> and the restatement of prohibitions on exploitation of human embryos in the CCC.<sup>725</sup> Collins continues:

But a Catholic politician also has responsibility to the broader community. In that community there are many people who sincerely believe that therapeutic cloning is morally justified because of the good that may flow from it. Catholic politicians have to take this seriously. They then weigh up the issues and follow their conscience.

But rather than respecting their decision Pell threatens them. This is an inappropriate way for a church leader to act in a pluralist society. His job is to outline the Catholic position and let politicians act according to their conscience. In Australia the church has to argue its case, not stand over our elected representatives.<sup>726</sup>

---

<sup>723</sup> Ibid.

<sup>724</sup> Congregation for the Doctrine of the Faith, *Donum Vitae: Instruction On Respect For Human Life In Its Origin And On The Dignity Of Procreation Replies To Certain Questions Of The Day*, 22 February 1987, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19870222\\_respect-for-human-life\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html) (Accessed 28 February 2016).

<sup>725</sup> In Paragraph 2275 it states:

"One must hold as licit procedures carried out on the human embryo which respect the life and integrity of the embryo and do not involve disproportionate risks for it, but are directed toward its healing the improvement of its condition of health, or its individual survival."

"It is immoral to produce human embryos intended for exploitation as disposable biological material."

"Certain attempts to influence chromosomic or genetic inheritance are not therapeutic but are aimed at producing human beings selected according to sex or other predetermined qualities.

Such manipulations are contrary to the personal dignity of the human being and his integrity and identity" which are unique and unrepeatable.

Cf. CCC, 2275, [http://www.vatican.va/archive/ENG0015/\\_P7Z.HTM](http://www.vatican.va/archive/ENG0015/_P7Z.HTM) (Accessed 16 November 2016).

<sup>726</sup> Paul Collins, 'Pell's standover tactics are unfit for a pluralist democracy', op. cit.

Collins is correct insofar as the Catholic politician has a responsibility to the broader community, but this can never involve a rejection of adherence to the Magisterium in areas of moral teaching where this applies. Otherwise, the politician has no right or claim to the term Catholic, and out of integrity must not identify as such. If there “are many people who sincerely believe that therapeutic cloning is morally justified because of the good that may flow from it”<sup>727</sup> then the same Catholic politician can explain to them the problems associated with this position, according to reason.

Collins is also correct in saying that Pell ought to outline the Church’s teaching on a controversial subject. Pell, however, is correct in calling the same parliamentarians who identify as Catholics to adhere to the same Church teaching. If the Cardinal made no warning, or spoke vaguely, then he would be guilty of not fulfilling the responsibilities of his office. There are, however, grounds for argument about the best way to communicate this, but Pell served his office appropriately in expressing the mind of the Church.

Collins was also mistaken when he also questioned whether the Cardinal consulted the other bishops of NSW “before he made his statement.”<sup>728</sup> He added that “If they don't support him he could be isolated and his strictures about Communion will apply only to Catholic politicians in the Sydney archdiocese.”<sup>729</sup> The media release from the NSW Bishops was released three days earlier, revealing both evidence of consultation between all NSW Bishops and their unified position.<sup>730</sup>

The advocacy of placing Church teaching amongst one of many equally valid sources of decision making in informing the individual conscience, permeates all three interventions by Collins, Brennan and Brock, and this particular characteristic of revisionist thinking was a major intervention in the public debate at the time which influenced public opinion against the consistent teaching of the Church on this area of moral theology. The simultaneous contribution from these commentators provided parliamentarians, Catholic or otherwise, with a further rationale to reject the intervention by Cardinal Pell and the NSW Bishops. Cardinal Pell responded to his

---

<sup>727</sup> Ibid.

<sup>728</sup> Ibid.

<sup>729</sup> Ibid.

<sup>730</sup> Catholic Archdiocese of Sydney, *Media Statement: No Catholic could in good conscience vote for Cloning Bill - NSW Bishops*, 4 June 2007, op. cit.

critics, which shall be explored at the conclusion of the following section, and he was the only bishop in the NSW episcopate who was targeted in the press and had any public prominence. No other bishop in NSW was reported to have become personally involved in the public debate. What this intervention shows is that the legitimate actions of a bishop, intervening in a public matter of the highest importance, has been undercut and subverted by advocates of a revisionist theological perspective. Allying with secular voices the revisionist intervention at best confused the public about the Church's teaching on conscience, its role and purpose and aided an aggressive response by The Greens, which led to the attempted intimidation of Cardinal Pell and the voice of the Church on moral questions by means of the NSW Privileges Committee.

### ***Theological Debate Enters the NSW Parliament and Cardinal Pell's Intervention is Debated, For and Against***

In the earlier part of this Chapter, we encountered examples of commentary in the Parliament on the intervention of Cardinal Pell. In this section we will examine more detailed addresses to the NSW Parliament representing a For and Against case by Catholic parliamentarians concerning Cardinal Pell's intervention. The For case is represented by Chris Hartcher MP and the Against case is represented by Catherine Cusack MLC, both members of the NSW Liberal Party. Cusack also presents a detailed revisionist critique of the role of conscience and the Catholic parliamentarian. First, however, we will review the address by ALP Member Greg Donnelly MLC, who is also a Catholic. His contributions to parliamentary debates are strongly and consistently pro-life.<sup>731</sup> However, on this occasion he was not free to

---

<sup>731</sup> For example, when the campaign to redefine marriage was being contested at the State level Greg Donnelly issued a statement including the sentence: "The current definition must be vigorously defended." Greg Donnelly MLC, *NSW Parliament Debates the Meaning of Marriage*, 28 October 2013, <http://www.acl.org.au/nsw-mlc-calls-for-action-to-uphold-the-meaning-of-marriage> (Accessed 4 December 2016). He wrote against the 'Safe Schools' anti-bullying program, which has been exposed as a means of promoting gender fluidity to children. Greg Donnelly MLC, 'Sexuality and gender brainwashing masquerading as an anti-bullying program' in *On-Line Opinion*, 23 February 2016, <http://www.onlineopinion.com.au/view.asp?article=18042> (Accessed 4 December 2016). He also is a strong voice against euthanasia. See for example his public statement against The Greens' *Rights of the Terminally Ill Bill 2013* in the NSW Parliament: Greg Donnelly MLC, *Reject Greens Culture of Death*, 29 April 2013, <https://marriage.greekorthodox.org.au/2013/04/reject-greens-culture-of-death-greg-donnelly-mlc/> (Accessed 4 December 2016).

speak upon Cardinal Pell's intervention in specific terms, as he was part of the NSW Privileges Committee tasked with investigating the Cardinal's comments. He does however discuss the matter more generally.<sup>732</sup>

Prior to Donnelly's discussion of the role of the Cardinal, however, he stated his own view on the topic of cloning that corresponds to that precepts of the natural law:

I believe an embryo is human life—and so do many others. I believe human life by its very nature has an innate dignity and must be protected absolutely. It may seem trite to say so, but we were all embryos once. Such is the profound mystery of life. There is an unbroken continuum between my conception and my being here today to make this speech. We must respect human life. I believe that strongly: my position is not open to compromise. Therefore, I cannot assent to stem cell research that destroys embryos.<sup>733</sup>

In his limited remarks on Cardinal Pell's intervention Donnelly states that it is Pell's "duty", "as the most senior Catholic leader in Australia", to "faithfully teach and preach what the church holds to be true."<sup>734</sup> Donnelly continues to discuss the role and responsibility of the Catholic Church authorities concerning the formation of individual Catholic consciences.

Cardinal Pell has a responsibility to help guide and shape the consciences of the Catholic faithful in Australia. He does this through his teaching and preaching of what the Catholic Church holds to be true.<sup>735</sup>

Donnelly then states that "But in the end individuals are responsible for their consciences. Nobody else can, or should, seek to assume that responsibility." This is correct, but it omits the obligations of the individual Catholic to both inform and

---

<sup>732</sup> Greg Donnelly MLC, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Council, 20 June 2007, 1294-1305, [http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LC20070620/\\$File/541LC013.pdf](http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LC20070620/$File/541LC013.pdf) (Accessed 4 December 2016).

<sup>733</sup> *Ibid.*, 1300.

<sup>734</sup> *Ibid.*, 1302-1303.

<sup>735</sup> *Ibid.*, 1303.

conform to the teachings of the Church. However, in the statement immediately following, this is hinted at.

If the Cardinal sees that an individual Catholic may be about to make a serious error of judgment with respect to a significant moral matter, for what may be a range of reasons, he is duty bound and obliged to speak up and clearly explain the position of the church.<sup>736</sup>

Without commenting on the specifics of what was said, he defended the role of the Cardinal to make public interventions as is required by his office. Had Greg Donnelly not been a member of the NSW Privileges Committee at the time, his statements concerning the intervention of the Cardinal would have examined the matter in greater depth. Similarly, the then Liberal Member for Terrigal, Chris Hartcher MP, commenced his address to the NSW Parliament with the following:

I am proud to declare my support for Cardinal Pell and his comments on this legislation. I am proud to acknowledge my religious beliefs and to share the beliefs expressed by both His Eminence the Cardinal and the Anglican Church Diocese of Sydney in relation to this legislation.<sup>737</sup>

Hartcher restates the foundational moral principle of the defence of innocent human life, as already discussed in Chapter Two of this thesis, in reference to the work of Pope John Paul II in *Veritatis Splendor* and *Evangelium Vitae* and the necessity of building a culture of life. He says:

I share the belief that society and all human relationships are based upon one fundamental value—that is, that human life is sacrosanct and must be preserved. The creation of human embryos for scientific experimentation is repugnant to that principle.<sup>738</sup>

---

<sup>736</sup> Ibid.

<sup>737</sup> Chris Hartcher MP, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Assembly, 5 June 2007, 784, [http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070605/\\$File/541LA008.pdf](http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070605/$File/541LA008.pdf) (Accessed 4 December 2016).

<sup>738</sup> Ibid., 786.

He immediately upholds the correct nature of the intervention by Cardinal Pell, and others, on the matter of conscience:

His Eminence the Cardinal and other Christian leaders have been right in bringing attention to this dilemma and right in urging all people of good conscience—the practising Catholics, practising Christians or people of no faith at all—to reject this legislation.<sup>739</sup>

He defends the Church's role in "informing people's consciences", of which he says it is "a role that the Christian church and the Catholic church (sic) have had since their creation some 2,000 years ago. It is the role of the church to advise people in respect of the best and most appropriate exercise of their conscience in the light of Christian teaching and belief."<sup>740</sup> He reiterates that throughout the Church's history, it has upheld "that human life is sacred, that the violation of the principle of the sanctity of human life is not acceptable in a Christian context."<sup>741</sup> He speaks as a Catholic, but with acknowledgement of "the views of other Christian churches and of Judaism."<sup>742</sup>

Hartcher sees the problem with the nature of the Bill being to promote moral compromise to secure a desired end, where "Moral compromise does not lead to anyone's salvation. It does not lead to the salvation of society or the individual. It simply enables certain people, with their own agendas, to seriously undermine the moral premise upon which our society is built."<sup>743</sup> Hartcher is consistent with Apostolic Teaching found in Romans 13:8, reiterated by Pope Paul VI in *Humanae Vitae* and re-presented by Pope John Paul II in *Veritatis Splendor*. John Paul II quotes *Humanae Vitae* in *Veritatis Splendor*: "Though it is true that sometimes it is lawful to tolerate a lesser moral evil in order to avoid a greater evil or in order to promote a greater good, it is never lawful, even for the gravest reasons, to do evil that good may come of it (cf. *Rom 3:8*)."<sup>744</sup> Pope John Paul II explains that, despite any

---

<sup>739</sup> Ibid.

<sup>740</sup> Ibid.

<sup>741</sup> Ibid.

<sup>742</sup> Ibid.

<sup>743</sup> Ibid.

<sup>744</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, op. cit., Paragraph 80.

good intentions, it is “unworthy of man”, therefore, “to intend directly something which of its very nature contradicts the moral order.”<sup>745</sup>

Hartcher sees that those who are trying to rationalise support for the Bill are violating the “one fundamental principle” upon which our society is founded: “that human life is sacred and that sanctity must be observed.”<sup>746</sup> In arguing for and defending this fundamental principle, Hartcher is acting in the best way of defending the natural law and upholding its prerogatives in a parliamentary context. He sees the implications of passing the Bill in that “Once that fundamental principle is denied, anything is lawful because the only limits that this legislation places upon the mixing of human and animal genetic material for scientific purposes, the only limits it places upon human creation of embryos outside the womb for their destruction, is a time limit”<sup>747</sup> and that time limit can be easily removed in “in a few years time to address amendments to remove them.”<sup>748</sup>

In the conclusion of his speech, he repeats, twice more, his support for the actions of Cardinal Pell<sup>749</sup> and admonishes those who have criticised him: “I deplore the fact that people have been prepared to attack His Eminence Cardinal Pell. I am proud to stand by him and to acknowledge him as a great religious leader. To pretend that his presenting the views held by the Christian church for 2,000 years is somehow a violation of the separation of church and state ignores an understanding not only of history but of the society that is based on those values.”<sup>750</sup>

In contrast to Chris Hartcher’s speech in defence of the Cardinal’s actions, fellow Liberal Party Member, Catherine Cusack MLC, contributed a detailed speech in the NSW Legislative Council on the remarks by Cardinal Pell and the issue of conscience.<sup>751</sup> Her speech was the most detailed and nuanced on this question, however she offers a revisionist perspective and reveals the extent of the influence of

---

<sup>745</sup> Chris Hartcher MP, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit.

<sup>746</sup> Ibid.

<sup>747</sup> Ibid.

<sup>748</sup> Ibid.

<sup>749</sup> Ibid., 786-787.

<sup>750</sup> Ibid., 786.

<sup>751</sup> The Hon Catherine Cusack, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Council, 20 June 2007, 1324-1332, [http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LC20070620/\\$File/541LC013.pdf](http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LC20070620/$File/541LC013.pdf) (Accessed 16 November 2016).

revisionist thinking on her own. Early in her address she stated “I have examined my conscience and assure this House that zealotry and dogma played no part in my decision, which is to support this legislation.”<sup>752</sup> She outlined the key thrust of the *Human Cloning and Other Prohibited Practices Amendment Bill 2007* stating:

The bill enables somatic cell nuclear transfer, also known as therapeutic cloning, and other practices involving the creation of human embryos other than by the fertilisation of human eggs by human sperm, but only under licence for research purposes and not for reproductive purposes.<sup>753</sup>

Catherine Cusack, however, asks “What exactly is a human embryo?”<sup>754</sup> She responds to her own question:

The use of this term is loose because the definition includes any egg with human material, such as a skin cell implanted for the purpose of cloning that cell. The bill gives special status and protection to human egg, human sperm embryos. Under the bill a sperm-egg embryo could be used only for the purposes of fertilisation or improving techniques to achieve this goal.<sup>755</sup>

She omits to note in her speech that, according to the *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, and which was passed into law with her support, if a person has a licence, then it is lawful if he or she:

- intentionally creates a human embryo by a process other than the fertilisation of a human egg by a human sperm, or develops a human embryo so created. S 17 (a)
- intentionally creates or develops a human embryo by a process other than the fertilisation of a human egg by a human sperm, and the human embryo contains genetic material provided by more than 2 persons. S 18 (a and b)

---

<sup>752</sup> Ibid., 1325.

<sup>753</sup> Ibid., 1324.

<sup>754</sup> Ibid., 1326.

<sup>755</sup> Ibid.



- uses precursor cells taken from a human embryo or a human foetus, intending to create a human embryo, or intentionally develops an embryo so created. S 18A (a)
- intentionally creates a hybrid embryo.<sup>756</sup> S 18B (1)
- intentionally develops a hybrid embryo. S 18B (2)<sup>757</sup>

Therefore, in her support for the Bill, she has also supported all of the above measures in the Bill. These measures are conditional prohibitions, therefore they are permitted but under the limited circumstance of an issued licence. This is a clear violation of the proscriptions in the CCC in Paragraph 2275, being “immoral to produce human embryos for exploitation as disposable biological material.”<sup>758</sup>

These issues were foreseen by the Magisterium in 1987 with the publication of *Donum Vitae* by the Congregation for the Doctrine of the Faith as a consequence of in-vitro fertilisation. The condemnations of these practices were explicit and the foresight accurate. *Donum Vitae* had been in existence for twenty years before this debate entered the NSW Parliament. Hence it was known and knowable by those willing to enquire, where “*attempts or hypotheses for obtaining a human being without any connection with sexuality through "twin fission", cloning or parthenogenesis are to be considered contrary to the moral law, since they are in opposition to the dignity both of human procreation and of the conjugal union.*”<sup>759</sup>

---

<sup>756</sup> According to the *Human Cloning for Reproduction and Other Prohibited Practices Act 2003 No 20*, the definition of a hybrid embryo is given in Section 4.

**hybrid embryo** means:

- an embryo created by the fertilisation of a human egg by animal sperm, or
- an embryo created by the fertilisation of an animal egg by human sperm, or
- a human egg into which the nucleus of an animal cell has been introduced, or
- an animal egg into which the nucleus of a human cell has been introduced, or
- a thing declared by the regulations to be a hybrid embryo.

New South Wales Government, NSW Legislation, *Human Cloning for Reproduction and Other Prohibited Practices Act 2003 No 20*, Part 1 Section 4,  
<http://www.legislation.nsw.gov.au/#/view/act/2003/20/part1/sec4> (Accessed 16 November 2016).

<sup>757</sup> Parliament of NSW, *Human Cloning and Other Prohibited Practices Amendment Act 2007 No 16*,  
<http://www.legislation.nsw.gov.au/acts/2007-16.pdf> (Accessed 16 November 2016).

<sup>758</sup> CCC, 2275.

<sup>759</sup> Congregation for the Doctrine of the Faith, *Donum Vitae*, op. cit. Paragraph I.6. Italics in original.

The natural repugnance of creating or developing “hybrid embryos” is also reinforced by Congregation for the Doctrine of the Faith as being “*contrary to the human dignity proper to the embryo, and at the same time they are contrary to the right of every person to be conceived and to be born within marriage and from marriage.*”<sup>760</sup> The condemnations of this type of experimentation using and developing human embryos is explicit and an established extension of the application of the moral law to present circumstances. As the permissions available in law for experimentation and development embryos in technology are condemned explicitly, it is possible for all people to recognise and apply the natural law principle, expressed above by Chris Hartcher MP, that “that human life is sacrosanct and must be preserved.”<sup>761</sup>

After a lengthy and critical examination of the tactics of Cardinal Pell’s intervention, Cusack explores the issue of the “primacy of conscience”.<sup>762</sup>

I have reflected deeply on the primacy of conscience. A young friend assisted me greatly by drawing my attention to a sermon delivered by Fr Emert Costello, who is a Jesuit priest. I make it very clear that the guidance offered did not relate to this issue and I draw on his words for the sole purpose of arguing that Catholic politicians are entitled to form and act upon our own view of this legislation. Father Costello says:

This doctrine of the primacy of the adequately informed conscience has been part of the church's moral teaching for centuries. The Second Vatican Council made an important distinction between infallible and non-infallible teachings.

"A Catholic who feels compelled to dissent from infallible teaching has no option but to sever his connection with the church. On the other hand, when the question at issue is the obligatory force of non-infallible teaching then Catholics may dissent from such teaching for serious

---

<sup>760</sup> Ibid.

<sup>761</sup> Chris Hartcher MP, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit., 786.

<sup>762</sup> The Hon Catherine Cusack, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit., 1328.

conscientious reasons and still consider themselves to be in full communion with the church."<sup>763</sup>

Emert Costello is correct when he states that Catholics compelled to dissent from infallible teachings must sever their connections from the Church, and in certain cases do so by virtue of their own actions. There are nine specific sins identified in canon law as carrying excommunication *latae sententiae*, which do not require any extrinsic action by a bishop or other ecclesiastical authority.<sup>764</sup> However, in the rendering of “non-infallible teaching” he perpetuates the rationalisations of those theologians from the revisionist and historicist schools of thinking that used the same arguments to reject *Humane Vitae*. The authoritative teachings of the Ordinary Magisterium are equated with non-infallible Magisterial statements, the latter category having no relationship to areas of teaching on questions of faith or morals. However, it is noteworthy to see revisionist thinking in action within a parliamentary chamber. Cusack continues:

This teaching that personal conscience is the ultimate guide in all our moral activity was clearly taught by Thomas Aquinas, probably the greatest Catholic theologian, in the 13th century. Aquinas held that an erroneous conscience was morally binding and that one is without moral fault in following it provided one has already made every reasonable effort to form a right moral judgment. The eminent English Jesuit theologian, John Mahoney, comments:

"Aquinas has also taught that the conscience was the medium through which a human being received God's directive. He had therefore placed

---

<sup>763</sup> Ibid., 1329.

<sup>764</sup> According to the *1983 Code of Canon Law*, these include: Apostasy, heresy, schism (CIC 1364:1); Violating the sacred species (CIC 1367); Physically attacking the pope (CIC 1370:1); Sacramentally absolving an accomplice in a sexual sin (CIC 1378:1); Consecrating a bishop without authorization (CIC 1382); and Directly violating the seal of confession (1388:1). See The Canon Law Society of Great Britain and Ireland in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, *The Code of Canon Law in English Translation*, trans. The Canon Law Society Trust, Collins Liturgical Publications, London and Collins Liturgical Australia, Sydney, 1983, 243-246.

the dictate of conscience above any directive given by a human authority—which meant even an ecclesiastical one ...”<sup>765</sup>

The value of the erroneous conscience to revisionist thinking is evident here, as Aquinas says it must be followed in spite of it being erroneous, irrespective of authority. This assertion fails, however, to acknowledge the obligation to inform one’s conscience correctly. The key word in the quote from Mahoney is “directive”. This can be interpreted as a matter of Church policy, or human law, and does not account for the deference required of the Catholic person to the Magisterium of the Church in areas of faith and morality, which the issue of human cloning covers. Thomas, however, says nothing about “every reasonable effort”, but obliges the subject to correct the erroneous conscience and identifies the same subject as being sinfully culpable for not doing so”<sup>766</sup> and as already noted, he also maintains that assent is required “to whatever the Church teaches.”<sup>767</sup> It is therefore a strange argument to make, which relies on selected parts of Thomas Aquinas’ significant corpus of writing, and which assigns a view to which Thomas did not subscribe and which the Church has never owned.

In citing Costello, Cusack draws on an additional voice in Jesuit theologian Hogan, SJ for her argument.<sup>768</sup> Hogan shows himself a disciple of revisionist thought, such as that found in Bernard Häring and Linda Hogan:

The council's teaching on religious freedom and on conscience helps to re-establish Aquinas' position on the primacy of conscience. Because of this, there can be no dilemma in regard to the relation of conscience to the magisterium [church teaching] since this official teaching authority should be understood as a faithful and welcome helper in decision making, while our response should be one of free and responsible discipleship. It is an affront to humanity if others try to take over our consciences. The

---

<sup>765</sup> The Hon Catherine Cusack, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit., 1330.

<sup>766</sup> Thomas Aquinas, *Selected Writings*, op. cit., 217, 231, 235.

<sup>767</sup> Thomas Aquinas, *Summa Theologica*, II-II, Q5 Art 3, op. cit.

<sup>768</sup> Father Hogan’s first name is not provided by Cusack.

best teaching is that which respects not only the doctrine taught but also and especially the dignity and autonomy of the learner.<sup>769</sup>

The autonomous individual exercising “free and responsible discipleship”<sup>770</sup> is not beholden or restrained to the teaching office of the Church’s Magisterium. Note that at this point there is no longer any need to differentiate between the classifications of teaching as infallible or otherwise; the Magisterium is now depicted as an unwelcome presence that inhibits individual freedom, a non-binding “helper in decision making”<sup>771</sup> but making no demands of assent.

Hogan concludes by saying that an “impoverished notion of God leads to a predominantly legalistic approach to morality; such a view of morality in turn reinforces that impoverished image of God.”<sup>772</sup> Hogan is of course right in this general description, however the glib association of a “legalistic approach to morality”<sup>773</sup> with the simple idea of obeying the law is too quick a judgment to make. The key here is Jesus Christ, who as the fulfilment of the law, is the person in whom and by whom the law is perfected and through which the law gives freedom. The acceptance of the authority of the Magisterium is an act of personal freedom, in which one’s conscience is freed from the obligations of one’s culture and age and joined in communion, however imperfectly, with the will of a God who loves and saves. In other words, discipleship to Jesus and membership of the Church is, for Catholics synonymous, and rather than impoverishing our notions of God, obeying the law and informing one’s conscience with the teaching of the Church actually enriches our notions of God in Jesus Christ.

Cusack then seeks to draw support from Pope John Paul II for her position on conscience, and continues to cite Hogan:

To conclude, Pope John Paul II, in his recent message for World Peace on January 1st, 1999, stressed the primacy of the conscience: 'People are

---

<sup>769</sup> The Hon Catherine Cusack, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit., 1330.

<sup>770</sup> Ibid.

<sup>771</sup> Ibid.

<sup>772</sup> Ibid.

<sup>773</sup> Ibid.

obliged to follow their conscience in all circumstances and cannot be forced to act against it.<sup>774</sup>

Cusack and Fr Hogan omit the thrust of what Pope John Paul II states in Paragraph 64 of *Veritatis Splendor*, as referred to in Chapter Two of this thesis. Paragraph 64 describes the role of the Magisterium to guide the Catholic conscience, bringing “to light the truths which it (the Christian conscience) ought already to possess.”<sup>775</sup> The term “ought” denotes obligation. The implication, then, is that for the Catholic to reject the teachings of the Magisterium in its areas of specific competence, “the truth of Christ”<sup>776</sup> and the “principles of moral order”<sup>777</sup> – faith and morals – is therefore to reject a knowable source of truth and embrace error.<sup>778</sup> The attainment, therefore, of truth with certitude, and the abidance by it<sup>779</sup> requires the individual Catholic to align his or her conscience with the teachings of the Magisterium. Conversely, conscience is wrongly applied if appealed to as the *basis* for rejecting the teachings of the Magisterium. According to Cusack, however, the primacy of conscience is synonymous with the sovereignty of the self, and she is mistaken in trying to summon Pope John Paul II to support her position. Catholics are not free to reject the constant teaching of the Magisterium and determinations that uphold Apostolic

---

<sup>774</sup> Ibid.

<sup>775</sup> Pope John Paul II, *Encyclical: Veritatis Splendor*, Paragraph 64, op. cit.

<sup>776</sup> Ibid. Cf. *Dignitatis Humane* Paragraph 14.

<sup>777</sup> Ibid. Cf. *Dignitatis Humane* Paragraph 14.

<sup>778</sup> Ibid. The final part of Paragraph 64 follows:

Christians have a great help for the formation of conscience in the Church and her Magisterium. As the Council affirms: "In forming their consciences the Christian faithful must give careful attention to the sacred and certain teaching of the Church. For the Catholic Church is by the will of Christ the teacher of truth. Her charge is to announce and teach authentically that truth which is Christ, and at the same time with her authority to declare and confirm the principles of the moral order which derive from human nature itself ". It follows that the authority of the Church, when she pronounces on moral questions, in no way undermines the freedom of conscience of Christians. This is so not only because freedom of conscience is never freedom "from" the truth but always and only freedom "in" the truth, but also because the Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather it brings to light the truths which it ought already to possess, developing them from the starting point of the primordial act of faith. The Church puts herself always and only at the service of conscience, helping it to avoid being tossed to and fro by every wind of doctrine proposed by human deceit (cf. Eph 4:14), and helping it not to swerve from the truth about the good of man, but rather, especially in more difficult questions, to attain the truth with certainty and to abide in it.

<sup>779</sup> Ibid.

Tradition by a resort to conscience and yet maintain they are faithful Catholics holding a legitimate position consistent with such a claim. These particular Catholics are not free to consider their dissent legitimate and it is misleading of themselves and others to do so.

Cusack continues:

Following Cardinal Pell's statements Father Frank Brennan affirmed the view that on this specific issue Catholic politicians must act according to their conscience. Father Brennan recently published a book entitled *Acting on Conscience*.<sup>780</sup>

Once again the influence of Brennan is evident in this debate and provides cover for politicians dissenting from Church teaching in the public square. His influence is manifest on the public record and shows itself as an important foundation to the revisionist position in Australian politics. Cusack does not cite Brennan's book, as she says she has not yet read it, but refers to his public comments of this issue published in the press referred to earlier in this chapter.

She then attacks Cardinal Pell's tactics and turns her attention to Dr Paul Brock. Dr Brock's voice in the media in concert with Brennan and Paul Collins provides the needed political cover for a person to claim to be a Catholic while rejecting Catholic Church teachings. Dr Brock's statement has been already reviewed, but Cusack's comments reflect how effective his intervention was. First she established his credentials: "Dr Brock spent 15 years as a Marist Brother, including six years of studying a Masters in Theology."<sup>781</sup> From this platform she shifts to his adamant support for the "primacy of one's informed conscience" reinforced by his credentials. Then the argument moves to his adamant support for the essential need for "embryonic stem cell research" to help others not suffer as he is. His support for embryonic stem cell research means that he supports the destruction of a human embryo, a human being, a position that is not redeemed by desiring a beneficial end. One could use a similar argument to justify abortion by claiming a greater end.

---

<sup>780</sup> The Hon Catherine Cusack, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, op. cit. See also, Frank Brennan, *Acting on Conscience*, op. cit.

<sup>781</sup> Cusack, *ibid*.

However, as Pope John Paul II points out in Chapter Two of this thesis, one must not do evil so that good may result.

This violation of the moral law by both Brock and Cusack is sold as being “hope it offers to others who, in future, will suffer as he suffers today.”<sup>782</sup> Dr Brock’s personal virtues and weighty deliberation are extolled to add further justification to his stated position, where he “has displayed remarkable courage, energy and compassion in what has nevertheless been a most considered contribution to the debate.”<sup>783</sup> Emotion enters the argument where Cusack is “greatly moved with sadness by the burden he bears and the greater burden that he faces.”<sup>784</sup> She holds “in awe” his “humanity and faith.”<sup>785</sup> Hence any criticism of this person cannot be accepted. She personalises the example of Brock with Pell’s general description of those advocating human cloning and by extension, experimentation on human embryos as the “enemies of life” and labels it “incredible.”<sup>786</sup> She attacks Pell’s balance and judgement by claiming his statement is “not a measured contribution,” nor does she personally regard it as “binding church teaching.”<sup>787</sup> Pell’s comments were in keeping with the assessments of the “culture of death” that Pope John Paul II articulated in *Evangelium Vitae*, with which Pell was entirely consistent, as was his consistency with the upholding of the moral law and the condemnation of its violation. Pell’s statements were entirely consistent with Magisterial teaching and it is unfortunate that Cusack gave false credence to the statements of his theological opponents.

The NSW Bishops’ statement, included in Cusack’s address in Hansard, also drew upon natural law arguments which was also overlooked in her criticisms.

The human embryo cannot develop as anything other than a human being. Therefore, it has intrinsic human dignity and should be afforded that most basic of human rights—the right to live, to grow, to prosper.

---

<sup>782</sup> Ibid.

<sup>783</sup> Ibid

<sup>784</sup> Ibid.

<sup>785</sup> Ibid.

<sup>786</sup> Ibid.

<sup>787</sup> Ibid.



"This Bill would result in there being two classes of human embryos: those created to live and those manufactured to be eliminated in research. To produce a human embryo with the express purpose of destroying it for research—as if it were a lab rat—is a perverse new direction for human experimentation.<sup>788</sup>

The magisterial teaching that the intervention of the NSW Bishops, including Cardinal Pell, was drawing upon can also be found in the Church document *Donum Vitae*, published by the *Congregation for the Doctrine of the Faith* in 1987.<sup>789</sup> The foundational principle of the identity, inherent dignity and rights of a person from the moment of conception is found in Section I.1:

Thus the fruit of human generation, from the first moment of its existence, that is to say from the moment the zygote has formed, demands the unconditional respect that is morally due to the human being in his bodily and spiritual totality. The human being is to be respected and treated as a person from the moment of conception; and therefore from that same moment his rights as a person must be recognized, among which in the first place is the inviolable right of every innocent human being to life.<sup>790</sup>

Embryonic stem cell research violates this foundational principle: “The human being is to be respected and treated as a person from the moment of conception.”<sup>791</sup> While noting this principle, consideration should be given again to what is permissible though this legislation with a licence, as noted above, including the creation of hybrid embryos.

Given the extent of revisionist thinking on her understanding of conscience, as laid out in the above speech, her vote for a motion in the NSW Parliament during 2012 in favour of redefining marriage is unsurprising.

---

<sup>788</sup> *Ibid.*, 1327.

<sup>789</sup> Congregation for the Doctrine of the Faith, *Donum Vitae: op. cit.*

<sup>790</sup> *Ibid.*

<sup>791</sup> *Ibid.*

"I don't see it actually as being about gay people, I just actually see it as being the state shouldn't be defining our relationships," Ms Cusack said.<sup>792</sup>

She makes no statement about the nature of marriage, what it is and why it is important, but avoids the issue altogether, in the same way that she avoided the central tenets of Pell's concern about the actions of the destruction of human embryos involved in the cloning legislation in the NSW Parliament. Having outlined a revisionist platform for interpreting moral issues in public debate, while showing disdain for Church teaching that contradicts her own views, her stated position on marriage reflects a consistency of holding selected Catholic teachings that are consistent with her opinions and having the "primacy of conscience" arguments, as outlined by Brock, to fall back upon. Her positions would find reinforcement by the fulfilment of her stated intention to read Brennan's *Acting on Conscience*.

### **Cardinal Pell Corrects Revisionist Teaching about Conscience**

Writing in his own defence against the charges that he attacks the idea of the "primacy of conscience", Cardinal Pell explains that his object is first to show that "the appeal to the primacy of conscience is being used to justify what we would like to do rather than to discover what God wants us to do."<sup>793</sup> In other words he aims to address the exaggerated autonomy of the approach to conscience guided and inspired by the revisionist approach to moral theology. Second, he seeks to explain that "conscience does not have primacy,"<sup>794</sup> but instead truth does and that in the Western world "the primacy of the individual conscience easily becomes in our cultural context the same as a claim to personal moral autonomy."<sup>795</sup>

---

<sup>792</sup> Bruce MacKenzie and Joanne Shoebridge, 'Cusack abused over gay marriage stance', in *ABC Online*, 7 June, 2012 12:49PM AEST, <http://www.abc.net.au/local/stories/2012/06/07/3520361.htm?site=northcoast> (Accessed 28 February 2016).

<sup>793</sup> Cardinal George Pell, *God and Caesar: Selected Essays on Religion, Politics and Society*, ed. M.A. Casey, Connor Court Publishing, Victoria, Australia, and The Catholic University of America Press, Washington DC, 2007, 160.

<sup>794</sup> *Ibid.*

<sup>795</sup> *Ibid.*, 161.

Instead, he argues that one “should say that the word of God has primacy or that truth has primacy, and that a person uses his conscience to discern the truth in particular cases.”<sup>796</sup> Cardinal Pell uses a brief examination of the Second Vatican Council document *Dignitatis Humane* to explain that the individual baptised Catholic retains traditional obligations towards the Magisterium.<sup>797</sup> The assertion of the primacy of truth shows that Pell agrees with the Ratzingerian interpretation of Newman’s teaching about conscience, as examined in Chapter Two of this thesis.

In his letter to the NSW Privileges Committee he openly refers to the revisionist ideas of conscience stating that it “is possible that some Catholic politicians have been misled by the theory of “primacy of conscience”, allegedly an invention of the Second Vatican Council, although the phrase can be found nowhere in the documents of the Council.”<sup>798</sup> Pell questions the meaning of “primacy of conscience”, but says “everyone is obliged to act as he thinks proper.”<sup>799</sup> He cites Jesuit theologian Cardinal Avery Dulles, who writes that “the idea of conscience has been deformed by some modern thinkers ... [who] often depict conscience as a supreme and infallible tribunal that dispenses us from considerations of law and truth, putting in their place purely subjective ... criteria such as sincerity, authenticity and being at peace with oneself.”<sup>800</sup> Pell draws out the implication of the supremacy of individual conscience idea where “some conclude that Church authorities, and by implication God himself, must accept every conscientious decision even when such a decision violates natural law, the Ten Commandments, and important Church moral teaching.”<sup>801</sup> Pell has identified a type of self-deification that the mistaken notion of “primacy of conscience” realises.

Consistent with his statements in 2007, during 2016 in a presentation at St Patrick’s Church, London, as part of a talk about St Damien of Molokai, Cardinal Pell “said one cause for concern was false theories of conscience and the moral law.”<sup>802</sup> Once

---

<sup>796</sup> Ibid., 160.

<sup>797</sup> Ibid., 162-163.

<sup>798</sup> New South Wales Parliament, Legislative Council, Privileges Committee, op. cit., 33.

<sup>799</sup> Ibid.

<sup>800</sup> Ibid.

<sup>801</sup> Ibid.

<sup>802</sup> Dan Hitchens, ‘Some Catholics are ‘unnerved’ by current events in the Church, says Cardinal Pell’ in *Catholic Herald*, 29 November 2016, <http://www.catholicherald.co.uk/news/2016/11/29/some-catholics-are-unnerved-by-current-events-in-the-church-says-cardinal-pell/> (Accessed 3 December 2016).

again he attacks the idea of the “primacy of conscience”, warning there could be “disastrous effects, if conscience did not always submit to revealed teaching and the moral law.”<sup>803</sup> He warned that conscience is “not the last word in a number of ways” and that “it was always necessary to follow the Church’s moral teaching.”<sup>804</sup> He added that “Newman rejected a ‘miserable counterfeit’ of conscience which defines it as ‘the right of self-will’. He noted that Newman was defending Popes Pius IX and Gregory XVI, who in Cardinal Pell’s words, ‘condemned a conscience which rejected God and rejected natural law.’”<sup>805</sup>

Responding to a question about “whether some Catholics’ unease about the state of the Church was related to false theories of conscience, Cardinal Pell said: ‘Yes, that’s correct.’”<sup>806</sup> Pell added that “The idea that you can somehow discern that moral truths should not be followed or should not be recognised [is] absurd”.<sup>807</sup> Once again he reiterated the primacy of truth where all people “stand under the truth,”<sup>808</sup> and as a caution observed that “objective truth” can be “different from our understanding of the truth”.<sup>809</sup> Pell added that “while doctrine develops, there are ‘no backflips’.”<sup>810</sup> In other words doctrine cannot develop in such a way that it contradicts what is already established.

### ***A Catholic Parliamentarian in Australia – Faith and Courage under Fire***

Reviewing some of Senator Brian Harradine’s important contributions in pursuing Catholic principles in public life is of assistance to our project, as an example of what a faithful Catholic parliamentarian can accomplish. This thesis will examine three issues where Harradine has made important parliamentary and legislative contributions: human cloning, marriage and abortion.

---

<sup>803</sup> Ibid.

<sup>804</sup> Ibid.

<sup>805</sup> Ibid.

<sup>806</sup> Ibid.

<sup>807</sup> Ibid.

<sup>808</sup> Ibid.

<sup>809</sup> Ibid.

<sup>810</sup> Ibid.

## Senator Brian Harradine (1935-2014)

Brian Harradine entered the Senate, representing Tasmania as an Independent, in the 1975 Federal Election. Earlier in the same year he had been expelled from the Labor Party for accusing some members of being “friends of Communists.”<sup>811</sup> Born in South Australia in 1935, he moved to Tasmania in 1959 where he worked as a union official the Trades and Labour Council, which he went on to lead for twelve years. As an independent he won six elections, as required for Senators, between 1975 and 1998. He did not contest the 2004 Federal Election and his term finished on 30 June 2005<sup>812</sup> and he held the balance of power in the Senate from 1994-1999.<sup>813</sup>

His Catholicism and socially conservative politics were well known:

A devout Catholic, he campaigned against abortion, embryonic stem cell research and pornography and refused to compromise his position on these issues throughout his many years in Parliament.<sup>814</sup>

His approach in public life was not to say “I oppose this measure because I am a Catholic”, but he acted and argued in such a way that this could have been evident through the particular positions he took on areas of social policy. He used reason to articulate his Catholic approach to politics - a natural law approach, and while respecting those who did not share his views, did not relent on the force of his arguments or the interventions made when necessary to express them.

---

<sup>811</sup> ‘Brian Harradine, Australia's longest-serving independent senator, dies in Tasmania aged 79’, in *ABC News*, 14 April 2014, <http://www.abc.net.au/news/2014-04-14/tasmanian-senator-brian-harradine-dies/5388874> (Accessed 17 November 2016).

<sup>812</sup> Margo Kingston, ‘Brian Harradine, man of honour’, in *SMH.com.au*, 29 June 2004, <http://www.smh.com.au/articles/2004/06/29/1088392648667.html> (Accessed 17 November 2016)

<sup>813</sup> Tony Wright, ‘Former senator Brian Harradine - the blueprint for the power of one’, in *SMH.com.au*, 14 April 2014, <http://www.smh.com.au/federal-politics/political-news/former-senator-brian-harradine--the-blueprint-for-the-power-of-one-20140414-zqunp.html> (Accessed 17 November 2016).

<sup>814</sup> Catholic Communications, *State Funeral For Brian Harradine*, Sydney Archdiocese, 17 April 2014, [http://www.sydneycatholic.org/news/latest\\_news/2014/2014417\\_1030.shtml](http://www.sydneycatholic.org/news/latest_news/2014/2014417_1030.shtml) (Accessed 17 November 2016), Wright, *Ibid.*, and ‘Brian Harradine, Australia's longest-serving independent senator, dies in Tasmania aged 79’, *op. cit.*

## Human Cloning

In 1985 Senator Harradine introduced a Bill into the Senate titled the *Human Embryo Experimentation Bill 1985*.<sup>815</sup> The Bill did not pass into law, but it demonstrated his prescience about what was to come during the following twenty years.

The provisions of the Bill demonstrate the pro-life intent, especially in Section 5, “Prohibited experimentation”, which is a near universal prohibition, except in Section 5 (2) where it states: “if it is undertaken primarily for a benefit consistent with the development of the relevant human embryo's full human potential.”<sup>816</sup> Note that this does not involve any harm to the embryo, but for his or her benefit.<sup>817</sup> The Bill extends to the Territories in Section 4, financial assistance to the States for medical research is tied to “prohibited experimenting” in Section 7, and Offences carry heavy penalties under Section 6.<sup>818</sup>

---

<sup>815</sup> Commonwealth of Australia Bills, *Human Embryo Experimentation Bill 1985*, 23 April 1985, <http://www.austlii.edu.au/au/legis/cth/bill/heeb1985328/> (Accessed 17 November 2016).

<sup>816</sup> Ibid.

<sup>817</sup> The text of Section 5 in full reads:

### Prohibited experimentation

5. (1) For the purposes of this Act, but subject to sub-section (2), any experimenting that is undertaken on, or that involves the use of, a relevant human embryo before the embryo has been implanted in the womb of a

woman, including, but without limiting the generality of the foregoing-

(a) any manipulation of a relevant human embryo;

(b) any procedure undertaken on, or involving the use of, a relevant human embryo;

(c) any dissection of a relevant human embryo; and

(d) any process by way of testing reactions to a drug involving the use of a relevant human embryo, before the embryo has been so implanted, is prohibited experimenting.

(2) Any experimenting referred to in sub-section (1) is not prohibited experimenting for the purposes of this Act if it is undertaken primarily for a benefit consistent with the development of the relevant human embryo's full human potential.

(3) The creating of a relevant human embryo in anticipation that the development of the full human potential of the relevant human embryo will be interrupted, or of using the embryo, or of having the embryo available for use, in any experimenting, manipulation or procedure that is prohibited experimenting by virtue of sub-section (1) shall be deemed to be prohibited experimenting for the purposes of this Act.

<sup>818</sup> Ibid.

The Bill, however, was unsuccessful, and Harradine returned to referencing this Bill in his contribution to the Senate debate on the Prohibition of Human Cloning Bill 2002.<sup>819</sup> He stated:

The last time that I rose to my feet to speak to a bill relating to experiments on human embryos was 20 years ago. It was a bill that I introduced into the parliament to prevent destructive experiments on human embryos. My colleagues were saying at the time, 'Destructive experiments on human embryos are out of the question.' But I knew what was being proposed by various science technologists at the time and that was why I introduced that legislation. Yesterday's prospects are today's reality. And what an ugly reality we have: the deliberate decision to destroy the tiniest members of our human family for commercial and other purposes.<sup>820</sup>

He defended the right to life of human beings from conception, condemned cloning; and foresaw the review provision in the Bill enabling a legislative path for a potential future change.<sup>821</sup>

The change occurred in Federal Parliament in 2006 with the passing of the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006*,<sup>822</sup> in the year after Senator Harradine had left Parliament, leading to State Parliaments passing legislation that reflected these changes.<sup>823</sup>

The NSW example cited above<sup>824</sup> is the effect of the 2006 Federal legalisation. It is instructive to contrast the efforts made by Senator Harradine to defend life against those Catholics who arrayed themselves in the media and in the NSW State Parliament against the intervention of Cardinal Pell, instead of welcoming and

---

<sup>819</sup> Senator Brian Harradine, *Prohibition of Human Cloning Bill 2002: Second Reading Speech*, Senate Hansard, 11 November 2002, 5829-5830, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2002-11-11/0016/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2002-11-11/0016/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>820</sup> Ibid., 5829.

<sup>821</sup> Ibid., 5829-5830.

<sup>822</sup> Australian Government, Federal Register of Legislation, *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006, No. 172, 2006*, <https://www.legislation.gov.au/Details/C2006A00172> (Accessed 17 November 2016).

<sup>823</sup> Ibid. To examine the permissions for experimentation of human embryos available to licence holders under the Act, see Sections 22, 23, 23A and 23B at *ibid*.

<sup>824</sup> The *Human Cloning and Other Prohibited Practices Amendment Bill 2007* in the NSW Parliament.

supporting this intervention. These events also cast in sharp relief the work of revisionist theology against the precepts of Catholicism in the public square.

### *Marriage*

The ferocity of the push to redefine marriage in the Federal Parliament in the last decade did not have the same intensity when Brian Harradine was in Parliament, but it was present at a nascent level. He was able to identify implications of proposed Bills and motions put forward by the Australian Democrats and opposed them.

For example, on 9 December 1999, he reacted to an Australian Democrats Second Reading Amendment proposed by Queensland Senator Bartlett to the *Superannuation Legislation Amendment Bill (No.4) 1999* being debated in the Senate.<sup>825</sup> Senator Harradine said:

I put this to you, Madam President, and particularly to the opposition: what is meant by 'equal treatment'? Is this proposing that the government accept that same sex relationships have the same status as marriage? Is that what is being said? Is that what is being indicated in this measure?

We are going to have to face this situation very clearly, and I want to know this from the proposer and the supporters of the motion: is the phrase 'equal treatment of same sex couples' based on the proposition that homosexual relationships should receive the approval of the government and the parliament of Australia as being of the same status as

---

<sup>825</sup> Andrew Bartlett, *Senate Hansard*, Wednesday, 8 December 1999, 11378, [http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/1999-12-08/toc\\_pdf/S%201999-12-08.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/1999-12-08/0000%22](http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/1999-12-08/toc_pdf/S%201999-12-08.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/1999-12-08/0000%22) (Accessed 17 November 2016):

I move the Democrat second reading amendment:

At the end of the motion, add: "and that there be laid on the table, on or before the last sitting day in March 2000, details of all legislative changes that would be required to ensure the recognition and equal treatment of same-sex couples under all Commonwealth superannuation and taxation legislation".



marriage? That is the nub of it. I would like an answer to that question from those who are promoting this proposition.<sup>826</sup>

In the same debate, Senator Harradine was answered by openly gay Senator Brian Grieg, who had this to say in reply:

I would also make the point that, in my 10 years as an advocate and an activist with Australia's gay and lesbian community, I have never met one lesbian or gay person who wants gay marriage. In fact, my experience is that the vast majority of gay and lesbian citizens do not support the notion of marriage as it currently stands because they see it as a very heterosexual and outdated institution that should be modified and not copied.

To that extent, what lesbian and gay citizens have only ever been asking for is some form of partnership recognition, not marriage. Senator Harradine suggests that, if we support the notion of same sex couples in a regulatory way, that is putting same sex couples on the same platform as those who are married. I do not believe it is and I do not believe that gay and lesbian people are asking for that.<sup>827</sup>

In hindsight, Senator Harradine could perceive the implications of the proposed Amendment more clearly than Senator Grieg. The views of gay and lesbian Australian citizens on the institution of marriage as at 1999 are of interest. There is a constant in the views as expressed at the time to circumstances almost twenty years later that the institution of marriage “should be modified and not copied.” The redefinition of marriage proposed to make the sexual complementarity component irrelevant is also a form of “modification”, albeit understated in expression. Senator

---

<sup>826</sup> Senator Brian Harradine, ‘Same Sex Couples: Legislative Changes Suspension of Standing Orders Speech’, *Senate Hansard*, Thursday, 9 December 1999, 11559, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0025/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0025/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>827</sup> Senator Brian Grieg, ‘Same Sex Couples: Legislative Changes Suspension of Standing Orders Speech’, *Senate Hansard*, Thursday, 9 December 1999, 11562, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0029/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0029/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 6 December 2016).

Harradine could see the implications of the proposal in 1999 very clearly and almost immediately.

In 2003, Senator Harradine responded to a motion put forward by Australian Democrats Senator Brian Grieg, which further demonstrates what he was able to perceive accurately in 1999. This Motion was another step on the path to redefining marriage and the substance of which is captured in his reply:

I oppose the motion. The substance of Senator Greig's urgency motion is in the last sentence, where he says there is:

... the need for the Australian Government to legislate for partnership recognition of same-sex couples under Commonwealth law.

Basically Senator Greig wants same-sex relationships to be recognised as marriage-like relationships. But such a recognition would undermine the special status of marriage in our society by establishing a legally recognised relationship alongside marriage. It is this special status—this recognition of the special status of marriage— which is acknowledged by the government in issues like access to pensions.<sup>828</sup>

The speech is commendable as a defence of marriage and as a criticism of the proposal to redefine it. In it he captures the essence of the issue and importance of marriage and why it is worth defending. He discusses the historic prevalence for marriage as the best and most stable environment available for the raising of children, where the responsibilities of marriage are between the spouses and “to any children the married couple might have.”<sup>829</sup> He upholds the natural order of marriage as “the only way in which children can be naturally conceived—without the intervention of a third party.”<sup>830</sup> He also identifies that what some activists “are asking for is a new right - the right to change the rules of marriage or de facto marriage to suit their own purposes.”<sup>831</sup> He counters by asserting that “marriage is not about demanding and

---

<sup>828</sup> Senator Brian Harradine, ‘Matters of Urgency: Sexuality Discrimination Legislation Speech’, *Senate Hansard*, Wednesday 10 September 2003, 14865, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-10/0118/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-10/0118/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>829</sup> *Ibid.*

<sup>830</sup> *Ibid.*

<sup>831</sup> *Ibid.*

getting what you want; it is about serving others.”<sup>832</sup> He notes that redefining marriage this way “would confirm that the desire of adults to choose a family format to suit them is more important than the needs of children to have a mother and a father”<sup>833</sup> and that it would create a “deliberately motherless or fatherless family”<sup>834</sup> and “would mean that our community had no interest in whether children had a mother and a father.”<sup>835</sup> He sees the looming catastrophe and labels it “discriminatory”<sup>836</sup> and sees beyond it the allowance for “legal recognition of polygamy, polyandry and polyamory.”<sup>837</sup>

Rather than focusing upon this risk, Harradine advocates that governments “should instead be looking to strengthen marriage through better education, counselling at the time of breakdown, and taxation relief.”<sup>838</sup> He sees that the redefinition of marriage as proposed would mean a complete loss across society: “We all lose by the erosion of the position of marriage, but the biggest losers are the people who most need our protection—our children.”<sup>839</sup>

His views and advocacy on this issue serve as a contrast to other Catholics such as Frank Brennan, Kristina Keneally, and Catherine Cusack, being informed by a revisionist theological outlook, all who advocate for the redefinition of marriage.

### *Abortion*

Senator Harradine had long fought in the Federal Parliament against abortion. In March 1977 he questioned in Parliament whether “material from aborted foetuses could be used in transplants” would attract Federal funding, a reported suggestion made by a Professor L. W. Cox to the Law Reform Commission.<sup>840</sup> He asks: “Will the

---

<sup>832</sup> Ibid.

<sup>833</sup> Ibid.

<sup>834</sup> Ibid.

<sup>835</sup> Ibid.

<sup>836</sup> Ibid.

<sup>837</sup> Ibid.

<sup>838</sup> Ibid., 14866.

<sup>839</sup> Ibid.

<sup>840</sup> Senator Brian Harradine, ‘Question: Aborted Foetuses: Transplant Use Speech’, *Senate Hansard*, 15 March 1977, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1977-03-15/0055/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1977-03-15/0055/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Minister give an unequivocal guarantee that no federal government research funds have been or will be used in support of such projects, which would be abhorrent to most Australians?”<sup>841</sup>

In his condolence speech upon the death of Pope Paul VI on 15 August 1978, he conveyed a source of the pope’s sadness prior to his death, that of “the passage by the Italian Parliament of laws which made for easier abortion procurement.”<sup>842</sup> He, as a Catholic, gave full assent to this moral teaching of the Church. He allows Pope Paul VI to speak for him, as he cites the 1978 peace message appealing to all authorities to prohibit and remedy abortion:

The Holy Father was outspoken in respect of that matter. He said in his peace message this year:

*Accordingly we cannot fail to disapprove of each and every offence against nascent life, and we must appeal to every Authority, and to everyone who has due competence, to work for the prohibition of procured abortion and for its remedy.*

Only two months before he died he warned that doctors who carry out operations under Italy's new abortion law would face excommunication. He was not a person treading the middle path between so-called conservatives and progressives. He was a man who realised that in life and death issues there is no middle path.<sup>843</sup>

On 24 August 1978 he moved the following motion in the Senate:

That the Senate is of the opinion that financial grants by the Commonwealth Government or its statutory authorities should not be provided, either directly or indirectly, to those organisations in public

---

<sup>841</sup> Ibid.

<sup>842</sup> Senator Brian Harradine, ‘Death of His Holiness Pope Paul VI Speech’, 15 August 1978, *Senate Hansard*, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>843</sup> Ibid.

health areas the officials of which advocate that abortion is an acceptable or desirable form of fertility control.<sup>844</sup>

Harradine identified the “major objective of this motion,” and using the Parliament to this end was “to draw the attention of the Senate, and indeed of the people of Australia, to the development of an attitude in some family planning associations, that attitude being that abortion is an acceptable and indeed a safe method of birth control, fertility control or even of conception.”<sup>845</sup> At the same time as he attacked the improper role of family planning associations of working in conjunction with abortion provision, he sought to attack the mindset of those linking abortion with birth control.<sup>846</sup> He could not stop abortion, but the mere raising of this motion is evidence of him seeking ways to attack and redress its existence. The close proximity of the timing of the condolence speech at the passing of Paul VI to this motion does not appear accidental.

On Friday, 5 December 1980 Senator Harradine indicated that he would put forward a Motion in the Senate on the next sitting day. In this he was attempting to prohibit financial grants to organisations that “in public health areas the officials of which advocate that abortion is an acceptable or desirable form of 'fertility control'.”<sup>847</sup> Harradine anticipated the guidance given by Pope John Paul II in *Evangelium Vitae* where the pontiff advocates that limiting the harm of a bad law and lessening its negative consequences is licit and does not constitute cooperation with evil.<sup>848</sup>

On Monday, 15 September 2003 Senator Harradine put the following question to Senator Kay Patterson from the Liberal Party.

My question is also to the Minister for Health and Ageing, Senator Patterson. Did the minister see in the weekend media images obtained from 3D and 4D ultrasound new techniques for the first time showing

---

<sup>844</sup> Senator Brian Harradine, ‘Question: Abortion Speech’, *Senate Hansard*, 24 August 1978, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>845</sup> *Ibid.*

<sup>846</sup> *Ibid.*

<sup>847</sup> Senator Brian Harradine, ‘Abortion: Notice of Motion Speech’, *Senate Hansard*, 5 December 1980, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1980-12-05/0007/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1980-12-05/0007/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>848</sup> Pope John Paul II, *Encyclical: Evangelium Vitae: The Gospel of Life*, Paragraph 73, *op. cit.*

unborn babies moving their limbs at eight weeks; leaping, turning and jumping at 11 to 12 weeks; showing intricate finger movements at 15 weeks; and smiling and laughing at 26 weeks? Can the minister inform the Senate how many late-term abortions take place each year in Australia and the cost to the taxpayer of those? I am of course opposed to abortions, but at least in the light of the new pictorial proofs of the humanity of the foetuses, will the minister consider a review of Medicare payments especially for late-term abortions performed over 18 weeks and sometimes up to 34 weeks?<sup>849</sup>

The content of the question is the key to the exchange. For the most part Senator Patterson said that Medicare payments covered the first and sometimes second trimester abortions, and claimed the abortion laws were matters for the States.<sup>850</sup> However, Senator Harradine seeks to limit the funding resources available to later term abortions, while simultaneously pointing to scientific developments in ultrasound technology that further reveal the humanity of the unborn. Importantly, he restates his opposition to abortion and in addition to pursuing harm reduction of abortions this is in accordance with the prescriptions of *Evangelium Vitae* in Paragraph 73.<sup>851</sup>

## **Conclusion**

The Chapter examined the fraught experience of Australian politicians and personal faith whereby the confusion exhibited in the public domain and diametrically opposing viewpoints, as they are perceived, are put forward as the correct application of Catholicism to different issues that challenge the moral law. However, what is occurring within different parliamentary chambers in Australia is an unrelenting assault by advocates of revisionist theology that seek to become the prevailing representation of Catholicism in the public square.

---

<sup>849</sup> Senator Brian Harradine, 'Questions Without Notice: Health: Abortion Question', *Senate Hansard*, 15 September 2003, 15104, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-15/0034/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-15/0034/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

<sup>850</sup> Ibid.

<sup>851</sup> Pope John Paul II, *Encyclical: Evangelium Vitae: The Gospel of Life*, op. cit.

The impression left in the public area is what view speaks for Catholicism? The temptation is to view both claimants of the Catholic position in public and in parliaments as being two legitimate expressions of the same faith. This is not only false but it presents the Catholic faith, especially to the non-Catholic, as something both confused, self-contradictory and at war with itself, rather than the accurate situation being appreciated of the fuller effects of the work of the revisionist school of theology on the Church and Magisterium. For the Catholic in the pew, as well as in public life, there exists a way to reject Church teaching while still convincing oneself that they are both good and faithful Catholics, following their deeply considered and broadly formed consciences. The confusion caused by revisionism causes people to embrace something other than Catholicism while still proclaiming to hold the Catholic faith and identify as Catholics. This confusion finds its way into the various parliaments in Australia where Catholics in public life cannot be automatically assumed to apply the unchanging tenets of the moral law to all legislation, especially regarding proposed legislation that has the direct effect of violating the moral law.

There is a marked and clear difference between the approach and political career of Senator Brian Harradine to the actions of the Catholic parliamentarians in the NSW Government encountered in this Chapter, as well as the Catholic commentators who lent weight to revisionist inspired attacks on the intervention of the NSW Bishops led by Cardinal Pell. In the revisionist disregard for the Magisterium and circumvention of legitimate ecclesiastic authority there is at its heart a disdain for any authority which may challenge the sovereignty of the self. The public effect of the revisionist intervention was to counteract the efforts of the Bishops and target Cardinal Pell. This extended to the point where members of The Greens had Pell become subject of a NSW Privileges Committee inquiry. The events demonstrate the level of penetration of revisionist thinking in public discourse, finding its way into the Houses of Parliament as purporting to represent a dominant, legitimate representation of what Catholicism is.

By contrast, in the case of Senator Brian Harradine Catholicism is lived, acted out and not apologised for. It informed his actions, particularly in the cases where public law threatened to violate or violated the tenets of the moral law in the areas of human cloning, marriage and abortion. On his own, in 1985, he sought to enact legislation

that would block any form of human cloning in Australia and though not ultimately successful, gave witness to what was right and he attempted to achieve something to that end. Harradine did not enter Parliament as a member of a political party, and contested elections as an independent. Having been expelled from the Labor Party before entering the Senate in 1975, and holding labour market and economic policies reflecting his Union background, he was not at ease with Coalition politics either. The orientation of his politics, therefore, is from the political left, which challenges the national trends of the political left more eager now to allow the social policies of The Greens to shape political priorities. Harradine was fighting in the parliament on his own, yet his efforts demonstrate the potential of a determined individual is able to accomplish as an individual actor. His example, acting alone, should demonstrate that taking a principled stand in upholding the natural law, unshakeably, in parliament is possible and effective.

The Conclusion of this thesis, following, will draw together both findings and implications of the total analysis undertaken in these four chapters.



## Final Conclusion

### ***Catholic Theology and Australian Political Life***

Revisionist moral theology has had a direct effect on the political life of Australia. It has influenced a number of commentators who speak in the public domain on religious matters and policy issues of moral and ethical significance, otherwise known as “life issues.” Among that number can be included the prominent figure of Father Frank Brennan SJ, a Jesuit priest, lawyer, and activist. Another important figure is laicised priest Paul Collins. However, they are not alone. While not every political voice is necessarily conscious of the theological perspective they might inadvertently bring into their political decision-making, there are some who have been trained and formed in theological traditions in the context of the Catholic Church.

Some Catholics in Australian public life have been influenced by the revisionist theological tendencies of Brennan and Collins, or have gleaned advice from their interventions that reflect a departure from theological orthodoxy. Revisionist advocates in the public square, in conjunction with Catholic parliamentarians past and present, directly influence public discourse that leads to decisive parliamentary votes on issues of significance in Australia, across all levels of Parliament. These might be seen in their most pronounced degree under the category of what might be called life, marriage, and family issues, in which ethical debates on a range of topics have too often lacked an awareness of the rich tradition of Catholic moral reflection or the inherent logic of the Catholic faith on challenges in the realms of life and death.

One of the clearest examples of this can perhaps be seen in the passage of the *Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2)* in 2010 by a single vote in the NSW Legislative Assembly. Other examples include former NSW Labor Premier Kristina Keneally’s public justification for supporting the redefinition of marriage in Australia, and NSW MLC Catherine Cusack’s support for embryonic stem cell research, in her speech on the *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, and also for the redefinition of marriage in Australia. Both claimed a specific and positive Catholic influence on their decisions.

In realising that support for these policy positions are contrary to the teaching of the Church, to rationalise and justify their dissent they invoked an revisionist appropriation of the Church's teaching about conscience, which included classification of the teachings of the Ordinary Magisterium as "non-infallible". The modern precedent was established by the theologians, led by Charles Curran, who dissented from *Humane Vitae* in 1968. While Curran is considered a priest in good standing, he has been restricted by ecclesiastical authorities from teaching in a Catholic institution as a Professor of Catholic Theology since 1986.<sup>852</sup>

The major contribution to the revisionist approach can be found in the work of Bernard Häring, who in the 1950s had reacted legitimately against the limitations of the presentation of moral theology in the form existing within theological manuals. The manuals had a purpose which was to aid priests providing guidance in the Confessionals, and had been present in the life of the Church since the Counter-Reformation. However, it is fair to claim that the realm of moral theology had the potential to extend well beyond this purpose, and the manualist tradition had reduced moral theology to a stock-standard list of directions a Confessor may give to a penitent. Häring's three volume work, *The Law of Christ*, first published in German in 1954, was the acknowledged "decisive break with the manuals."<sup>853</sup>

Part of the revisionist revolution was to turn away from the manualist focus upon following law, labelled "legalism", to reorientation of the "law of the Christian becoming Christ Himself in Person" as Häring explained in his work.<sup>854</sup> Something else happened in this transition, however. The concept of "law" and obedience to Church teaching and its binding Magisterial authority became an inhibitor to the development and maturity of the person.

Engagement with the eternal law occurs through its imprint into each person's rational faculty, in the form of reason, is what is then referred to as the natural law. The application of this law is via our conscience, which applies to all persons. John Henry Newman correctly identified the weaknesses of conscience, for which God, as a remedy, provided the papacy. When the Magisterium acts to correct an error of

---

<sup>852</sup> Charles E. Curran, *Faithful Dissent*, op. cit., 270.

<sup>853</sup> Keenan, op. cit. 91.

<sup>854</sup> Bernard Häring, C.S.S.R., *The Law of Christ: Moral Theology for Priests and Laity - Volume One: General Moral Theology*, op. cit., vii.

questions of faith or morality, by virtue of a person being a Catholic, such an intervention is welcomed and accepted. The Ordinary Magisterium must remain consistent with what the Church has always taught, though the teachings it represents is usually applied to new situations. To appropriate Newman's teaching about conscience as a justification for dissent from questions of faith or morality is not only mistaken, but false and a misappropriation of what he is saying. Newman discussed dissent as being possible from non-doctrinal actions of the papacy. The binding authority of Divine Law is inescapable, and though the self plays a significant role in identifying that law, following it, and integrating it into one's life, the individual is not the final arbiter of what that law may say or mean.

### ***The Way Ahead***

This thesis has attempted to identify and address the way in which recent developments in moral theology have direct consequences on public policy and legislation in Australia, with reference to a small number of significant examples.

Having recognised and identified the direct consequences of revisionist and historicist influence, it should be occasion to identify and further explain when and how this is occurring, and having identified this, provide correction. Identification of an intervention in the public square exhibiting revisionist thinking will help to separate it from any claim for it to be speaking on behalf of Catholicism, as this is what Cardinal George Pell faced in 2007 as part of the backlash against his legitimate intervention. Revisionism is not Catholicism, though it emerges as a response to limitations of a "manualist" theological method in centuries prior to the Second Vatican Council. This, however, is not to claim that needed critique of the Church's approach to moral questions necessarily leads to revisionism. However the realisation of revisionism as the widespread accepted response inculcated an antagonism towards authority, including the Magisterium, and further study is required to research this aspect which leaves the subjective self as the remaining legitimate authority. This antagonism towards the authority of the Magisterium cannot merely be explained by Häring's response to those Christians he saw as

“absurdly following” the Nazi regime.<sup>855</sup> At the heart of this response is the distant equivalence of the Magisterium and the Nazi regime as forming part of authority *per se*. Rigorous criticism is also needed of the criticisms levels against the competence of the teaching authority of the Magisterium, such as expressed by John T. Noonan, which was not within the scope of this thesis.<sup>856</sup>

Further study into how revisionist and historicist thinking have influence public figures and debates in Australia is needed, and in contrast more examination of interventions in the public square by Catholic public figures and especially parliamentarians who display fidelity to the precepts of their faith, in totality, is also of great value. The example given in this thesis is the Senator Brian Harradine (1935-2014), but there are others, for example, the late NSW Labor MLC, John Richard "Johnno" Johnson, who was made Knight Grand Cross of the Order of St Gregory the Great by Pope Francis in 2015.<sup>857</sup> Notably, in 2006 Mr Johnson was made a Knight Commander of St Gregory the Great for reasons including “his lifetime role as a forthright defender of the principles of Catholic social teaching and of justice for all through his commitment in political life and work as a director or board member on a number of significant organisations, including the Prince of Wales Hospital.”<sup>858</sup>

The Catholic parliamentarian is not called to compel others to accept the Catholic faith, but to live out its principles in his or her work, as all Catholics are. This is further compounded by these same parliamentarians when they make issue of the fact that they are Catholic. This means something, as being Catholic is part of who they are and that Catholicism’s tenets inform and guide them. This does not mean that theological explanations are required concerning certain matters, but it requires fidelity to these tenets and avoidance of compromise in matters, for example, concerning marriage, the unborn, and the end of life. Relevant topics, however, are not limited to these. What it does not mean is the same parliamentarian has any

---

<sup>855</sup> James F. Keenan SJ, ‘To Follow and to Form over Time: A Phenomenology of Conscience, in in *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, ed. David E. DeCosse and Kristin E. Heyer, Orbis Books, Maryknoll, New York, 2015, 7.

<sup>856</sup> John T. Noonan, ‘Development in Moral Doctrine’, in *Theological Studies*, 54, 1993, 662-677, <http://cdn.theologicalstudies.net/54/54.4/54.4.3.pdf> (Accessed 8 December 2016).

<sup>857</sup> Peter Rosengren, ‘Papal honour for Labor stalwart Johnno Johnson’ in *The Catholic Weekly*, 16 September 2015, <https://www.catholicweekly.com.au/papal-honour-for-labor-stalwart-johnno-johnson/> (Accessed 15 July 2017).

<sup>858</sup> *Ibid.*

moral basis upon which to find ways to work against the tenets or principles taught by Catholicism, and nor can they find an appeal to conscience as a legitimate way to achieve this while continuing to identify as a Catholic.

Further to this however, is the need to confront the enormous spread of revisionism amongst the Catholic academic and theological fraternity. These need to come under close scrutiny and critique in the light of the Catholic faith. There cannot be a system of moral theology, and broader theology as well, that claims legitimacy using the name of Catholic in Catholic theological tertiary institutions and seminaries, which disregards the Magisterium of the Church and finds ways of calling into question Magisterial teaching. Scholars and thinkers that espouse such a system are free to pursue their inquiries independently of Catholic institutions, and are free to do so without a claim to identity as being Catholic.

### ***The Kingship of Christ and the Search for Truth***

What needs to be reviewed and reapplied today is the plea of Pope Pius XI from *Quas Primas* (1925) for the recognition of the rights of Christ over all societies. Catholic parliamentarians, notwithstanding the nature of Parliamentary Democracy in Australia and its terminology used in governing, also need to recognise that they “rule, not by their own right, but by the mandate and in the place of the Divine King.”<sup>859</sup> In exercising their authority, they will do so “piously and wisely” and will “make laws and administer them, having in view the common good and also the human dignity of their subjects.”<sup>860</sup> All elected parliamentarians, whether they form part of Government, the Opposition, sit as Independents or belong to minor parties are the elected leaders of their communities within their respective jurisdiction and are leaders in the parliaments they are elected to. Certainly the parliamentarian in Government occupies a highly influential role, moreso than one not in government, but nevertheless any parliamentarian, by virtue of his or her public status has a voice to influence public debate, influence party policy, bring forward Private Member’s Bills or use his or her parliamentary vote in such a way as to pass legislation that is

---

<sup>859</sup> Pope Pius XI, *Quas Primas: On the Kingship of Christ*, op. cit., Paragraph 24.

<sup>860</sup> Ibid.

in accord with the common good and the natural law or block any that is not. There is large scope for effective political activity by the Catholic parliamentarian, acting alone, as shown by Senator Brian Harradine.

As a private theologian, Pope John Paul II, Karol Wojtyla, meditated upon Christ's kingship operating within the human person. In this circumstance he discusses the kingliness that man is given by Christ being synonymous with "the dignity of man."<sup>861</sup> This interior kingliness is important, and works in concert with, the spiritual and temporal claims of the Social Kingship of Christ. Pius XI also refers to leaders serving the "common good" and "human dignity."<sup>862</sup>

Writing in *Veritatis Splendor*, as pope, John Paul II reminds us that we are all called "to salvation through faith in Jesus Christ, 'the true light that enlightens everyone' (*Jn* 1:9)," where "people become 'light in the Lord' and 'children of light' (*Eph* 5:8), and are made holy by 'obedience to the truth' (*1 Pet* 1:22)."<sup>863</sup> He warns us that through original sin "man is constantly tempted to turn his gaze away from the living and true God in order to direct it towards idols" where, "giving himself over to relativism and scepticism (cf. *Jn* 18:38), he goes off in search of an illusory freedom apart from truth itself."<sup>864</sup> Despite this, Pope John Paul II offers "the light of God the Creator" which, despite the "darkness of error or of sin" cannot be completely taken away from man.<sup>865</sup> He also counsels us that in "the depths of his heart there always remains a yearning for absolute truth and a thirst to attain full knowledge of it."<sup>866</sup> Through the gift of conscience man has the capacity to pursue, apprehend and act upon it. Through the gift of the Church and her Magisterium, the individual Catholic has the ability to perceive clearly and act in full accordance with the moral law.

---

<sup>861</sup> Karol Wojtyla, *Sign of Contradiction*, trans. Mary Smith, St Paul Publications, Slough, United Kingdom, 1979, 144.

<sup>862</sup> Pope Pius XI, *Quas Primas*, *ibid.*

<sup>863</sup> Pope John Paul II, *Veritatis Splendor*, *op. cit.* Paragraph 1.

<sup>864</sup> *Ibid.*

<sup>865</sup> *Ibid.*

<sup>866</sup> *Ibid.*

## BIBLIOGRAPHY

II Vatican Council, *Inter Mirifica: Decree On The Means Of Social Communication*, Vatican webpage, 4 December 1963,

[http://www.vatican.va/roman\\_curia/pontifical\\_councils/pccs/documents/rc\\_pc\\_pccs\\_d oc\\_04121963\\_inter-mirifica\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/pccs/documents/rc_pc_pccs_d oc_04121963_inter-mirifica_en.html) (Accessed 19 October 2016).

II Vatican Council, '*Lumen Gentium: Dogmatic Constitution on the Church*', 21 November 1964, trans. Father Colman O'Neill O.P., in Austin Flannery O.P. ed. *Vatican Council II: The Conciliar and Post Conciliar Documents Study Edition*, Costello Publishing Company, Northport, New York, 1987, 350-426, or

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19641121\\_lumen-gentium\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html) (Accessed 12 December 2016).

II Vatican Council, *Optatum Totius: Decree on Priestly Training*, 28 October 1965,

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decree\\_19651028\\_optatam-totius\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_optatam-totius_en.html) (Accessed 1 November 2016).

II Vatican Council, *Dignitatis Humanae: Declaration on Religious Freedom*, 7 December 1965,

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decl\\_19651207\\_dignitatis-humanae\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html) (Accessed 26 May 2014).

II Vatican Council, *Gaudium et Spes: Pastoral Constitution On The Church In The Modern World*, 7 December 1965,

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_cons\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html), (Accessed 22 September 2016).

9News, 'ICAC refers Chris Hartcher, Andrew Cornwell and Joe Tripodi among others to NSW DPP for prosecution', in *9News.com.au*, 30 August 2016, <http://www.9news.com.au/national/2016/08/30/07/33/corruption-watchdog-reportedly-tells-former-nsw-liberal-mps-to-repay-illegal-donations#WTvM4EdzOFKrHfEy.99> (Accessed 4 December 2016).

AAP, 'Greens' policies more Christian than Cardinal George Pell, says Bob Brown', in *The Australian*, 8 August 2010, <http://www.theaustralian.com.au/news/latest-news/greens-policies-more-christian-than-cardinal-geogre-pell-says-bob-brown/news-story/8447dbc25245877cc3ea7007508e65da> (Accessed 15 July 2017).

ABC News: *PM with Mark Colvin*, 'Christians told it's OK to vote Green', 10 August 2010, <http://www.abc.net.au/pm/content/2010/s2979182.htm> (Accessed 3 September 2016).

ABC News, 'Brian Harradine, Australia's longest-serving independent senator, dies in Tasmania aged 79', in, 14 April 2014, <http://www.abc.net.au/news/2014-04-14/tasmanian-senator-brian-harradine-dies/5388874> (Accessed 17 November 2016).

ABC News, 'Same-sex adoption laws pass Victorian Parliament after Government accepts religious exemptions', 9 December 2015, <http://www.abc.net.au/news/2015-12-09/same-sex-adoption-passes-victorian-parliament/7013502> (Accessed 19 June 2016).

ABC Radio National, *Geraldine Doogue*, <http://www.abc.net.au/radionational/geraldine-doogue/2917326> (Accessed 1 September 2016).

ABC TV, *About Compass: Geraldine Doogue – Reporter*, <http://www.abc.net.au/compass/team/geraldinedoogue.htm> (Accessed 1 September 2016).



Acceptance: *Plan a Visit* – Weekly Mass at St Joseph’s Church Newtown,

[http://www.gaycatholic.com.au/plan\\_a\\_visit](http://www.gaycatholic.com.au/plan_a_visit) (Accessed 26 December 2016).

Aquinas, Thomas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Two Ia IIae QQ. 1-114 with Synoptical Charts*, trans. Fathers of the English Dominican Province, Rev ed., Benzinger Brothers, New York, 1948, rpt. Christian Classics, Westminster, Maryland, 1981.

Aquinas, Thomas, *Summa Theologica: Complete English Edition in Five Volumes: Volume Three IIa IIae QQ. 1-148 with Synoptical Charts*, trans. Fathers of the English Dominican Province, Rev ed., Benzinger Brothers, New York, 1948, rpt. Christian Classics, Westminster, Maryland, 1981.

Aquinas, Thomas, *Summa Theologiae: Volume 28: Law and Political Theory (Ia2ae. 90-97)*, trans. and ed., Thomas Gilby O.P., Blackfriars, Cambridge, 1966.

Aquinas, Thomas, *Selected Writings*, Ed, trans, intro and notes, Ralph McInerny, Penguin Books, London, 1998.

Australian Government: Department of Prime Minister and Cabinet, It’s an Honour,

*Honours: DOOGUE, Geraldine Frances,*

[http://www.itsanhonour.gov.au/honours/honour\\_roll/search.cfm?aus\\_award\\_id=1043227&search\\_type=quick&showInd=true](http://www.itsanhonour.gov.au/honours/honour_roll/search.cfm?aus_award_id=1043227&search_type=quick&showInd=true) (Accessed 1 September 2016).

Australian Government, Federal Register of Legislation, *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006*,

No. 172, 2006, <https://www.legislation.gov.au/Details/C2006A00172> (Accessed 17 November 2016).

Baggini, Julian and Fosi, Peter S., *The Philosopher's Toolkit: A Compendium of Philosophical Concepts and Methods*, Blackwell Publishing, Oxford, 2003.

Bartlett, Andrew, *Senate Hansard*, Wednesday, 8 December 1999, 11378, [http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/1999-12-08/toc\\_pdf/S%201999-12-08.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/1999-12-08/0000%22](http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/1999-12-08/toc_pdf/S%201999-12-08.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/1999-12-08/0000%22) (Accessed 17 November 2016).

Benedict XVI, *Address of His Holiness Benedict XVI to the Bishops of the Episcopal Conference of England and Wales on their "Ad Limina" Visit*, Consistory Hall, 1 February 2010, Libreria Editrice Vaticana, [https://w2.vatican.va/content/benedict-xvi/en/speeches/2010/february/documents/hf\\_ben-xvi\\_spe\\_20100201\\_bishops-england-wales.html](https://w2.vatican.va/content/benedict-xvi/en/speeches/2010/february/documents/hf_ben-xvi_spe_20100201_bishops-england-wales.html) (Accessed 29 November 2016).

BBC Ethics Guide, *Human-animal hybrid embryos*, 2014, [http://www.bbc.co.uk/ethics/animals/using/hybridembryos\\_1.shtml](http://www.bbc.co.uk/ethics/animals/using/hybridembryos_1.shtml) (Accessed 23 February 2016).

Bible Gateway, Matthew 22:34-40 (RSV Catholic Edition) <https://www.biblegateway.com/passage/?search=Matthew+22%3A34-40&version=RSVCE> (Accessed 23 October 2016.)

Birmingham, William, ed., *What Modern Catholics Think About Birth Control: A New Symposium*, The New American Library, New York, 1964.

Boston College, Morrissey College of Arts and Sciences, Theology Department Faculty page, *James Keenan S.J.*,  
<http://www.bc.edu/schools/cas/theology/faculty/jkeen.html> (Accessed 31 October 2016).

Boyle, John P., 'The Ordinary Magisterium: Towards a History of the Concept', in *Heythrop Journal* 20 (4), 1979, 380–398.

Brennan, Frank 'The Launch of Acting on Conscience, University of Queensland Press: Frank Brennan's Response to Kevin Rudd, Parliament House', Canberra, in *Eureka Street*, 31 October 2006,  
[http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh\\_beRumhc](http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh_beRumhc) (Accessed 9 February 2016).

Brennan, Frank *Acting on Conscience: How can we responsibly mix law, religion and politics?*, University of Queensland Press (UQP), St Lucia, Qld., 2007.

Brennan, Frank, "Why a conscientious Christian could vote for the Greens" in *EurekaStreet.com.au*, Vol 20 No 15, 10 August 2010,  
<http://www.eurekastreet.com.au/article.aspx?aeid=22755#.V8gyr-Qkqhc> (Accessed 3 September 2016).

Brennan SJ, Frank, *Amplifying That Still, Small Voice: A Collection of Essays*, ATF Theology, Adelaide, 2015.

Brennan, Frank, 'Four preconditions for supporting marriage equality', in *Eureka Street.com.au*, Vol 25 No 15, 11 August 2015,

<http://www.eurekastreet.com.au/article.aspx?aeid=45316#.VozFH-Rumhd> (Accessed 6 January 2016).

Brennan, Frank, 'Free Speech and the Plebiscite on Same Sex Marriage', in *Eureka Street.com.au*, Vol 25, No 24, 10 December 2015, <http://www.eurekastreet.com.au/article.aspx?aeid=45811#.VozJ9uRul6w> (Accessed 6 January 2016).

Brennan, Frank, 'Plebiscite the only way forward for Turnbull on marriage equality', Vol 26 No 17, *EurekaStreet.com.au*, 5 September 2016, <http://www.eurekastreet.com.au/article.aspx?aeid=49832#.V9AUVuQkpPZ> (Accessed 7 September 2016).

Brock, Paul, 'Christian to do the right thing on stem cells', in *The Daily Telegraph*, 7 June 2007, [http://www.news.com.au/opinion/christian-to-do-the-right-thing-on-stem-cells/story-e6frfs99-1111113696308paragraph\\_ixzz2O4onr9i0](http://www.news.com.au/opinion/christian-to-do-the-right-thing-on-stem-cells/story-e6frfs99-1111113696308paragraph_ixzz2O4onr9i0), (Accessed 20 March 2013).

Brook, Stephen, 'ABC executive Ian Carroll dies', in *The Australian*, 19 August 2011, <http://www.theaustralian.com.au/business/media/ian-carroll/story-e6frg996-1226117575529> (Accessed 1 September 2016).

Brugger, E. Christian, 'The Catholic Conscience, the Argentine Bishops, and "Amoris Laetitia"', in *The Catholic World Report*, 20 September 2016, [http://www.catholicworldreport.com/Item/5069/The\\_Catholic\\_Conscience\\_the\\_Argentine\\_Bishops\\_and\\_Amoris\\_Laetitia.aspx](http://www.catholicworldreport.com/Item/5069/The_Catholic_Conscience_the_Argentine_Bishops_and_Amoris_Laetitia.aspx) (Accessed 25 October 2016).

Butler, Dom Cuthbert, *The Vatican Council 1869-1870*, Longmans, Green & Co, 1930, rpt, Harville Press, London, 1962.

Byrne CSJ, Patricia, 'American Ultramontaniam', in *Theological Studies*, 56, 1995, 301-326, <http://cdn.theologicalstudies.net/56/56.2/56.2.5.pdf> (Accessed 28 December 2016).

Canon Law Society of Great Britain and Ireland, The, in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, *The Code of Canon Law in English Translation*, translated by The Canon Law Society Trust, Collins Liturgical Publications, London and Collins Liturgical Australia, Sydney, 1983.

*Catechism of the Catholic Church*, 2nd edition, St Pauls Publications, Strathfield, NSW, 2000 [http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM) (Accessed 24 December 2016).

Catholic Archdiocese of Sydney, *Media Statement: No Catholic could in good conscience vote for Cloning Bill - NSW Bishops*, 4 June 2007, <http://cathnews.acu.edu.au/706/doc/pell-cloning.pdf> (Accessed 17 January 2016).

Catholic Communications, *State Funeral For Brian Harradine*, Sydney Archdiocese, 17 April 2014, [http://www.sydneycatholic.org/news/latest\\_news/2014/2014417\\_1030.shtml](http://www.sydneycatholic.org/news/latest_news/2014/2014417_1030.shtml) (Accessed 17 November 2016).

'Church may punt clone MPs', in *Daily Telegraph*, 5 June 2007, <http://www.dailytelegraph.com.au/news/nsw/church-may-punt-clone-mps/news-story/42309e5de874f1a603564a946bd865e2> (Accessed 12 December 2016).

'Church warning for stem cell vote', in *Daily Telegraph*, 6 June 2007, 16.

Cleary, Paul, 'Expenses: Tony Burke's partner Skye Laris hits out at travel claims', in *The Australian*, 7 August 2015, 5:26 PM, <http://www.theaustralian.com.au/national-affairs/expenses-tony-burkes-partner-skye-laris-hits-out-at-travel-claims/news-story/0ece1b5f9577938414fa2eb193c25215> (Accessed 28 December 2016).

ClinicQuotes, *Scientists Speak before the Senate: Human Life Begins at Conception*, 10 September 2012, <http://clinicquotes.com/scientists-speak-before-the-senate-human-life-begins-at-conception/> (Accessed 22 February 2016).

Coast Community News online sub-editors, Chris Hartcher named by ICAC, in *Coast Community News*, 8 September 2016, <http://coastcommunitynews.com.au/2016/09/chris-hartcher-named-icac/> (Accessed 4 December 2016).

Collins, Paul, *No Set Agenda: Australia's Catholic Church faces an uncertain future*, David Lovell Publishing, Melbourne, 1991.

Collins, Paul, 'Pell's standover tactics are unfit for a pluralist democracy', in *The Sydney Morning Herald*, 7 June 2007, [http://www.smh.com.au/news/opinion/pell-tactics-unfit-for-a-pluralist-democracy/2007/06/06/1181089149525.html?page=fullpageparagraph\\_contentSwap1](http://www.smh.com.au/news/opinion/pell-tactics-unfit-for-a-pluralist-democracy/2007/06/06/1181089149525.html?page=fullpageparagraph_contentSwap1) (Accessed 26 May 2014).

Commonwealth Consolidated Acts, *Commonwealth of Australia Constitution Act - Sect 116*, AustLII, [http://www.austlii.edu.au/au/legis/cth/consol\\_act/coaca430/s116.html](http://www.austlii.edu.au/au/legis/cth/consol_act/coaca430/s116.html) (Accessed 3 October 2016).

Commonwealth of Australia Bills, *Human Embryo Experimentation Bill 1985*, 23 April 1985, <http://www.austlii.edu.au/au/legis/cth/bill/heebe1985328/> (Accessed 17 November 2016).

*Contraception and Holiness: The Catholic Predicament: A Symposium Introduced by Archbishop Thomas D. Roberts*, Herder and Herder, 1964, New York, 1964, rpt. Collins, London, 1965.

Coorey, Phillip, 'Labor on a steady path to same-sex weddings', in *The Sydney Morning Herald*, 22 November 2010, <http://www.smh.com.au/opinion/politics/labor-on-a-steady-path-to-samesex-weddings-20101121-182hh.html#ixzz2LRJt1gG4> (Accessed 15 February 2016).

Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the "Theology Of Liberation"*, 6 August 1984, IX.10, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19840806\\_theology-liberation\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19840806_theology-liberation_en.html) (Accessed 31 October 2016).

Congregation for the Doctrine of the Faith, *Donum Vitae: Instruction On Respect For Human Life In Its Origin And On The Dignity Of Procreation Replies To Certain Questions Of The Day*, 22 February 1987, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19870222\\_respect-for-human-life\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html) (Accessed 28 February 2016).

Congregation for the Doctrine of the Faith, *Donum Veritatis: On the Ecclesial Vocation of the Theologian*, 24 May 1990,  
[http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900524\\_theologian-vocation\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900524_theologian-vocation_en.html) (Accessed 23 December 2016).

Congregation for the Doctrine of the Faith, *Profession of Faith and Oath Of Fidelity On Assuming An Office To Be Exercised In The Name Of The Church*, 29 June 1998,  
[http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_1998\\_professio-fidei\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_1998_professio-fidei_en.html) (Accessed 4 September 2015).

Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*, 3 June 2003,  
[http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20030731\\_homosexual-unions\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20030731_homosexual-unions_en.html) (Accessed 16 January 2016).

Conn, Walter E., *Marquette Studies in Theology, 71: Conscience & Conversion in Newman: A Developmental Study of Self in John Henry Newman* (1). Milwaukee, US: Marquette University Press, 2010. ProQuest ebrary. Web. 26 October 2016, Copyright © 2010, Marquette University Press.

Coulson, John, 'Living with Authority-The Nineteenth Century', in *Contraception: Authority and Dissent*, Ed. Charles Curran, Herder and Herder, New York, 1969, 19-40.

Croome, Rodney, 'Marriage equality v religious freedom. They are not mutually exclusive', in *The Guardian*, 3 December 2015,  
<http://www.theguardian.com/commentisfree/2015/dec/03/marriage-equality-v-religious-freedom-they-are-not-mutually-exclusive> (Accessed 6 January 2016).



Cross, Bryan, 'St. Thomas Aquinas on the Relation of Faith to the Church', 13 February 2010, in *Called to Communion: Reformation Meets Rome*,

<http://www.calledtocommunion.com/2010/02/st-thomas-aquinas-on-the-relation-of-faith-to-the-church/> (Accessed 28 February 2016).

Curran, Charles E., 'The Christian Conscience Today', *Christian Morality Today*, Notre Dame Indiana, Fides Publishers, 1966, 13-25, reprinted in C. Ellis Nelson, ed., *Conscience: theological and psychological perspectives*, Newman Press, New York/Paramus/Toronto, 1973.

Curran, Charles E., et al., *Dissent In and For the Church: Theologians and Humanae Vitae*, Sheed & Ward, New York, 1969.

Curran, Charles E., 'Natural Law in Moral Theology', in *Contemporary Problems in Moral Theology*, 1970, rpt. in *Readings in Moral Theology No. 7: Natural Law and Theology*, Charles E. Curran and Richard A. McCormick, SJ eds., Paulist Press, New York/Mahwah, 1991, 247-295.

Curran, Charles E., *Faithful Dissent*, Sheed & Ward, Kansas City, Missouri, 1986.

Curran, Charles E., *The Catholic Moral Tradition Today: A Synthesis*, Georgetown University Press, Washington D.C., 1999, 181.

Curran, Charles E., 'Conscience in the Light of the Catholic Moral Teaching', in *Conscience: Readings in Moral Theology No. 14*, Paulist Press, New York, Mahwah N.J., 2004, 3-24.

Curran, Charles E., 'A place for dissent: my argument with Joseph Ratzinger', in *Commonweal*, 28 April 2005, <https://www.commonwealmagazine.org/place-dissent-0> (Accessed 12 December 2016).

Curran, Charles E., *Loyal Dissent: Memoir of a Catholic Theologian*, Georgetown University Press, Washington DC, 2006.

Cusack, The Hon Catherine, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Council, 20 June 2007, 1324-1332, [http://23.101.218.132/prod/parlament/hanstrans.nsf/V3ByKey/LC20070620/\\$File/541LC013.pdf](http://23.101.218.132/prod/parlament/hanstrans.nsf/V3ByKey/LC20070620/$File/541LC013.pdf) (Accessed 16 November 2016).

Davies, Michael, *Pope John's Council: Liturgical Revolution Volume Two*, Angelus Press, Kansas City, Missouri, 1977.

Davies, Michael, *The Reign of Christ the King in Both Public and Private Life*, Tan Books and Publishers, Rockford Illinois, 1992.

Davis SJ, Henry, *Moral and Pastoral Theology in Four Volumes: Volume One: Human Acts, Law, Sin, Virtue*, Fourth Edition, Sheed and Ward, London, 1943.

Davis SJ, Henry, *Moral and Pastoral Theology in Four Volumes: Volume Two: Commandments of God Precepts of the Church*, Fourth Edition, Sheed and Ward, London, 1943.

Davis SJ, Henry, *Moral and Pastoral Theology in Four Volumes: Volume Three: The Sacraments in General, Baptism, Confirmation, Holy Eucharist, Penance, Indulgences, Censures*, Fourth Edition, Sheed and Ward, London, 1943.

Davis SJ, Henry, *Moral and pastoral Theology*, in Four Volumes, Seventh Edition, Sheed and Ward, New York, 1958.

Davis, Mark, 'The fine art of persuasion', in *The Sydney Morning Herald* online, 30 December 2006, <http://www.smh.com.au/news/national/the-fine-art-of-persuasion/2006/12/29/1166895480001.html?page=fullpage#> (Accessed 28 September 2016).

de Mattei, Roberto, 'A Pope who fell into heresy: John XXII and the Beatific Vision of the Just after Death', trans. Francesca Romana, in *Rorate Caeli*, 28 January 2015, <http://rorate-caeli.blogspot.com/2015/01/a-pope-who-fell-into-heresy-church-that.html> (Accessed 18 October 2016).

*Dogmatic Canons and Decrees*, Authorized translations, rpt. 1912, Tan Books and Publishers, Rockford, Illinois, 1977.

Donnelly MLC, Greg, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Council, 20 June 2007, 1294-1305, [http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LC20070620/\\$File/541LC013.pdf](http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LC20070620/$File/541LC013.pdf) (Accessed 4 December 2016).

Donnelly MLC, Greg, *Reject Greens Culture of Death*, 29 April 2013,  
<https://marriage.greekorthodox.org.au/2013/04/reject-greens-culture-of-death-greg-donnelly-mlc/> (Accessed 4 December 2016).

Donnelly MLC, Greg, *NSW Parliament Debates the Meaning of Marriage*, 28 October 2013,  
<http://www.acl.org.au/nsw-mlc-calls-for-action-to-uphold-the-meaning-of-marriage>  
(Accessed 4 December 2016).

Donnelly MLC, Greg, 'Sexuality and gender brainwashing masquerading as an anti-bullying program' in *On-Line Opinion*, 23 February 2016,  
<http://www.onlineopinion.com.au/view.asp?article=18042> (Accessed 4 December 2016).

Doogue, Geraldine, 'Why I'm still a Catholic', in *EurekaStreet.com.au*, Vol 22, No 15, 2 August 2012, <http://www.eurekastreet.com.au/article.aspx?aeid=32580#.V8bpj-QkpPY> (Accessed 1 September 2016).

Doogue, Geraldine, 'Advice for the Pope on reforming the Church', in *EurekaStreet.com.au*, Vol 23 No 19, 23 September 2013,  
<http://www.eurekastreet.com.au/article.aspx?aeid=38213#.V8gtVOQkqhc> (Accessed 1 September 2016).

Dreyfus, Francois-Georges, Guitton, Jean and Chiron, Yves, 'Ici Luminere 101' 13 December 1993, 'Now We know: One of Pope Paul VI's closest friends reveals the true purpose of the liturgical reform', trans. Adrian Davies, in *The Latin Mass Magazine*, 4:1, Winter 1995, 10-11.

Drinkwater, F.H., *Birth Control and Natural Law*, Burns & Oates, London, 1965.

Dulles SJ, Avery Cardinal, *Magisterium: Teacher and Guardian of the Faith*, Sapientia Press, Naples, Florida, 2007.

Editorial, *The Daily Telegraph*, 7 June 2007, 29.

Editorial, 'Is this tolerance or propaganda?', in *The Daily Telegraph*, 17 October 2012, <http://www.dailytelegraph.com.au/news/opinion/is-this-tolerance-or-propaganda/story-e6frez0-1226497251221> (Accessed 16 February 2016).

Egner, G., *Birth Regulation and Catholic Belief: A Study in Problems and Possibilities*, Sheed and Ward, London and Melbourne, 1966.

Farrar, Stefan, 'Poland Officially Proclaims Christ as King', in *ChurchMilitant.com*, 21 November 2016, <http://www.churchmilitant.com/news/article/christ-recognized-as-king-of-poland> (Accessed 23 November 2016).

Finnis, John, *Aquinas: Moral, Political, and Legal Theory*, Oxford University Press, Oxford, 1998.

Finnis, John, *Natural Law & Natural Rights*, Second Edition, Oxford University Press, Oxford, 2011.

Finnis, John, *Human Rights and the Common Good: Collected Essays: Volume III*, Oxford University Press, Oxford, 2011.

Finnis, John and Grisez, Germain, *The Misuse of Amoris Laetitia to Support Errors Against the Catholic Faith: A letter to the Supreme Pontiff Francis, to all bishops in*

*communion with him, and to the rest of the Christian faithful*, Notre Dame, Indiana, 21 November 2016, <http://www.twotlj.org/OW-MisuseAL.pdf> (Accessed 11 December 2016).

Firth, The Hon Verity, *Press Release: \$250,000 TO HELP TACKLE HOMOPHOBIA IN SCHOOLS*, 21 January 2011, [https://www.det.nsw.edu.au/detresources/mr210111-homophobia\\_vDHHZAfgyK.pdf](https://www.det.nsw.edu.au/detresources/mr210111-homophobia_vDHHZAfgyK.pdf) (accessed 16 February 2016).

Fisher, Anthony, *Catholic Bioethics for a New Millennium*, Cambridge University Press, Cambridge, 2012.

Fisher, Anthony, *Should Bakers be Required to Bake Gay Wedding Cakes? The State of Our Democracy and of Religious Liberty in Contemporary Australia: Acton Lecture on Religion and Freedom*, Centre for Independent Studies, St Leonards, 14 October 2015, <http://www.ceosyd.catholic.edu.au/wyd2016/Documents/20151015-acton-lecture.pdf> (Accessed 7 October 2016).

Fleming, Daniel J., 'From Theory to Praxis: Challenges and Insights for Conscience Formation Today', in Yiu Sing Lúcas Chan, James F Keenan, and Shaji George Kochuthara eds, *Doing Asian Theological Ethics in a Cross-Cultural and Interreligious Context*, Dharmaram Publications, Dharmaram College, Bengaluru, India, 2016, 291-304.

Fleming, Daniel J., 'The Threshold of Conscience: A Radical Challenge for Education in Theological Ethics ... and Beyond', in *Journal of Adult Theological Education*, 13:2, 2016, 103-115, <http://dx.doi.org/10.1080/17407141.2016.1213950> (Accessed 16 June 2017).

Flew, Anthony, editor, *A Dictionary of Philosophy*, Second edition, Pan Books, London, 1979.

Fournet, Pierre Auguste, "Thomas-Marie-Joseph Gousset" in *The Catholic Encyclopedia*, Vol. 6, Robert Appleton Company, New York, 1909,  
<http://www.newadvent.org/cathen/06684b.htm> (Accessed 17 September 2016).

Francis, *Christians must pray for their leaders*, Vatican Radio, 16 September 2013,  
[http://en.radiovaticana.va/storico/2013/09/16/pope\\_francis\\_christians\\_must\\_pray\\_for\\_their\\_leaders/en1-728870](http://en.radiovaticana.va/storico/2013/09/16/pope_francis_christians_must_pray_for_their_leaders/en1-728870) (Accessed 21 November 2016).

Francis, *Encyclical Letter: Laudato Si': On Care for Our Common Home*, 24 May 2015,  
Libreria Editrice Vaticana,  
[http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html) (Accessed 11 December 2016).

Francis, *Post-Synodal Apostolic Exhortation: Amoris Laetitia: On Love in the Family*, 19 March 2016, Vatican Press,  
[https://w2.vatican.va/content/dam/francesco/pdf/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20160319\\_amoris-laetitia\\_en.pdf](https://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf) (Accessed 23 October 2016).

Gascoigne, Robert, 'The presence of Catholics in Australian politics: An ecclesial perspective', in *The Australasian Catholic Record*, Vol. 92, No. 1, Jan 2015, 3-15.

Gilbert, Daniel, 'Acting on Conscience Sydney Launch Speech', 27 February 2007, in *Eureka Street*, <http://www.eurekastreet.com.au/article.aspx?aeid=2020#.VrncjeRumhc> (Accessed 9 February 2016).

Gladstone, William E., *The Vatican Decrees in their bearing on Civil Allegiance: A Political Expostulation*, John Murray, London, 1874,

<https://archive.org/details/a628791400gladuoft> (Accessed 26 December 2016).

Grattan, Michelle, 'Legalised gay marriage is inevitable, says Labor's Left', in *The Age*, 25 October 2010,

<http://www.theage.com.au/national/legalised-gay-marriage-is-inevitable-says-labors-left-20101024-16z6y.html#ixzz2LRDqB09f> (Accessed 15 February 2016)

Grave, S. A., *Conscience in Newman's Thought*, Clarendon Press, Oxford, 1989.

Greene, Kevin, NSW Legislative Assembly, Human Cloning and Other Prohibited Practices Amendment Bill 2007, in *Hansard*, 6 June 2007, 951,

[http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LA20070606/\\$File/541LA009.pdf](http://23.101.218.132/prod/parlment/hanstrans.nsf/V3ByKey/LA20070606/$File/541LA009.pdf) (Accessed 15 November 2016).

Grieg, Senator Brian, 'Same Sex Couples: Legislative Changes Suspension of Standing Orders Speech', *Senate Hansard*, Thursday, 9 December 1999, 11562-11563,

[http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0029/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0029/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 6 December 2016).

Grisez, Germain, *Contraception and the Natural Law*, The Bruce Publishing Company, Milwaukee, 1964.

Grisez, Germain G., "First Principle of Practical Reason: A Commentary on the Summa Theologiae, 1-2, Question 94, Article 2, The;Note" (1965). *Natural Law Forum*. Paper 107,



[http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1106&context=nd\\_naturalaw\\_forum](http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1106&context=nd_naturalaw_forum) (Accessed 12 December 2016).

Grisez, Germain G., *The Way of the Lord Jesus: Volume 1, Christian Moral Principles: Chapter 23: Question G: Why must Catholics conform their consciences to the teaching of the Church*, Franciscan Herald, Chicago, 1983, <http://twotlj.org/G-1-23-G.html> (Accessed 6 October 2016).

Grisez, Germain, 'Moral Absolutes: A Critique of the View of Joseph Fuchs, S.J.', in *ANTHROPOS: Rivista di Studi sulla Persona e la Famiglia*, Volume 1, number 2; October 1985, 155-201, <http://www.twotlj.org/OW-Fuchs.pdf> (Accessed 16 October 2016).

Grisez, Germain, "The Duty and Right to Follow One's Judgment of Conscience," in *The Linacre Quarterly*: Vol. 56: No. 1, 1989, Article 5, 13-23, [http://epublications.marquette.edu/cgi/viewcontent.cgi?article=1741&context=lnq&g\\_a=1.154935228.589113384.1478172129](http://epublications.marquette.edu/cgi/viewcontent.cgi?article=1741&context=lnq&g_a=1.154935228.589113384.1478172129) (Accessed 6 November 2016).

Grisez, Germain G., *The Way of the Lord Jesus*, <http://twotlj.org/> (Accessed 25 September 2016).

Guéranger O.S.B., Abbott, *The Liturgical Year: Volume 1 Advent*, trans. Dom Laurence Shepherd O.S.B., 1867, rpt, Britons Catholic Library, London, 1983.

Guerry, Monsignor Emile, *The Social Teaching of the Church*, trans. Miriam Hederman, St Paul Publications, London/New York/Bombay, 1961.

Häring, C.S.S.R., Bernard, *The Law of Christ: Moral Theology for Priests and Laity - Volume One: General Moral Theology*, translated by Edwin G. Kaiser C.P.P.S., The Mercier Press, Cork, Ireland, 1961.

Häring C.S.S.R., Bernard, *Bernard Häring Replies: Answers to 50 Moral and Religious Questions*, translated by Society of St Paul, New York, Geoffrey Chapman Pty Ltd., London, Dublin and Melbourne, 1967.

Häring, C.S.S.R., Bernard, *Free and Faithful in Christ: Moral Theology For Priests and laity: Volume I General Moral Theology*, St Paul Publications, Homebush NSW, 1978.

Häring, Bernard, 'The Curran Case: Conflict Between Rome and a Moral Theologian', in Charles E. Curran and Richard A McCormick, S.J., *Readings in Moral Theology No. 6: Dissent in the Church*, Paulist Press, New York/Mahwah, 1988, 370-386.

Harradine, Senator Brian, 'Question: Aborted Foetuses: Transplant Use Speech', *Senate Hansard*, 15 March 1977,  
[http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1977-03-15/0055/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1977-03-15/0055/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Death of His Holiness Pope Paul VI Speech', 15 August 1978,  
*Senate Hansard*,  
[http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Question: Abortion Speech', *Senate Hansard*, 24 August 1978, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1978-08-24/0219/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Abortion: Notice of Motion Speech', *Senate Hansard*, Friday, 5 December 1980, [http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1980-12-05/0007/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/hansard80/hansards80/1980-12-05/0007/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Same Sex Couples: Legislative Changes Suspension Of Standing Orders Speech', *Senate Hansard*, 9 December 1999, 11559, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0025/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/1999-12-09/0025/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Prohibition of Human Cloning Bill 2002: Second Reading Speech', *Senate Hansard*, 11 November 2002, 5829-5830, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2002-11-11/0016/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2002-11-11/0016/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Matters of Urgency: Sexuality Discrimination Legislation Speech', *Senate Hansard*, 10 September 2003, 14865-14866, [http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-10/0118/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-10/0118/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Harradine, Senator Brian, 'Questions Without Notice: Health: Abortion Question', *Senate Hansard*, 15 September 2003, 15104,  
[http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-15/0034/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2003-09-15/0034/hansard_frag.pdf;fileType=application%2Fpdf) (Accessed 17 November 2016).

Hartcher MP, Chris, Speech on *Human Cloning and Other Prohibited Practices Amendment Bill 2007*, in *Hansard*, NSW Legislative Assembly, 5 June 2007, 784-787,  
[http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070605/\\$File/541LA008.pdf](http://23.101.218.132/prod/parliament/hanstrans.nsf/V3ByKey/LA20070605/$File/541LA008.pdf) (Accessed 4 December 2016).

Henderson, Gerard, 'Separation of church and state is fundamental – when it suits' in *The Sydney Morning Herald*, 19 June 2007, print edition page 11,  
[http://www.smh.com.au/articles/2007/06/18/1182019027502.html?page=fullpageparagraph\\_contentSwap1](http://www.smh.com.au/articles/2007/06/18/1182019027502.html?page=fullpageparagraph_contentSwap1) (Accessed 30 July 2017).

von Hildebrand, Dietrich, *The Devastated Vineyard*, trans. John Crosby and Fred Tiechert, Franciscan Herald Press, Chicago, 1973, rpt. Roman Catholic Books, Harrison New York, 1985.

Hitchens, Dan, 'Some Catholics are 'unnerved' by current events in the Church, says Cardinal Pell' in *Catholic Herald*, 29 November 2016,  
<http://www.catholicherald.co.uk/news/2016/11/29/some-catholics-are-unnerved-by-current-events-in-the-church-says-cardinal-pell/> (Accessed 3 December 2016).

Hockey, Joe, *In Defence of God*, published as *Joe Hockey Defends God*, ABC Big Ideas, 9 November 2009, Podcast:

<http://www.abc.net.au/tv/bigideas/stories/2009/11/09/2738915.htm> (Accessed 16 November 2016).

Hogan, Linda, *Confronting the Truth: Conscience in the Catholic Tradition*, Paulist Press, New York/Mahwah, NJ, 2000.

Hogan, Linda, 'Marriage Equality, Conscience, and the Catholic Tradition', in *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, edited by David E. DeCross and Kristin E. Heyer, Orbis Books, Maryknoll, New York, 2015, 83-95.

Hollis, Christopher, *Newman and the Modern World*, Hollis & Carter, London, 1967.

Hughes, Philip, *The Church in Crisis: A History of the Twenty Great Councils*, Burns & Oates, London, 1961.

Jaeger, Archbishop Lorenz, *The Ecumenical Council, The Church and Christendom*, Geoffrey Chapman, also trans., London, 1961.

Jago, Reverend Father John, S.M., *Newman, Freedom of Conscience and Vatican II: A Dissertation*, The University of Fribourg, Switzerland, 1977.

Jedin, Hubert, *Ecumenical Councils in the Catholic Church: An Historical Survey*, trans. Ernest Graf O.S.B., Herder, Friburg and Nelson Edinburg, London, 1960.

John 14:15, 21, *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway, <https://www.biblegateway.com/passage/?search=john+14&version=RSVCE> (Accessed 11 December 2016).

John XXIII, *Pope John's Announcement of an Ecumenical Council*, Vatican II - Voice of The Church The Church's English Voice — Bishop Christopher Butler, OSB, 25 January 1959, <http://www.vatican2voice.org/91docs/announcement.htm> (Accessed 21 May 2015).

John XXIII, Apostolic Constitution, *Humanae salutis*, Convocation of the Second Vatican Council, Vatican II - Voice of The Church: The Church's English Voice — Bishop Christopher Butler, OSB, 25 December 1961, <http://www.vatican2voice.org/91docs/convoke.htm> (Accessed 21 May 2015) .

John XXIII, *Opening Speech to the Council*, 11 October 1962, Vatican II - Voice of The Church, The Church's English Voice — Bishop Christopher Butler, OSB, [http://www.vatican2voice.org/91docs/opening\\_speech.htm](http://www.vatican2voice.org/91docs/opening_speech.htm) (Accessed 28 May 2015).

John Paul II, *Encyclical: Veritatis Splendor: The Splendour of Truth*, 6 August 1993, Libreria Editrice Vaticana [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html) (Accessed 7 October 2016).

John Paul II, *Ordinatio Sacerdotalis: On Reserving Priestly Ordination to Men Alone*, 22 May 1994, [http://w2.vatican.va/content/john-paul-ii/en/apost\\_letters/1994/documents/hf\\_jp-ii\\_apl\\_19940522\\_ordinatio-sacerdotalis.html](http://w2.vatican.va/content/john-paul-ii/en/apost_letters/1994/documents/hf_jp-ii_apl_19940522_ordinatio-sacerdotalis.html) (Accessed 30 April 2015).

John Paul II, *Encyclical: Evangelium Vitae: The Gospel of Life*, 25 March 1995, Libreria Editrice Vaticana, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_19950325\\_evangelium-vitae.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_19950325_evangelium-vitae.html)

[ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html) (Accessed 8 October 2016).

John Paul II, Apostolic Letter Motu Proprio: *Ad Tuendam Fidem: To Protect the Faith*, 18 May 1998, Libreria Editrice Vaticana, [http://w2.vatican.va/content/john-paul-ii/en/motu\\_proprio/documents/hf\\_jp-ii\\_motu-proprio\\_30061998\\_ad-tuendam-fidem.html](http://w2.vatican.va/content/john-paul-ii/en/motu_proprio/documents/hf_jp-ii_motu-proprio_30061998_ad-tuendam-fidem.html) (Accessed 26 December 2016).

John Paul II, *Encyclical Letter, Fides et Ratio: Faith and Reason*, 14 September 1998, Libreria Editrice Vaticana, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091998\\_fides-et-ratio.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091998_fides-et-ratio.html) (Accessed 7 October 2016).

Johnstone, Brian V., 'The Revisionist Project in Roman Catholic Moral Theology', in *Studies in Christian Ethics*, August 1992, Vol. 5:2, 18-31, <http://sce.sagepub.com/content/5/2/18.full.pdf>, (Accessed 18 June 2016).

Jensen, Erik, 'Pell could be in contempt', in *The Sydney Morning Herald*, 15 June 2007, <http://www.smh.com.au/news/national/pell-could-be-in-contempt/2007/06/15/1181414522564.html#paragraph> (Accessed 12 December 2016).

Karvelas, Patricia, 'Mark Arbib wants Labor to back gay marriage', in *The Australian*, 6 November 2010, <http://www.theaustralian.com.au/national-affairs/arbib-wants-labor-to-back-gay-marriage/story-fn59niix-1225948555751> (Accessed 15 February 2016).

Kaufman OSB, Philip S., *Why You Can Disagree... And Remain a Faithful Catholic*, Meyer-Stone Books, Bloomington Illinois, 1989.

Keenan SJ, James F., *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences*, Bloomsbury Publishing PLC, London, 2010.

Keenan SJ, James F., 'To Follow and to Form over Time: A Phenomenology of Conscience', in *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, ed. David E. DeCosse and Kristin E. Heyer, Orbis Books, Maryknoll, New York, 2015, 1-15.

Keneally, Kristina, Inaugural Speech, *Hansard*, NSW Legislative Assembly, 20 May 2003, 732, <https://api.parliament.nsw.gov.au/api/hansard/search/daily/pdf/HANSARD-1323879322-61614> (Accessed 14 December 2016).

Keneally, Kristina, Speech - Human Cloning and Other Prohibited Practices Amendment Bill 2007, *Hansard*, NSW Legislative Assembly, 6 June 2007, [https://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LA20070606004?open&refNavID=HA8\\_1](https://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LA20070606004?open&refNavID=HA8_1) (Accessed 10 February 2016).

Keneally, Kristina, 'Why I support gay marriage', in *Eureka Street*, 25 September 2011, <http://www.eurekastreet.com.au/article.aspx?aeid=28390#.VsL9ZeRulZV> (Accessed 16 February 2016).

Keneally, Kristina, 'Frank Brennan, Ambassador from the Republic of Conscience', in *The Eureka Street Religion Blog*, 3 June 2015, <http://www.eurekastreet.com.au/article.aspx?aeid=45035#.VsRsGuRulv0> (Accessed 17 February 2016).



Kennedy, Ted, *Who is Worthy? The role of Conscience in restoring hope to the Church*, Pluto Press, Annandale, Sydney, 2000.

Ker, Ian, *John Henry Newman: A Biography*, Oxford University Press, Oxford and New York, 1988.

Ker, Ian, *The Achievement of John Henry Newman*, University of Notre Dame Press, USA, 1991.

Kerbaj, Richard, 'Muslim leader blames women for sex attacks', in *The Australian* online, 26 October 2006, <http://www.theaustralian.com.au/news/nation/muslim-leader-blames-women-for-sex-attacks/story-e6frg6nf-111112419114> (Accessed 30 November 2016).

Kerr, Nicholas, *Australian Catholic Bishops' Statements Since Vatican II*, St Paul Publications, Homebush NSW, 1985.

Kingston, Margo, 'Brian Harradine, man of honour', in *SMH.com.au*, 29 June 2004, <http://www.smh.com.au/articles/2004/06/29/1088392648667.html> (Accessed 17 November 2016).

Kruger, Paul, 'Catholics divided over Pell's criticism of Greens', ABC News online, 11 August 2010, <http://www.abc.net.au/news/2010-08-10/catholics-divided-over-pells-criticism-of-greens/939596> (Accessed 3 September 2016).

Lawler, Ronald, OFM Cap, 'The Love of God and Mortal Sin', in William May, ed. *Principles of Catholic Moral Life*, Franciscan Herald Press, Chicago, Illinois, 1981, 193-219.

Le Floch, Fr Henri, *Clear Ideas on the Pope's Infallible Magisterium*, no date, rpt., 2002,

SiSiNoNo [http://archives.sspix.org/miscellaneous/infallible\\_magisterium.htm](http://archives.sspix.org/miscellaneous/infallible_magisterium.htm)

(Accessed 26 April 2015).

Legge, Kate, 'We Are Family', in *The Australian* online, 12 January 2011,

[http://www.theaustralian.com.au/life/weekend-australian-magazine/we-are-](http://www.theaustralian.com.au/life/weekend-australian-magazine/we-are-family/story-e6frg8h6-1225986408817)

[family/story-e6frg8h6-1225986408817](http://www.theaustralian.com.au/life/weekend-australian-magazine/we-are-family/story-e6frg8h6-1225986408817) (Accessed 7 October 2016).

Lewis, Brian, 'The Primacy of Conscience', in *Australian eJournal of Theology*, 6 (February 2006), 1 - 7,

[http://aejt.com.au/\\_data/assets/pdf\\_file/0005/395195/AEJT\\_6.12\\_Lewis.pdf](http://aejt.com.au/_data/assets/pdf_file/0005/395195/AEJT_6.12_Lewis.pdf)

(Accessed 16 October 2016).

Loneragan SJ, Bernard J.F., 'The Transition from a Classicist World-View to Historical Mindedness', in *A Second Collection*, ed. W. F.J. Ryan, S.J., and B. J. Tyrell, S.J., The Westminster Press, Philadelphia, 1974, 1-9 Kindle Edition,

[https://www.amazon.com/dp/B00T9ZHK8M/ref=rdr\\_kindle\\_ext\\_tmb#reader\\_B00T9](https://www.amazon.com/dp/B00T9ZHK8M/ref=rdr_kindle_ext_tmb#reader_B00T9ZHK8M)

[ZHK8M](https://www.amazon.com/dp/B00T9ZHK8M/ref=rdr_kindle_ext_tmb#reader_B00T9ZHK8M) (Accessed 4 November 2016).

MacKenzie, Bruce and Shoebridge, Joanne, 'Cusack abused over gay marriage stance', in

*ABC Online*, 7 June, 2012 12:49PM AEST,

<http://www.abc.net.au/local/stories/2012/06/07/3520361.htm?site=northcoast>

(Accessed 28 February 2016).

Marr, David, *The High Price of Heaven*, Allen & Unwin, Sydney, 1999.

Marr, David, *Quarterly Essay 51 - The Prince: Faith, abuse and George Pell*, Black Inc, Carlton Victoria, September 2013.

Marshall, John, MD, *Catholics, Marriage and Contraception*, Helicon, Dublin, 1965.

Martin, Ralph, 'The Post-Christendom Sacramental Crisis: The Wisdom of Thomas Aquinas', in *Nova et Vetera*, English Edition, Vol. 11, No. 1, 2013, 57-75, <http://www.nvjournal.net/images/articles-subscription/NovaetVetera11.1Martin.pdf> (Accessed 14 November 2015).

May, William E., 'Conscience Formation and the Teaching of the Church', in *Why Humanae Vitae was Right: A Reader*, ed. Janet Smith, Ignatius Press, San Francisco, 1993, 365-382.

May, William E., *An Introduction to Moral Theology*, 2<sup>nd</sup> ed., Our Sunday Visitor, Huntington, Indiana, 2003.

McCormick, SJ, Richard A., 'Moral Theology 1940-1989: An Overview', in *Theological Studies*, 50, 1989, 3-24, <http://cdn.theologicalstudies.net/50/50.1/50.1.1.pdf> (Accessed 31 October 2016).

McCusker, Matthew, *Key doctrinal errors and ambiguities of Amoris Laetitia*, Voice of the Family, 7 May 2016, <http://voiceofthefamily.com/key-doctrinal-errors-and-ambiguities-of-amoris-laetitia/> (Accessed 26 October 2016).

Members of the Sydney University Catholic Society, 'Open Letter to the Student Body – Sexuality and the Church' in *Honi Soit*, 6 October 1998, 8.

Mitchell, Alan C., *Hebrews*, Liturgical Press, Collegeville, Minnesota, 2007.

Mobbs, Frank, *Beyond Its Authority? The Magisterium and Matters of Natural Law*, EJ Dwyer, Alexandria NSW, 1997.

Murdoch, Jessica M., “Creeping Infallibility: Amoris Laetitia and Magisterial Authority”, in *First Things*, 27 September 2016, <https://www.firstthings.com/web-exclusives/2016/09/creeping-infallibility> (Accessed 25 October 2016).

Nau, Dom Paul, OSB, “The Ordinary Magisterium of the Catholic Church”, trans. Arthur E. Slater, in *Pope or Church?: Essays on the Infallibility of the Ordinary Magisterium*, Angelus Press, Kansas City, Missouri, 1998.

Newman, John Henry, ‘Letter to the Duke of Norfolk: 4. Divided Allegiance’, in *Newman Reader — Works of John Henry Newman*, 2007, The National Institute for Newman Studies, <http://www.newmanreader.org/works/anglicans/volume2/gladstone/section4.html> (Accessed 23 December 2015).

Newman, John Henry, ‘Letter to the Duke of Norfolk: 5. Conscience’, in *Newman Reader — Works of John Henry Newman*, 2007, The National Institute for Newman Studies, <http://www.newmanreader.org/works/anglicans/volume2/gladstone/section5.html> (Accessed 24 December 2015).

New South Wales Consolidated Acts, *Strata Schemes Management Act 1996 - Sect 22*, AustLII, <http://legislation.nsw.gov.au/inforce/58c71653-c48b-c300-b4c4-ef01a29d7327/1996-138.pdf> (Accessed 26 December 2016).

New South Wales Government, NSW Legislation, *Human Cloning for Reproduction and Other Prohibited Practices Act 2003 No 20*, Part 1 Section 4,  
<http://www.legislation.nsw.gov.au/#/view/act/2003/20/part1/sec4> (Accessed 16 November 2016).

New South Wales Parliament, Legislative Council, Privileges Committee, *Report on comments by Cardinal George Pell concerning the Human Cloning and Other Prohibited Practices Amendment Bill 2007*/ Privileges Committee, Sydney, N.S.W., 2007. – 26,  
<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5499/Report%20No%2038%20Cardinal%20Pell.pdf> (Accessed 15 November 2016).

Noonan, John T., ‘Development in Moral Doctrine’, in *Theological Studies*, 54, 1993, 662-677, <http://cdn.theologicalstudies.net/54/54.4/54.4.3.pdf> (Accessed 8 December 2016).

Ott, Ludwig *Fundamentals of Catholic Dogma*, trans. James Canon Bastible, Mercier Press, Cork, Ireland, 1963.

Owens, Jared, ‘Tony Burke backs ‘inevitable’ gay marriage’, in *The Australian*, 25 May 2015, <http://www.theaustralian.com.au/national-affairs/tony-burke-backs-inevitable-gay-marriage/news-story/ca53684cc8b416c4b9d5ca29f0e2d4aa> (Accessed 28 December 2016).

Papal Birth Control Commission, *Majority Papal Commission Report*, ed. Fr. Luke Dysinger O.S.B., Saint John’s Seminary California,  
[http://ldysinger.stjohnsem.edu/@magist/1963\\_paul6/068\\_hum\\_vitae/majority%20report.pdf](http://ldysinger.stjohnsem.edu/@magist/1963_paul6/068_hum_vitae/majority%20report.pdf) (Accessed 2 November 2016).

Parliament of NSW, *Human Cloning and Other Prohibited Practices Amendment Act 2007 No 16*, <http://www.legislation.nsw.gov.au/acts/2007-16.pdf> (Accessed 16 November 2016).

Parliament of NSW, *Adoption Amendment (Same Sex Couples) Bill 2010 (No. 2)*, *Hansard*, Legislative Assembly, Page 25148, 2 September 2010, <https://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA20100902005> (Accessed 16 February 2016).

Paul VI, 'The Second Vatican Council' 29 September 1963, in *Catholic Documentation*, 9:2, March 1964, 3-29.

Paul VI, *Address of Pope Paul VI During The Last General Meeting of The Second Vatican Council*, 7 December 1965, [http://w2.vatican.va/content/paul-vi/en/speeches/1965/documents/hf\\_p-vi\\_spe\\_19651207\\_epilogo-concilio.html](http://w2.vatican.va/content/paul-vi/en/speeches/1965/documents/hf_p-vi_spe_19651207_epilogo-concilio.html) (Accessed 20 July 2015).

Paul VI, *Humane Vitae: On the Regulation of Birth*, 25 July 1968, [http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html) (Accessed 6 September 2016).

Pearson, Christopher, 'At odds with the gospel according to Joe', in *The Australian* online, 21 November 2009, <http://www.theaustralian.com.au/opinion/columnists/at-odds-with-the-gospel-according-to-joe/story-e6frg7ko-1225800421282> (Accessed 16 November 2016).

Pell, George, 'The issues facing Australian Catholicism', in *AD2000*, Vol 1 No 8, November 1988, 9.

Pell, George, 'Catalyst for Renewal Address: The legacy of Vatican II', in *AD2000* Vol 16 No 7, August 2003, 8.

Pell, George, 'Greens are anti-Christian', in *The Sunday Telegraph*, 8 August 2010, 45.

Pell, George, *God and Caesar: Selected Essays on Religion, Politics and Society*, ed. M.A. Casey, Connor Court Publishing, Victoria, Australia, and The Catholic University of America Press, Washington DC, 2007.

Pentin, Edward, 'Full Text and Explanatory Notes of Cardinals' Questions on 'Amoris Laetitia': The full documentation relating to the cardinals' initiative, entitled 'Seeking Clarity: A Plea to Untie the Knots in *Amoris Laetitia*.'', in *National Catholic Register*, 14 November 2016, <http://www.ncregister.com/blog/edward-pentin/full-text-and-explanatory-notes-of-cardinals-questions-on-amoris-laetitia> (Accessed 11 December 2016).

Pentin, Edward, 'Catholic Scholars Offer 'Full Support' to the Four 'Dubia' Cardinals: Twenty-three academics say clarification is urgent as they believe the barque of Peter is "drifting perilously like a ship without a rudder" and shows signs of "incipient disintegration"' in *National Catholic Register*, 9 December 2016, <https://www.ncregister.com/blog/edward-pentin/group-of-catholic-scholars-offer-full-support-to-four-cardinals-and-dubia> (Accessed 11 December 2016).

Pentin, Edward, 'Two Leading Philosophers: Errors Derived from *Amoris Laetitia* Could Do Grave Harm to Many Souls: Professors Germain Grisez and John Finnis warn that to

promote such errors in order to "realistically" deal with Catholics influenced by secularised culture is setting aside the Church's tradition and mission' in *National Catholic Register*, 10 December 2016, <http://www.ncregister.com/blog/edward-pentin/two-leading-philosophers-errors-derived-from-amoris-laetitia-pose-grave-har> (Accessed 11 December 2016).

Pentin, Edward, 'Pope Francis Thanks Maltese Bishops for 'Amoris Laetitia' Guidelines, in *National Catholic Register*, 6 April 2017, <http://www.ncregister.com/blog/edward-pentin/pope-francis-thanks-maltese-bishops-for-amoris-laetitia-guidelines> (Accessed 29 July 2017).

Pentin, Edward, 'Doctrinal Anarchy' as Bishops' Conflicting Positions on Amoris Laetitia Show', in *National Catholic Register*, 17 June 2017, <http://www.ncregister.com/blog/edward-pentin/doctrinal-anarchy-as-bishops-conflicting-positions-on-amoris-laetitia> (Accessed 29 July 2017).

Pentin, Edward, 'Dubia Cardinals Seek Papal Audience', in *National Catholic Register*, 19 June 2017, <http://www.ncregister.com/blog/edward-pentin/dubia-cardinals-seek-papal-audience> (Accessed 29 July 2017).

Pentin, Edward, 'Full Text of Dubia Cardinals' Letter Asking Pope for an Audience', in *National Catholic Register*, 19 June 2017, <http://www.ncregister.com/blog/edward-pentin/full-text-of-dubia-cardinals-letter-asking-pope-for-an-audience> (Accessed 29 July 2017).

Pentin, Edward, 'Cardinal Joachim Meisner Dies at 83', in *National Catholic Register*, 5 July 2017, <http://www.ncregister.com/blog/edward-pentin/cardinal-joachim-meisner-dies-at-83>, (Accessed 29 July 2017).



Pius IX, *Ineffabilis Deus: On the Immaculate Conception*, 8 December 1854,  
<http://www.papalencyclicals.net/Pius09/p9ineff.htm> (Accessed 29 April 2015).

Pius IX, Letter *Tuas libenter*, 21 December 1863, to the Archbishop of Munich, in ‘*Papal Teachings: The Church*,’ Selected and arranged by The Benedictine Monks of Solesmes, trans. Mother E. O’Gorman R.S.C.J., Daughters of St Paul, 1960, 1962, Paragraphs 245-250, 171-174.

Pius X, *Encyclical: Pascendi Dominici Gregis: On the Doctrine of the Modernists*, 8 September 1907, Libreria Editrice Vaticana, [http://w2.vatican.va/content/pius-x/en/encyclicals/documents/hf\\_p-x\\_enc\\_19070908\\_pascendi-dominici-gregis.html](http://w2.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_19070908_pascendi-dominici-gregis.html) (Accessed 9 December 2016).

Pius XI, *Quas Primas: On the Kingship of Christ*, 11 December 1925,  
[http://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_11121925\\_quas-primas.html](http://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_11121925_quas-primas.html) (Accessed 2 October 2016).

Pius XI, *Mortalium Animos - On Religious Unity*, 6 January 1928,  
[http://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_19280106\\_mortalium-animos.html](http://w2.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19280106_mortalium-animos.html) (Accessed 9 July 2015).

Pius XI, *Divini Redemptoris: On Atheistic Communism*, 19 March 1937, trans, Canon G. D. Smith, Catholic Truth Society, London, 1961.

Pius XII, *Mediator Dei: Christian Worship – On the Sacred Liturgy*, 20 November 1947,  
trans. Canon G. D. Smith, Catholic Truth Society, London, 1948.

Pius XII, *Humani Generis: Concerning Some False Opinions Threatening To Undermine the Foundations of Catholic Doctrine*, 12 August 1950, [http://w2.vatican.va/content/pius-xii/en/encyclicals/documents/hf\\_p-xii\\_enc\\_12081950\\_humani-generis.html](http://w2.vatican.va/content/pius-xii/en/encyclicals/documents/hf_p-xii_enc_12081950_humani-generis.html) (Accessed 2 April 2015).

Pius XII, 'Broadcast Message on The Christian Conscience as an Object of Education, (23rd March 1952)', in *Catholic Documents*, VIII, July 1952, 1-7.

Pius XII, *Haurietis Aquas: On Devotion to the Sacred Heart of Jesus*, 15 May 1956, trans. Rev Geoffrey Crawford B.A., Catholic Truth Society, London, 1965.

Pontifical Council For Justice And Peace, *Compendium of The Social Doctrine of The Church*, Libreria Editrice Vaticana, 2004, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/documents/rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html) (Accessed 2 October 2016).

Prince, Rosa and Freeman, Colin, 'Irish gay marriage referendum ends in overwhelming victory for Yes campaign', in *The Telegraph*, 23 May 2015, <http://www.telegraph.co.uk/news/worldnews/europe/ireland/11625847/Irish-gay-marriage-referendum-live.html> (Accessed 11 December 2016).

'Proud Schools Trial is Here to Stay', in *Gay News Network*, 18 October 2012, <https://gaynewsnetwork.com.au/news/proud-schools-trial-here-to-stay-9200.html> (Accessed 27 December 2016).

Psalm 1, *Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway, <https://www.biblegateway.com/passage/?search=Psalm+1&version=RSVCE> (Accessed 21 November 2016).

Quinn, John R., 'Newman and the Problem of Conscience in Relation to Papal Infallibility', in *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, edited by David E. DeCosse and Kristin E. Heyer, Orbis Books, Maryknoll, NY, 2015, 17-26.

Rahner SJ, Karl, 'On the Encyclical "Humanae Vitae"', in *Catholic Mind*, 66, November 1968, 28-45.

Ramsay, Hayden, 'Conscience: Aquinas – With a Hint of Aristotle', in *Sophia*, 40:2, 2001, 15-29.

Ratzinger, Joseph Cardinal, *Presentation By His Eminence Card. Joseph Ratzinger on the Occasion of the First Centenary of the Death of Card. John Henry Newman*, Rome, 28 April 1990, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900428\\_ratzinger-newman\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900428_ratzinger-newman_en.html) (Accessed 29 November 2016).

Ratzinger, Joseph Cardinal, *Conscience and Truth*, Eternal Word Television Network, Irondale, Alabama, 1991, <http://www.ewtn.com/library/curia/ratzcons.htm> (Accessed 28 November 2016).

Ratzinger, Joseph, *The Yes of Jesus Christ*, trans. Robert Nowell, Crossroad, New York, 1991.

Ratzinger, Joseph /Pope Benedict XVI, *Jesus of Nazareth: From the Baptism in the Jordan to the Transfiguration*, trans. Adrian J. Walker, Bloomsbury Publishing, London, 2007.

Ratzinger, Joseph Cardinal, *On Conscience: Two Essays by Joseph Ratzinger*, The National Catholics Bioethics Center, Philadelphia and Ignatius Press, San Francisco, 2007.

*Revised Standard Version Catholic Edition (RSVCE)*, Bible Gateway,

<https://www.biblegateway.com/passage/?search=Matthew+28&version=RSVCE>

(Accessed 3 October 2016).

Rice, Charles, *50 Questions on the Natural Law: What it is and Why we need it*, Ignatius Press, San Francisco, 1995.

Rosengren, Peter, 'Papal honour for Labor stalwart John Johnson' in *The Catholic Weekly*,

16 September 2015, <https://www.catholicweekly.com.au/papal-honour-for-labor-stalwart-john-johnson/>

(Accessed 15 July 2017).

Rowbotham, Jill, 'Conscience before church, priest urges', in *The Australian*, 7 June 2007,

<http://www.theaustralian.news.com.au/story/0,25197,21862851-2702,00.html>

(Accessed 26 May 2014).

Rowland, Tracey, *Ratzinger's Faith: The Theology of Pope Benedict XVI*, Oxford University

Press, 2008.

Rudd MP, Kevin, 'Acting on Conscience Canberra Launch Speech', 31 October 2006, in

*Eureka Street*, 27 February 2007,

[http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh\\_beRumhc](http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh_beRumhc) (Accessed 8

February 2016).

Ryan SM, Tom, 'Conscience as Primordial Moral Awareness in *Gaudium et Spes* and *Veritatis Splendor*', in *Australian eJournal of Theology*, 18:1, April 2011, 83-96, [http://aejt.com.au/\\_data/assets/pdf\\_file/0003/325560/7\\_AEJT11.01\\_Formatted\\_Conscience\\_as\\_Primitive\\_Moral\\_Awareness\\_copyedited.pdf](http://aejt.com.au/_data/assets/pdf_file/0003/325560/7_AEJT11.01_Formatted_Conscience_as_Primitive_Moral_Awareness_copyedited.pdf) (Accessed 16 June 2017).

Schmitz, Matthew, "Has Pope Francis Failed?", in *The New York Times* online, 28 September 2016, <http://www.nytimes.com/2016/09/28/opinion/has-pope-francis-failed.html?ref=opinion> (Accessed 25 October 2016).

Shanahan, Angela, 'Christians must boost immunity to Greens virus', in *The Australian*, 12 June 2010, <http://www.theaustralian.com.au/archive/politics/christians-must-boost-immunity-to-greens-virus/story-e6frgczf-1225878344697> (Accessed 2 September 2016).

Shanahan, Angela, 'Space for religion in public square becoming cramped', in *The Australian* online, 24 October 2015, <http://www.theaustralian.com.au/opinion/columnists/angela-shanahan/space-for-religion-in-public-square--becoming-cramped/news-story/4c92b06d7f4595084aae4047b0ee222c> (Accessed 7 October 2016).

Shanahan, Dennis, 'Labor's shift in policy on same-sex marriage marks a historic change for the party', in *The Australian*, 3 December 2011 12:05 PM, <http://www.theaustralian.com.au/national-affairs/indepth/labors-shift-in-policy-on-same-sex-marriage-marks-a-historic-change-for-the-party/story-fnba0rxe-1226212933720> (accessed 15 February 2016).

Shaw, Russell, 'The Making of a Moral Theologian', in *The Catholic World Report*, March 1996, rpt. In *Eternal Word Television Network* online,

<http://www.ewtn.com/library/HOMELIBR/GRISEZ.TXT> (Accessed 18 September 2016).

Simpson, D. P., *Cassell's New Latin-English English –Latin Dictionary*, Cassell, London, Second Edition, 1962.

Smith, Robert J., *Conscience and Catholicism: The Nature and Function of Conscience in Contemporary Roman Catholic Moral Theology*, University Press of America, Lanham, New York, Oxford, 1998.

Snow, Deborah and Davies, Anne, 'Labor's least likely', in *The Age*, 5 December 2009, <http://www.theage.com.au/national/labors-least-likely-20091204-kb2i.html#ixzz409215HUw> (Accessed 14 February 2016).

'Statement of the German Bishops on Humane Vitae', in *Catholic Mind*, October 1968, 48-49.

Sungenis, Robert A., 'The Use of the Greek *Poimanao* in John 21:16', letter to authors, 2 June 1995, 1-2, in Scott Butler, Norman Dahlgren and Rev. Mr. David Hess, *Jesus, Peter and the Keys: A Scriptural Handbook on the Papacy*, Queenship Publishing Company, Santa Barbara CA, 1996.

Supreme Court of the United States, *Obergefell Et Al. V. Hodges, Director, Ohio Department of Health, et al.*, No. 14–556., Argued April 28, 2015—Decided June 26, 2015, [https://www.supremecourt.gov/opinions/14pdf/14-556\\_3204.pdf](https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf) (Accessed 11 December 2016).

Tanner SJ, Norman. ed., *Decrees of the Ecumenical Councils, Volume One: Nicaea I to Lateran V*, Sheed and Ward and Georgetown University Press, London and Washington DC, 1990.

Thucydides, *History of the Peloponnesian War*, revised ed., trans. Rex Warner, intro. & notes M. I. Finley, Penguin, London, 1972.

Turnbull, Malcolm, *Reflections on Gay Marriage - Michael Kirby Lecture 2012*,  
<http://www.malcolmturnbull.com.au/media/reflections-on-gay-marriage-michael-kirby-lecture-2012> (Accessed 7 October 2016).

United Nations, *Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal: 1950, 2005*,  
[http://legal.un.org/ilc/texts/instruments/english/draft\\_articles/7\\_1\\_1950.pdf](http://legal.un.org/ilc/texts/instruments/english/draft_articles/7_1_1950.pdf) (Accessed 10 December 2016).

Victorian Current Acts, *Abortion Law Reform Act 2008 - Sect 5 (1)*, AustLII,  
[http://www.austlii.edu.au/au/legis/vic/consol\\_act/alra2008209/s5.html](http://www.austlii.edu.au/au/legis/vic/consol_act/alra2008209/s5.html) (Accessed 4 October 2016).

Warhurst, Professor John, 'Activist and Scholar: Frank Brennan's Book Launch',  
Thesischain, Manuka, in *Eureka Street*, 1 November 2006,  
[http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh\\_beRumhc](http://www.eurekastreet.com.au/article.aspx?aeid=2011#.Vrh_beRumhc) (Accessed 9 February 2016).

Watkin, E.I., *The Church in Council*, Darton, Longman & Todd, London, Sheed & Ward, New York, 1960.

Watson, Bronwyn, 'Geraldine Doogue', in *The Guide, Sydney Morning Herald*, 9 December 1985, 2,

<https://news.google.com/newspapers?nid=IL5f5cZgq8MC&dat=19851209&printsec=frontpage&hl=en>, (Accessed 1 September 2016).

Weigel, SJ, Gustave, 'The Historical Background of the Encyclical *Humani Generis*' in *Theological Studies*, June 1951, 208-230,

<http://cdn.theologicalstudies.net/12/12.2/12.2.3.pdf> (Accessed 16 October 2016).

West, Andrew, *ABC Radio National Religion and Ethics Report: Vatican II and the Australian impact*, 26 September 2012 5:50PM, transcript,

<http://www.abc.net.au/radionational/programs/religionandethicsreport/vatican-ii-and-the-australian-impact/4281966paragraph-transcript> (Accessed 14 November 2015).

Whinnett, Ellen, 'ALP National Conference: Bill Shorten to introduce same-sex Bill within first 100 days of government', in *Herald Sun*, 26 July 2015,

<http://www.heraldsun.com.au/news/alp-national-conference-bill-shorten-to-introduce-samesex-bill-within-first-100-days-of-government/news-story/825d2293755e7c1ce291513aaf1d01e9> (Accessed 27 December 2016).

Wiltgen, Ralph M., S.V.D, *The Rhine Flows into the Tiber: The Unknown Council*, Hawthorne Books, New York City, 1967.

Wojtyla, Karol, *Sign of Contradiction*, trans. Mary Smith, St Paul Publications, Slough, United Kingdom, 1979.

Wright, Tony, 'Former senator Brian Harradine - the blueprint for the power of one', in *SMH.com.au*, 14 April 2014, <http://www.smh.com.au/federal-politics/political->



[news/former-senator-brian-harradine--the-blueprint-for-the-power-of-one-20140414-zqunp.html](https://www.zqunp.com/news/former-senator-brian-harradine--the-blueprint-for-the-power-of-one-20140414-zqunp.html) (Accessed 17 November 2016).

Wuellner SJ, Bernard, *Dictionary of Scholastic Philosophy*, Bruce Publishing Company, Milwaukee, 1956.