

ANGLICAN/ROMAN CATHOLIC INTERNATIONAL COMMISSION

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JUDGMENTS WITHIN THE CHURCHAn Essay by a Church of England Man

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1. It is not, I hope, mere insularity which inclines me to begin from where I am, professedly from within the Church of England, rather than from something wider and more abstract called The Anglican Communion. My subject is a moral tradition; and whereas other Churches than the English within the Anglican Communion vigorously formulate moral judgments, as in their autonomy they are entitled to, they too work from within a tradition; and that tradition stemmed from England, from its canon law certainly, and, in some places, from its common law also. I take as my point of departure the century before the Reformation, when the Church of England was fully integrated with the canonical jurisdiction of the Church of Rome on the one side, and with the juridical reality of the Realm of England, a sovereign State, on the other. There and then our moral tradition was visibly one branch of the vine of the whole Western Church, stemming from a common theological and moral root. If, therefore, we have now diverged, and if our purpose here is to explore the extent of our divergence, there may be value in our beginning just before the divergence began.

I

2. The moral tradition of a Church may be considered in at least three aspects. In one it is seen as the norms of life and conduct taught to its members pro salute animae and accepted by them, as persons, at moments of liturgical commitment, like Baptism and Confirmation: so normam vivendi docere is, and has always been, part of the ministerial task. In this aspect, moral theology merges with other theological pursuits - spiritual theology, ascetic theology, sacramental theology, and all that concerns the life of grace and the search for the vision of God. In another aspect it is seen as standards or canons for the corporate life of the community, the Church: that which is believed to manifest its theological character as the Body of Christ and to provide for its inner cohesion as a body, as a human society. Both of these aspects fall together within the ambit of canon law - a science which has, throughout the centuries, tended to become autonomous in isolation from the other theological disciplines at its peril, and to the hurt of the whole Church. The third aspects of the moral tradition of a Church is the part it plays in establishing norms for that particular political society in which it is set - or in challenging those set by the secular society for itself. Papal encyclicals throughout the century since the publication of Rerum Novarum, and the Conciliar document, Gaudium et Spes, of Vatican II, have steadily advanced the penetration of Catholic theology on this front. Each of these three aspects is represented in the Anglican moral tradition, and though I cannot hope, because of my personal limitations, to keep a balance between all three of them, I hope none will be totally neglected.

In Pre-Reformation England the moral guidance of the faithful and the moral cohesion of the Church were both taken care of in the normal pastoral ministry of word and sacraments, and in the exercise of the discipline of the canon law. English parish priests were bidden, by provincial and diocesan synodal constitutions, to instruct their people, in the English tongue, out of the Creed, the Lord's Prayer, the Ten Commandments, the seven sacraments and the seven deadly sins.¹ The virtues, and the hope of Heaven, were taught out of exempla, the lives of the Saints - though perhaps some lives should be written as "lives".² The vices, all actions contra bonos mores et decorum, were treated in the canon law as crimina et excessus, and punishment ("penance", pena) was prescribed for them in the canon law and meted out in the sentences of the ecclesiastical courts. Failure to submit to penance - i.e. to undergo the humiliation of the penitential procession, or the public fustigatio (a whipping, not a flogging), or to pay the bursal penance, the fine, would incur excommunication. A clergyman, still remaining obdurate, could be incarcerated in the bishop's prison - but not a layman. The "custom of the realm", i.e. the King's judges, would not allow the Church to imprison laymen, though it might impose its other corporal or bursal penances upon them. Against the obdurate layman, however, the bishop had a remedy: after forty days he could write to the King for the caption of the excommunicate; a royal writ could then order the arrest of the offender, "ut quos timor Dei a malo non revocat saltem coherceat animadversio regie potestatis".³ Lists of the "crimes and excesses" for which this procedure might be invoked vary in content. In addition to the strictly ecclesiastical offences, like refusal of tithes or violation of the rights and liberties of the Church, (poaching in the bishop's park sounds much more fearsome when described in these terms), William Lyndwode, the great English canonist of the fifteenth century, lists perjury, irregularities concerning wills; fornication, adultery, incest, unnatural vice, bestiality, sacrilege, usury, simony, heresy; consulting of magicians, astrologers, soothsayers, mediums and the like; drunkenness, idolatry, and violence against certain protected classes of persons.⁴

4. In other words the canonical jurisdiction of the Church was employed, on what in modern terms would be called an agency basis, for the enforcement of morals throughout and on behalf of the realm. There were constant tensions between the two jurisdictions and astute lawyers could play off one against the other to the advantage of a powerful client.

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1. e.g. The Synodal Constitutions of Peter Quivil Bishop of Exeter, 1287, c.XX; printed in F.M. Powicke and C.R. Cheney, ed. Councils and Synods, II; part II, 1265 - 1313, Oxford, 1964. cf. John Myrc, Instructions for Parish Priests, ed. E. Peacock. Early English Text Society, 1868. Burgo, John de, Pupilla Oculi omnibus presbiteris precipue Anglicanis summa necessaria (c. A.D.1385).
 2. G.R. Owst, Preaching in medieval England, Cambridge, 1926.
 3. The Register of Edmund Lacy, Bishop of Exeter 1420-1455. ed. G.R. Dunstan, vol. III (1967), p.13.
 4. G.R. Dunstan, Not Yet the Epitaph, Exeter, 1968, cap. 2, esp. p.19f.

But this accommodation between the Church and the Realm, established in the Middle Ages, goes some way to explain the moral tradition of the Church of England not only in the third aspect to which I alluded - the establishing of norms for the political society - but also, to some extent, in the other two. In no spirit of levity, but in full awareness of both the strengths and the weaknesses in what is implied, I would observe that the Englishman finds it difficult, until he is provoked, to distinguish between Christian behaviour and ordinary, decent, English behaviour; between what is wrong in itself and what is an offence or at least actionable at law; so far have these centuries of tradition - of which he is most probably unaware - moulded the conventions of his society and its assumptions about behaviour.

5. The Reformation did not significantly alter the internal structure of the system. Appeals to Rome were cut off, of course, and the dual jurisdiction of Pope and King was reduced to one single jurisdiction within one sovereign realm, that of the King, "over all persons in all causes, as well Ecclesiastical as Temporal", supreme. (This was a turning back on itself of good medieval canonical doctrine, of the State as an exclusively Christian commonwealth, which could have, as in nature, only one head: cum enim unum corpus simus in Christo, pro monstro esset, quod duo capita haberemus; only for Hostiensis, that head was the Pope; for the Princes of the Reformation it was the Prince).⁵ The old canon law became the King's Ecclesiastical Law; actions and offences cognizable in the old ecclesiastical courts remained there, and the enforcement, or non-enforcement, of morals continued as before. Protestant Puritanism was no less punitive than Catholic puritanism; it was less tolerable, as it was self-destructive, in the long run because it repudiated the Catholic appeal to reason and purported to take all its norms direct from the letter of scripture. In my (interim) view, the overthrow of Puritanism with that of the Cromwellian parliamentary and military dictatorship did far more than the Reformation of a century before to cause the ecclesiastical jurisdiction over morals to wither away.

6. Wither it did - it was not formally abolished. Some old "spiritual" offences - that is, those tried in the spiritual courts - were elevated, by sporadic acts of Parliamentary law-making, into statutory crimes: sodomy, for instance in 1533; abortion in 1803; male homosexual practices in 1861. Others, like slander, fornication and adultery, have remained in an intermediate category, known variously to common lawyers as "immoral liberties" or "unlawful acts" - mere liberties which the law will neither punish as crimes (unless some other criminal ingredient is compounded, e.g. threat with slander, constituting blackmail, or force or non-age with the sexual offences), nor protect, favour or advance in any way.

7. This tradition helped to determine the way in which the Church of England was to participate in recent reforms of the criminal law. Through one of the Councils of the Church Assembly, its Moral Welfare Council, it submitted in evidence to a Government Departmental Committee that homosexual offences between consenting adults should cease to be

5. Quoted in Walter Ullmann, Medieval Papalism, 1949, p.159.

criminal, i.e. punishable at Law, and maintained that position until in 1968 the crime was abolished.⁶ On suicide it took an initiative through a small committee appointed by the then Archbishop of Canterbury: this argued, in a published report, that suicide ought not to remain a crime; the government found the advice acceptable, and by the Suicide Act of 1960 the crime was abolished.⁷ Following publicity given to the practice of Artificial Insemination by Donor in the late 1950s there was pressure to make this practice into a crime, and a Departmental Committee was set up to examine it. A small committee, appointed by the then Archbishop of Canterbury to give evidence on behalf of the Church of England, submitted that the practice be not made criminal, but declared to be a mere unlawful liberty, in the sense described above. The Archbishop disagreed: he thought it ought to be criminal, and he said so in a personal submission of his own. Both submissions were published in one pamphlet.⁸ The Departmental Committee accepted the submission of the small group, and not that of the Archbishop, and no legislation has followed.

8. The reform of the law of divorce has a longer history, but one equally embedded in the medieval system of a divided jurisdiction. Matrimonial causes remained in the Church courts until as late as 1857. The only reliefs which the law permitted them to grant were those allowed by the old canon law, re-enacted in the canons of 1604: decrees of nullity, upon proof that no lawful marriage had in fact been made; and orders for separation a mensa et thoro, upon proof of the commission by the respondent spouse of matrimonial offences of such gravity as to endanger the moral, spiritual or physical well-being of the petitioner. Another marriage was forbidden to both parties so separated during the lifetime of the other partner. The only escape from this jurisdiction was by way of a private Act of Parliament, entitling a particular petitioner to marry again after a separation in the Ecclesiastical Courts: in fact such a resort was open only to persons of extreme wealth and power, and only 317 such Acts were passed between 1697 and 1850. In 1857, however, the first Matrimonial Causes Act transferred the divorce jurisdiction from the Ecclesiastical Courts to a new Division of the High Court, and the old canonical grounds for separation became statutory grounds for divorce, with liberty to marry again. Once granted, the internal logic of divorce unfolded itself, and Parliament was under constant pressure to extend the grounds, to add to the "matrimonial offences" on proof of which divorce could be obtained. The Church steadily opposed all such extension, and generally lost: it was fighting a rearguard action, and meanwhile the substance and practice of the divorce law became less and less morally defensible. Insanity, and cruelty with no intention to be cruel - even involuntary cruelty admitted to arise from mental illness - were among the "matrimonial offences", and the notion of a relief granted to the "innocent" against the "guilty" all too often bore no relation to the facts.

9. Accordingly, in 1963, on the last occasion of conflict,

6. The evidence was published in Sexual Offenders and Social Punishment, ed. D.S. Bailey, 1956.

7. Ought Suicide to be a Crime?, 1959.

8. Artificial Insemination by Donor, Two contributions to a Christian judgment, 1960.

the Archbishop of Canterbury undertook to set up a committee of his own to examine the question. This he did; and in 1966 the Bishop of Exeter's committee produced a Report, Putting Asunder: A Divorce Law for Contemporary Society (SPCK), which proposed that the matrimonial offence as the ground of divorce be totally abolished, and a new ground, the irretrievable breakdown of marriage, be substituted for it. This, and other points of substance in the Report, was the subject of debate in Parliament and of discussion with the Law Commission; and certainly it contributed materially to the enactment of the Divorce Reform Act 1969, which has substituted irretrievable breakdown for the matrimonial offence as the ground for divorce. The implications of this for the Church itself, its discipline and the guidance which it gives to its members, have yet to be worked out: a small Commission is at work upon them.⁹ But the Church felt bound to engage itself with the question, precisely because of its historical involvement: it shared some responsibility for the existing state of the law; it felt itself morally bound to assure, so far as it could, that any divorce law which the state must have should be as just and effective as possible, and should do the least harm both to the institution of marriage and to the institution of Law.

10. In the prolonged Parliamentary conflict which resulted in the Abortion Act 1968, the Church took what at one time looked like an influential part, but emerged in what must now be called defeat. Through another of its study-groups it produced Abortion: An Ethical Discussion (CIO, 1965). This Report, after a careful review of the moral tradition and of the indications advanced for abortion, admitted the liceity of the termination of a pregnancy which seriously threatened the "health or well-being" of the mother - a term used to denote psychological as well as physical health in a category already made part of the case-law of the Courts but never tested on appeal. It insisted that indications like conception as a result of rape or criminal assault, or the risk of foetal deformity, be not accepted as grounds for termination in themselves, but considered circumstantially as factors affecting the health of the mother, the diagnosis and prognosis of which should be the one factor determining medical decision. In the event, the new statute admitted indications external to the mother, including social indications extending to an estimated adverse effect on other children of her family, as grounds for termination in themselves. There is at present widespread disquiet at the number and distribution of abortions effected under the terms of the Act. In the current debates on "euthanasia", and on the reform of the law relating to tissue-transplantation, churchmen are taking a significant part. They have acted also, both individually and in relevant Boards and Councils, official, voluntary and oecumenical, to influence Government administrative action in relation to economic aid for developing countries, the improvement of race relations, industrial relations, housing policies, nuclear warfare, gambling and the like.

To this summary recital of action taken to influence legislation or governmental policies may be added a history of formal action to influence personal action in an area not governed by the law, namely the practice of contraception.

9. In the U.S.A., Canada and New Zealand action has already been taken. See A.R. Winnet, The Church and Divorce (1968) for the Canadian canons.

In this matter the Church of England has made no independent statements, but has involved itself closely in formulating statements of successive Lambeth Conferences, from 1908 to 1958.¹⁰ The Conference of 1908 condemned the practice of contraception as "demoralizing to character and hostile to national welfare", and commended doctors who would have nothing to do with it. In that of 1920 its extension was alleged to "threaten the race"; and "the teaching which, under the name of science and religion, encourages married people in the deliberate cultivation of sexual union as an end in itself" was, in Resolution 68, steadfastly opposed. In 1930, the year of Casti Connubii, Resolution 15, carried by 193 votes against 67, declared that the "primary and obvious" method to limit or avoid parenthood, where there was a "clearly felt moral obligation" to do so, was "complete abstinence from intercourse (as far as may be necessary) in a life of discipline and self-control lived in the power of the Holy Spirit." Nevertheless, where there was "a morally sound reason for avoiding abstinence", it agreed that "other methods" might be used, "provided that this is done in the light of the same Christian principles". It condemned the use of such methods "from motives of selfishness, luxury, or mere convenience". In 1958, following upon the publication of a thorough preliminary study entitled The Family in Contemporary Society (SPCK, 1958), the Conference, in Resolution 115, asserted the primary responsibility for deciding upon "the number and frequency of children" as one laid by God upon the consciences of parents everywhere (*sic*), but left the means of planning to their own "positive choice before God". In 1968 the Conference contented itself with a courteous rejoinder to the publication of Humanae Vitae in a restatement of the 1958 Resolution. The moral reasoning underlying this change, and the process of the change itself, over fifty years, will be examined later.

12.

It should be added that the Lambeth Conferences published these Resolutions - which have no juridical force, but only that inherent in their own ability to win moral assent - set in a context of prescriptions for living the Christian life; Resolution 121 of 1958, for instance, contained a statement of seven "Marks of a Christian Family" - a loose "household code" not far removed in content from those embedded in the Epistles of the New Testament. The Book of Common Prayer, also, contains rules of fasting and abstinence, alms-giving, participation in public worship and the sacraments, and observance of festival and penitential seasons. In the Catechism to be taught between Baptism and Confirmation, and in the Exhortations towards a right preparation for Holy Communion, it gives firm and clear teaching on the duties of a Christian towards God and towards his neighbour; in particular it enjoins a strict scrutiny of personal disposition and conduct, the confession of sins (before a priest if conscience may not otherwise be quietened), the offering and receiving of forgiveness vis-à-vis the neighbour, and the pursuit of it from God. Until the twentieth century the Ten Commandments have been prescribed for didactic use in the Catechism and for liturgical reading in the Holy Communion; recent revisions have reduced them to the short, ten "words", or to the Lord's Summary of them in the New Testament, or have made their use in the Communion Service optional. (The Church of England has shared to the full the general confusion about the place of "law" in morality, and especially about "negative" prescriptions).

10. See G.R. Dunstan, "Lawful and Expedient", The York Quarterly, May 1960.

II

After this narration of some of the facts in the moral tradition of the Church of England, there remains the far more difficult task of elucidating the grounds of the action, the methods by which moral judgments are made and formulated. This subject, too, could be historically treated, for the Church of England did not arise ex nihilo, but descended from the Western branch of the Universal Church; and at the Reformation it had to establish its identity, its existence in relation to the Church of Rome on the one side - busy as it was with its own conciliar reformation, after Trent - and to the other non-Roman Churches, Protestant and Reformed, on the other. John Jewel, Bishop of Salisbury, and his protégé, Richard Hooker, Master of the Temple, were the principal architects of that identity; and it is in Hooker that the foundations of the moral tradition of the new Church of England are laid down.

14. Hooker's treatise, The Laws of Ecclesiastical Polity, was primarily a defence of the government and liturgy of the Church against Protestant and Puritan objections; in particular he had to defend the Church against the charges of over-identification with Rome, a task which he accomplished by asserting the validity of reason and tradition in the formation of judgments, not simply alongside of Scripture, but in some sense as the essential context in which and means by which Scripture may be rightly interpreted. Thus where the practice of the Church of England was impugned as "popish" (e.g. IV, iii.1), its being "of reasonable continuance" (V, xxix, 5), that is, both reasonable and of long and accepted use (IV, 4, 1) was a good defence, provided that it were not contrary to the express word of Scripture. So through Hooker, the exercise of moral reasoning was established in the Church of England, as against sola Scriptura, arbitrarily chosen and interpreted, as an infallible guide in every particular of life. The selection of quotations from such an extended work must of necessity be arbitrary; but here are some. In a discussion of choice, as compounded of knowledge, informed by reason, and will,

Where understanding therefore needeth, in those things Reason is the director of man's Will by discovering in action what is good. For the Laws of well-doing are the dictates of right Reason. (I.vii.4).

Some things reason binds men men "of necessity to observe"; others, "which are left as arbitrary", it guides them to choose (I.xvi.5). Reason is "the natural way of finding our Laws to guide the Will unto that which is good":

The general and perpetual voice of men is as the sentence of God himself. For that which all men have at all times learned, Nature herself must needs have taught; and God being the author of Nature, her voice is but his instrument.
(I.viii.3)

The natural measure whereby to judge our doings, is the sentence of Reason, determining and setting down what is good to be done. Which sentence is either mandatory, shewing us what must be done; or else permissive, declaring only what may be done; or thirdly admonitory, opening what is the most convenient for us to do.
(I.viii.8)

Law rational therefore, which men commonly use to call the Law of Nature, meaning thereby the Law which human Nature knoweth itself in reason universally bound unto, which also for that cause may be termed most fitly the Law of Reason; this Law, I say, comprehendeth all those things which men by the light of their natural understanding evidently know, or at leastwise may know, to be beseeing or unbeseeing, virtuous or vicious, good or evil for them to do.

(I.viii.9)

This "natural law" may, however, be hidden away by "lewd and wicked custom" (I.viii.11; cf. vii.6) - an observation which leads Hooker to treat of rewards and punishments, and the work of Reason in framing human laws for the government of societies - an activity into which man is led by his natural inclination towards fellowship (I.x.1).

15.

But Reason alone does not bring salvation: Scripture teaches that, (I.xiii.3), and Scripture is sufficient for it (I.xiv.1).

Nature and Scripture do serve in such full sort, that they both jointly and not severally either of them be so complete, that unto everlasting felicity we need not the knowledge of any thing more than these two may easily furnish our minds with on all sides; and therefore they which add traditions, ~~as a~~ part of supernatural necessary truth, have not the truth, but are in error.

Traditions, so pressed, are not rejected

only because they are not in Scripture, but because they are neither in Scripture, nor can otherwise sufficiently by any reason be proved to be of God (I.xv.1); cf. I.xv.4, where he insists that "to search the Scripture of God" for the meanest of vain and childish trifles is to "derogate from the reverend authority and dignity of Scripture" and to all into superstition.

It is an error to think that "the only law which God hath appointed unto men in that behalf (sc., so that mens' actions may tend unto God's glory) is the sacred Scripture":

In reasonable and moral actions another law taketh place; a law by the observation whereof we glorify God in such sort, as no creature else under man is able to do; because other creatures have not judgment to examine the quality of that which is done by them, and therefore in that they do they neither can accuse nor approve themselves. Men do both, as the Apostle teacheth; yea, those men which have no written law of God to shew what is good or evil, carry written in their hearts the universal law of mankind, the Law of Reason, whereby they judge as by a rule which God hath given unto all men for that purpose.

The law of reason doth somewhat direct men how to honour God as their Creator; but how to glorify God in such sort as is required, to the end he may be an everlasting Saviour, this we are taught by divine law,So that in moral actions divine law helpeth exceedingly the law of reason to guide man's life; but in supernatural it alone guideth. (I.xvi.5; cf. III.ii.3, "What the Church of God standeth bound to know or do, the same in part nature teacheth.")

To this he adds human and positive law, "the law of nations" and "of nations Christian", as further necessities for the life of public societies, civil or spiritual. These laws must be obeyed,

unless there be reason shewed which may necessarily enforce what the Law of Reason or of God doth enjoin the contrary. Because except but our own private and but probable resolutions be by the law of public determinations overruled, we take away all possibility of sociable life in the world. (ibid)

Following closely St. Thomas Aquinas on the nature of human law,

laws human must be made according to the general laws of nature, and without contradiction unto any positive law in Scripture. Otherwise they are ill made. (III.ix.2)

In matters indifferent,

The choice is left to our own discretion, except a principal bond of some higher duty remove the indifferency that such things have in themselves.... In things indifferent there is a choice, they are not always equally expedient. (II.ix.4)

It is not the Scripture's setting down such things as indifferent, but their not setting down as necessary that doth make them to be indifferent. (II.iv.5)

So he rejected the Puritans' claim to prove every liberty by the express word of Scripture, and quoted St. Augustine (Ep. 19) against them:

St. Augustine was resolute in points of Christianity to credit none, how godly and learned soever he were, unless he confirmed his sentence by the Scriptures, or by some reason not contrary to them. (II.iv.7)

There is no necessity, that if I confess I ought not to do that which the Scripture forbiddeth me, I should therefore acknowledge myself bound to do nothing which the Scripture commandeth me not. (II.v.7)

So, relying on Tertullian also,

in the church a number of things are strictly observed, whereof no law of Scripture maketh mention one way or other; of things once received and confirmed by use long usage is a law sufficient; in civil affairs, when there is no other law, custom itself doth stand for law; inasmuch as law

doth stand upon reason, to allege reason serveth as well as to cite Scripture; whatever is reasonable, the same is lawful whosoever is the author of it; the authority of custom is great.....(ibid).

Is this to build too much on the judgment and authority of man? By no means: we cannot apprehend even the saving truth of God in Scripture without it:

For whatsoever we believe concerning salvation by Christ, although the Scripture be therein the ground of our belief; yet the authority of man is, if we mark it, the key which openeth the door of entrance into the knowledge of the Scripture. The Scripture could not teach us the things that are of God, unless we did credit men who have taught us that the words of Scripture do signify those things. Some way, therefore, notwithstanding man's infirmity, yet his authority may enforce assent. (II.vii.3)

16. Man's search for certainty is by diverse routes. Our greatest assurance is "that which we have by plain aspect and intuitive beholding". Where this cannot be had, the mind assents to "what appeareth to be true by strong and invincible demonstration". When both of these fail, "then which way greatest probability leadeth, thither the mind doth evermore incline." Since Scripture is received as the Word of God, none of these three "is thought so sure as that which the Scripture of God teacheth". But even this cannot command blind, unreasoning submission:

Now it is not required nor can be exacted at our hands, that we should yield unto any thing other assent, than such as doth answer the evidence which is to be had of that we assent unto. For which cause even in matters divine, concerning some things we may lawfully doubt and suspend our judgment, inclining neither to one side nor other; as namely touching the time of the fall both of man and angels: of some things we may very well retain an opinion that they are probable and not unlikely to be true, as when we hold that men have their souls rather by creation than propagation, or that the Mother of our Lord lived always in the state of virginity as well after his birth as before (for of these two the one, her virginity before, is a thing which of necessity we must believe; the other, her continuance in the same state always, hath more likelihood of truth than the contrary); finally in all things then are our consciences best resolved, and in a most agreeable sort unto God and nature settled, when they are so far persuaded as those grounds of persuasion which are to be had will bear. (II.vii.5)

17. In Book III, where Hooker opens his treatment of the nature of life in the mystical Body, the Church, he distinguishes in passing the natural virtues proper to men as men:

As for those virtues that belong unto moral righteousness and honesty of life, we do not mention them, because they are not proper to Christian men, as they are Christian, but do concern them as they

are men. True it is, the want of these virtues excludeth from salvation. So doth much more the absence of inward belief of heart so doth despair and lack of hope; so emptiness of Christian love and charity. (III.i.7)

But neither these virtues nor the exercise of reason is without the Holy Ghost:

In the nature of reason itself there is no impediment, but that the selfsame Spirit, which revealeth the things that God hath set down in his law, may also be thought to aid and direct men in finding out by the light of reason what laws are expedient to be made for the guiding of his Church, over and besides them that are in Scripture. Herein therefore we agree with those men, by whom human laws are defined to be in ordinances, which such as have lawful authority given them for that purpose do probably draw from the laws of nature and God, by discourse of reason aided with the influence of divine grace. (III.viii.18)

Thus equipped, the Church may provide for new situations as well as maintain custom from the past:

All things cannot be of ancient continuance, which are expedient and needful for the ordering of spiritual affairs: but the Church being a body which dieth not hath always power, as occasion requireth, no less to ordain that which never was, than to ratify what hath been before. To prescribe the order of doing in all things, is a peculiar prerogative which Wisdom hath, as queen or sovereign commandress over other virtues. This in every several man's actions of common life appertaineth unto Moral, in public and politic secular affairs unto Civil wisdom. In like manner, to devise any certain form for the outward administration of public duties in the service of God, or things belonging thereunto, and to find out the most convenient for that use, is a point of wisdom Ecclesiastical. (V.viii.1)

18.

Richard Hooker has been drawn on so extensively because his work is the fount of the moral tradition, as of so much else, in that life which the Church of England was forced, by historical circumstance, to enter upon in ecclesiastical isolation towards the end of the sixteenth century. That the fount was fed from sources deep in the Catholic tradition, as well Thomist as Patristic, will be manifest to all who know them. It remains to discuss how the Church operates now within the tradition it has received. It would be wrong to claim a uniform, unbroken tradition from Hooker's day to this, as it would be wrong, in a paper of this sort, to explore the variants on and deviations from it. The Bishop of Ossory¹¹ and Dr. C.F. Allison¹² have both published major studies of the Caroline divines of the generations immediately following Hooker, and of the changes of profound theological importance which were already setting in. British moral philosophy developed a path of its own, to establish chairs at both Oxford and Cambridge and in

11. H.R. McAdoo, The Structure of Caroline Moral Theology, 1949; etc.

12. The Rise of Moralism, 1966, cf. The Bishop of Ossory's review article, "The Carolines under Criticism", Theology, LXXII, 591, Sept. 1969, p.400.

the Scottish Universities, and then elsewhere. The revival of moral theology was a late product of the Tractarian movement, resulting in the establishment of a Regius Professorship of Pastoral Theology in the University of Oxford in 1842; and later re-named the chair in Moral and Pastoral Theology. Two of its most distinguished occupants in this century, K.E. Kirk, later Bishop of Oxford, and R.C. Mortimer, at present Bishop of Exeter, searched back into the tradition, patristic, medieval and Tridentine, and produced notable studies. Kirk's The Vision of God (1931) is the most comprehensive work of English moral and ascetical theology in this century. But until the tenure of the present professor, Dr. V.A. Demant, this tradition made little contact with the range of social concern which descended from F.D. Maurice, J.M. Ludlow and the Christian Socialists through Bishop B.F. Westcott, Bishop Charles Gore, Henry Scott Holland and C.E. Raven to Bishop William Temple. The claims of a social morality adequate for this century expressed themselves in such "unofficial", non-academic activities as COPEC, the Christendom Group and the Malvern Conference; they found academic expression also in the founding of a Lectureship in the University of Manchester^{12a} (soon to be elevated into a chair), and of the F.D. Maurice Chair of Moral and Social Theology at King's College, London.

19.

One other stream of influence has been important enough to claim attention. In the 'seventies of the nineteenth century the British Government, alarmed at the incidence of venereal disease especially among the soldiery, attempted, by means of the Contagious Diseases Acts, to licence and regulate prostitution, for the first time in English history, and in a manner offensive to liberty. Opposition was mobilized, single-handed at first, by one of the great women of Victorian England, Mrs. Josephine Butler. She forged into a strange, and sometimes uncomfortable alliance the forces of the women's emancipationist movement, utilitarian philosophy, the Universities, politicians - and the Church. She succeeded, and the Acts were repealed. More, with the help of W.E. Gladstone and the women's religious communities, she moved the Church to organized and enlightened care for girls and women then ostracized from society for sexual misdemeanour or misfortune. A central body to co-ordinate this work became eventually the Church of England Moral Welfare Council. Until it was virtually extinguished by ecclesiastical re-organisation in the 1960s this body pioneered, notably in the work of Dr. D. Sherwin Bailey, studies of the moral, pastoral and social aspects of sexual behaviour at a depth reached in no other centres of learning in Britain at the time. To this body, therefore, was entrusted the task of preparing material for the Lambeth Conference of 1958 on the related problems of population growth, economic and social resources, and the morality of contraception. The Report which its expert Committee produced, The Family in Contemporary Society (SPCK, 1958) has been said by the present Bishop of Durham - formerly Nolloth Professor of the Philosophy of the Christian Religion at Oxford - to represent "the beginning of a new era in Christian moral thinking".¹³ It may be studied as a model of the way in which the Church of England has most recently formed and commended significant moral judgments.

12a. R.H. Preston, "Twenty Years of Teaching Christian Ethics", Theology, LXXII, 589, July 1969, p.305. cf. his "The Priest as a Teacher of Ethics in a Plural Society", *ibid.* LXXI, 577, July 1968, reprinted in The Sacred Ministry, ed. G.R. Dunstan, 1970, p.54.

13. Ian T. Ramsey, "Christian Ethics in the 1960s and 1970s", The Church Quarterly, II.3, Jan. 1970, p.221.

20.

The first concern of the Committee was to establish, to the best of its ability, the relevant empirical basis of the questions to be examined: demographic, economic, social, industrial and cultural factors, not in Britain only, but also in all regions within the pastoral oversight of the bishops of the Anglican Communion; and the relevant physiological and medical studies. (Some preparatory studies were written in other regions also and were co-ordinated by the Committee). A sub-committee of theologians and moralists was charged with an examination of these data in the light of the relevant theological traditions. Its work was printed, with the empirical studies, in the lengthy Appendix to the Report.¹⁴ Its first task was to formulate a method of moral reasoning appropriate to an era of rapid social change, an era which presented the Christian conscience with problems of a nature and dimension unknown ever before, and with medical and other knowledge and technology never before at man's disposal. Working as they did in the tradition of Richard Hooker as illustrated above, they could not expect to find relevant moral prescriptions ready-made, either in the word of Scripture or in the Christian tradition, however venerable; they were bound to seek their norms by a moral reasoning which related the claims made by the empirical data to the claims of God upon man, in his marital and family life and in society, as evidenced in Scripture and the tradition. They offered three specimens or examples of such moral reasoning, with a commentary upon them. The first began with the assumption that the metaphysical significance of coitus is attached to a "given" structure of the act, and then asked whether the introduction of contraception into the act is, in fact, to counterfeit it, and so to deny it metaphysical significance; it concluded that

The modified act, though ontologically different from coitus during natural infertility, may on occasion be morally equivalent, being the best symbol of love and union that is eligible in the circumstances. (p.137)

The second re-examined the traditional categories of the "ends" and "properties" of coitus, and argued that since coitus "inevitably serves different ends on different occasions", contraception finds its justification in the nature of the marriage relationship itself in which there must be responsible use of human freedom. The third example, starting from only "the broadest background of Christian doctrine", simply examined a case in which man and wife "conscientiously decided that in their particular circumstances the use of contraceptives can be made part of the offering of their marriage to the glory of God" - and then considered objections to their decision; it concluded that none was sufficient to invalidate their claim to valid insight.

21.

The Bishop of Durham, reflecting twelve years later upon these exercises in reasoning, wrote of it as "an articulation of a moral claim developed within a wider theological context"; "the status of the theology used in the argument was subordinate to the moral claim which, in one way or another, it was endeavouring to articulate."¹⁵ It was in fact the case that the

14. op.cit., pp.120 - 160. Reprinted in I.T. Ramsey, ed., Christian Ethics and Contemporary Philosophy, 1966, pp. 340 - 381.

15. The Church Quarterly, II.3, Jan.1970, p.222.

Lambeth Conference of 1958 did no more - and no less - than reduce into the terms of a Resolution (with supporting argument elsewhere) a moral judgment already made, tested and acted upon by Christian husbands and wives, episcopal and clerical as well as lay, for years before; they had, despite ecclesiastical discouragement, admitted contraception into their married life and could not convict themselves of sin in having done so. The importance of the 1958 Report and Resolution, therefore, to the present writer is that it exemplifies an instance in which the magisterium of the Church formulated and ratified, ex post facto, a moral judgment made by a sort of consensus fidelium. That consensus which, in the history of doctrine, has been claimed as the forerunner of such formulations as the dogma of the Immaculate Conception of Our Lady or the Papal Infallibility decree, is here claimed as a source of moral insight which a Church may, and indeed must, properly make its own.

22.

Resolutions of the Lambeth Conference have no juridical authority; they are statements of the mind of the episcopate of the Anglican Communion; their authority is that of their moral persuasiveness alone. Thus Resolution 115 of 1958 affirms a duty - to subordinate procreation to responsible decision - and a liberty, to choose such means to this end as conscience, in view of the particular circumstances of the marriage, shall decide. The duty no-one, presumably, would deny: the liberty, however, some, priests and people, might still dispute. They are free to do so: no censure would lie against a priest who preached against the tenor of the Resolution; though in the giving of pastoral counsel, whether in confession or outside it, it would be improper for him to suppress the Resolution or to charge with sin the conscience of any person who had in conscience acted on the liberty which it conveyed. In practice, however, the debate has moved on in the intervening years: consciences are less exercised now by the general licity of contraception - that is very widely accepted - than by the expediency of particular methods, e.g. anovulant hormonal preparations, which, though warranted as "safe" and harmless on a very wide statistical scale by all the tests so far formulated, constitute nevertheless a known risk to a minute, and unidentified, statistical minority, and may conceivably entail other risks, the nature of which has not yet been realised, and which have not therefore been tested for in research. The moral question involved here is, what degree of empirical uncertainty is tolerable in framing a course of action in which no known course is without ambiguity? Guidance for questions such as these will come only from inter-disciplinary study of the sort which did the preparatory work for the Lambeth Conference of 1958 - work which, incidentally, drew on the professional experience of civil servants (officials of Government), because the morality of personal decision had to be considered within economic and social contexts which, in the modern world, are governmental responsibilities; and some of the moral imperatives uttered by the Conference would certainly require governmental action for their realization.

III

23.

From this outline of the moral tradition of the Church of England, of the organs by which the study has been maintained, and of some examples of its specific activity, some summary conclusions may be drawn. The moral training of members of the Christian community is part of their general training in

Christian living. It rests primarily upon tradition within specific, recognizable communities - families, schools, parishes or other church-centred communities; the communities must be small enough for membership to be perceptible, but so inter-related that the life of the great Church flows into and through them, as through a Body of which Christ is the Head. The model of Ephesians 4: 15 - 16 is apt. The communities are not isolated from secular society, but are penetrated by it, and penetrate it in return. The medium of specific moral training within these communities is generally the Holy Scripture, read liturgically, and expounded in sermons, catechetical instruction, group discussion, etc. In common usage, the Scripture is appealed to and employed to commend moral positions already maintained, or being developed, within the tradition: it would be unusual in any human society to approach the Scripture, as with an "open mind", and to try to draw from it a moral code or set of ethical prescriptions.

24. Academic speculation upon the relation of the moral code to Scripture produces, as may be expected, a diversity of interpretations. Since the Apostle Paul and the Johannine writings, the most comprehensive interpretation is one of "response": Christian living, in terms of relationships and activities of love, is a "response" to the relationship and activity of love revealed by God in the life, death and resurrection of Jesus Christ.¹⁶ The imitation of God in Christ is a variant upon this theme, which has a long tradition in the literature of devotion.¹⁷ The search for answers to specific questions of personal and social ethics in the words of Jesus - a search which appears to be made more readily and hopefully in an age when a young, ethically sensitive and critical generation lives most of its life outside the life of the Church community, yet, despairing of the policies of the secular "establishment", looks eagerly for confirmation of its ideals in whatever "scriptures" are to be found, Christian and Maoist alike - carries us into the heart of the study of Christian ethics. The Church of England, at the Reformation, formally renounced the doctrine that specific words of Jesus could be treated as legislative norms for a civil society; the last three of the XXXIX Articles of Religion affirm that "it is lawful for Christian men, at the commandment of the Magistrate, to wear weapons and to serve in the wars"; that "the Riches and Goods of Christians are not common, as touching the right, title and possession of the same"; and that "Christian Religion doth not prohibit, but that a man may swear when the Magistrate requireth, in a case of faith and charity". It is singular that, given this formal position, a solution to the problem of divorce has been so tied to the supposed express word of Jesus, however interpreted.¹⁸

25. Resort to an academic solution of the "interim-ethic" type leaves the practical moralist without guidance for the present or the future. He is better served with an interpretation which, with St. Paul (Romans 13:12), sees the teaching of Jesus as an ethics for the dawn, for the day that is breaking but is not yet here; so as the dawn breaks, we are to leave the ways of the

16. See John Burnaby, "Conduct and Faith", in God, Sex and War, ed. D.M. MacKinnon, 1963; G.R. Dunstan, Not Yet the Epitaph, Exeter, 1968, cap. IV.

17. See Barnabas Lindars, SSF, "The Bible and Christian Ethics", and "Imitation of God and Imitation of Christ", papers to be included in a forthcoming publication.

18. Among many attempts to unravel this problem, Helen Oppenheimer may be cited, in Law and Love, 1962 and The Character of Christian Morality, 1965.

dark, departing night; as it becomes possible for us to obey any of Our Lord's precepts, it becomes an obligation for us to do so; we may not refuse it without apostasy. A "key" of this sort is certainly useful in relating the highest insights, e.g. into marriage as essentially and exclusively monogamous, to the emergence of a people from a state of society in which polygamy had been demographically, economically and socially the only practicable marital arrangement. The Christian life thus takes its place in a revelation which is understood in terms of historical process - "a process not yet fully completed but open to a future that is already 'anticipated' in the teaching and personal history of Jesus"¹⁹ The moral tradition of the Old Testament, it should be observed, is not ignored or repudiated in this interpretation: it finds its place in the historical revelation, in the whole background of assumptions before which alone the teaching of Jesus and of St. Paul can be understood; the Decalogue, for instance, lends itself to translation into a fundamental code of ethics for civil society better than does the Sermon on the Mount, and as such it is taught among us.

26.

Already, in this exposition, reason, the third ingredient in Hooker's trinity, has been brought in alongside of tradition and Scripture, and again in its function of enabling moral judgments to be made out of these ingredients. The exercise of reason is more and more demanded in an era, like our own, conspicuous for the rapid development of scientific knowledge and technical possibilities, and for wide and deeply ranging social changes which result in a repudiation of traditional norms and conventions, and a loosening of the social sanctions, formal and informal, which once supported them. Elements in the traditional moral training as part of the Christian life, directed towards the fulfilment of personality in the vision and fruition of God, come under scrutiny when psycho-analysis (and other methods of psychological investigation), neurology and biochemistry not only effect profoundly our understanding (as we suppose) of human personality but also give us tools by which to influence it. Advances both in military technology and in medical science create ethical problems not faced by mankind before, and the Church is called upon to form its mind upon them, to offer both to its members and to responsible persons in civil society some guidance in their responses to the practical decisions and opportunities with which they are faced.

27.

This task demands nothing less than an exercise in moral reasoning: Christian men, formed by and aware of the theological and moral tradition of their Church, gather, in small companies - the Lord worked with twelve - with practitioners in the relevant disciplines, make themselves fully aware of the facts, the possibilities, the complications, the moral ambiguities, the claims upon conscience, conflicting perhaps, implicit in the issue, and then seek for Christian insights concerning them. The tradition cannot give them specific solutions to new problems, or explicit rules for new situations. The most it can afford is a variety of principles of general application, indicating interests or values to be served, promoted or protected; only moral reasoning, exercised with scrupulous regard to the facts and circumstances in issue, can create apt expressions for specific guidance or direction. The implementing of this guidance may require, further, the exercise of moral persuasion; it may require coercive

19. Henry Balmforth, Theology, LXXIII, 601, July 1970, p. 323 reviewing W. Pannenberg et al., Revelation as History, 1969.

regulation or legislation, enacted by the relevant competent authorities - civil, professional, political, or (insofar as it has jurisdiction) ecclesiastical. Thus, in the English debate on reforming the law on abortion, it was possible for such a specialist group to assert that

"If we are to remain faithful to the Christian moral tradition, we have to assert, as normative, the general inviolability of the foetus; to defend, as a first principle, its right to live and develop; and then to lay the burden of proof to the contrary firmly on those who, in particular cases, could wish to extinguish that right on the ground that it was in conflict with another or others with a higher claim to recognition."²⁰

Parliament's statutory enactment, in the Abortion Act 1967, violated that principle, setting a legal norm for civil society at variance with the moral norms of the Christian community within it. Despite the difficulties which arise from this, the Church, in the moral guidance given to its members, can commend a principle in general, and from it try to derive a moral decision in its pastoral guidance in particular cases.

28. The moral reasoning of which so much has been written has, of course, a strongly rational element in it; otherwise it could not be called "reasoning". But the term does not always imply a process of logical deduction from a stated principle to a particular application. Sometimes it begins with what, for want of a better term, is called "insight", or with what Hooker, in a phrase quoted above, called "plain aspect and intuitive beholding". In simple, if dangerous, language, it might be said that conscience, or judgment, or a sense of fitness, points to a certain conclusion - or to a set of conclusions - and the function of "moral reasoning" is to examine it, or them, and to shew that they are not contrary to the moral tradition, or may indeed exemplify or fulfil it in a way that, though new, is more of a fulfilment than any other possibility open at the time. The danger of error, or of self-deceit, in such a process is recognized, and such "insights" or intuitive judgments have to be put to the test, in the Church, and among ethically sensitive men in civil society. A topical instance may illustrate the point. As this paper was being written a question was brought up for public discussion, in a rather sensational way, about the use of aborted fetuses in medical research. Apart from the well-known Roman Catholic Member of Parliament who brought the matter into the open, Churchmen were conspicuously - and, in the writer's judgment, creditably - absent from the number of immediate protestors and purveyors of "radical" solutions. We needed time for a proper investigation and assessment of the facts. More, we needed time to discern what sort of solution appeared or "felt" to be right. We could then have begun our task of moral reasoning, to elucidate the nature of the problem, and to indicate what measures should be prescribed for what ends.²¹

20. Abortion: An Ethical Discussion, 1965, pp. 31f.

21. It was The Tablet, a Roman Catholic journal, which published the medical scientist's reply to the politician: Dr. Bernard Towers, 6 June 1970, with reasoned editorial support.

29.

It remains to be seen how this Anglican approach to the forming and commending of Christian moral judgments survives the scrutiny of Christians in other traditions, particularly in a Church, like that of Rome, which, despite its far more extensive deployment of moral theologians, has centralized its teaching authority, its magisterium, and invested it with the power to utter and enforce explicit prohibitions and commands.

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