

THE USE OF CONSENSUS FIDELIUM AS A SOURCE OF MORAL JUDGMENT

A study in Anglican Moral Theology with special
reference to Kenneth E. Kirk, 1886 - 1954.

Dissertation presented as partial
fulfilment for the Doctorate in
Theology, under the direction of
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Michael R. Prieur,
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"Let us seek the word of God in all things.
Let us hang on the lips of the faithful
since the Holy Spirit inspires them all."

(Paulinus of Nola, Ep. 23, 36, cited in
Sacramentum Mundi, London, 1968, II, p. 101.)

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ABBREVIATIONS USED IN THE TEXT

I. WORKS BY KENNETH KIRK :

- AM: The Apostolic Ministry, London, 1946 ;
- BB: Beauty and Bands, London, 1955 ;
- CAIP: Conscience and its Problems, London, 1948 ed. (unless otherwise indicated) ;
- CRISIS: The Crisis of Christian Rationalism, London, 1936 ;
- ETHICS: Personal Ethics, Oxford, 1934 ;
- IFC: Ignorance, Faith and Conformity, London, 1925 ;
- LOYALTY: Loyalty to the Church, Chap. IV in The Church of God, ed. by E.L. Mascall, London, 1934 ;
- MD: Marriage and Divorce, London, 1946 ed. (unless otherwise indicated) ;
- MTSP: "Moral Theology, Some Lessons of the Past", Theology, 1921, I, Jan., pp. 3-13; II, Feb., pp. 58-67 ;
- ODM: Oxford Diocesan Magazine, Oxford, 1937-1954;
- ORTH: Orthodoxy and the New Psychology, Chap. VI in Orthodoxy sees it Through, ed. by S. Dark, London, 1934 ;
- SPMTh: Some Principles of Moral Theology and their Application, London, 1920 ;
- SSM: A Study of Silent Minds, London, 1920 ;
- STUDY: The Study of Theology, London, 1939 ;
- Th.ofE.: The Threshold of Ethics, London, 1933 ;
- VG: The Vision of God, London, 1928.

II. BOOKS ON KENNETH KIRK :

- FROST: Francis Frost, L'Enseignement Moral de Bishop Kirk, 1886-1954, Lille, (1965) ;
- KEMP: Eric W. Kemp, The Life and Letters of Kenneth E. Kirk, Bishop of Oxford 1937-1954, London, 1959 ;
- Pütz: Augustin Pütz, OSB, Patterns of Pastoral Thinking in Kenneth E. Kirk, Oxford, 1968.

III. OTHER BASIC REFERENCE WORKS :

- DD: Jeremy Taylor, Ductor Dubitantium, London, 1696 ;
- DTC: Dictionnaire de la Théologie Catholique, Paris, 1911.
- EP: Richard Hookers, Ecclesiastical Polity, Oxford, 1863 ;
- LThK: Lexikon für Theologie und Kirche, Freiburg, 1960 ;
- ORME: William Orme, ed., The Practical Works of Richard Baxter, London, 1830.
- ST: St. Thomas Aquinas, Summa Theologica, Montreal, 1941-45 ;
- WORKS: William Jacobson, ed., The Works of Richard Sanderson, Oxford, 1854 ;
- LECTURES: Robert Sanderson, Bishop Sanderson's Lectures on Conscience and Human Law, translated by C. Wordsworth, London, 1877.

* * * * *

(The rest of the works and articles of Kirk which were used in this work will be found in the bibliography. All publishers are listed therein.)

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GENERAL INTRODUCTION

1. THE SITUATION TODAY

The Second Vatican Council began a new era in Roman Catholicism. With it came a fresh spirit which continues to exert a mighty influence in the Church today. But with every resurgence of the Spirit comes the necessity of working out the theological implications of insights newly exposed from latent forms, held up to universal viewing, and evaluated with the authentic spirit of Christianity. That which is not authentic is soon left behind to die; that which is truly part of the Christian message is elaborated and scored for louder presentation. The spirit of Christ must prevail.

The concept of Consensus Fidelium¹ as a Source of Christian Doctrine and Fructificā is not a new one by any means. It has been an underlying factor in the formation of Christian teachings from the first days of Christianity, but, from time to time, its actual consideration and use, particularly as a determinant in moral judgments, has been obscured by the emphasis of other norms. Today, however, it has come forth with a new vigor which may be traced to any number of influences, all of them becoming more and more pronounced in this century. What has been a silent factor in moral judgments is now under close scrutiny by theologians and ordinary folk alike.

But with this recognition come innumerable questions. When consensus fidelium in questions of moral judgment is mentioned, the instinctive response by the average person is something equivalent to "Morality by majority rule", or arriving at decisions in the Church by "Gallup Polls."

Immediately further questions come to mind: Do the faithful possess the same teaching office and authority as the magisterium in questions of dogma and morals? What role, then, do the faithful enjoy in the formulation of Christian moral practices? How far does the prevailing ethos of society determine the consensus of the Christian community?

These are the obvious questions that come to mind when anyone is faced with the topic at hand. And let us say at the outset that they are only a beginning of the difficulties. This dissertation cannot hope to answer all of the problems involved, as the question is still very much a moot one in the field of moral theology. But in tackling the difficulty from several angles, we hope to arrive at a few basic premises which we hope will be useful in studies to come. Perhaps it is better to designate this work by the french word "jalon", since it is more of an initial thrust, rather than any kind of all-inclusive or definitive summary of conclusions that are certain. Much work needs to be done on this theme, but our presentation should at least bring to bear on the problem several areas of work already done as well as the insights of another tradition and approach to theological investigations. To expect more at this point from such a limited work would be presumptuous.

11. SOME DELINEATIONS OF THE PROBLEM

We should like to pause for a moment and try to delineate a few of the difficulties which face us.

For a Roman Catholic, the importance of the beliefs of the faithful have been strongly stated in the documents of Vatican II, though in somewhat embryonic form.² The historical development of the use of consensus fidelium has also been traced in several basic works which were the pillars of these Conciliar statements.³ Several extensive works have appeared on the concept of sensus fidelium, particularly in connection with the recent papal pronouncements on the Assumption of the Blessed Virgin into Heaven.⁴ Actually, the real development of these ideas has been concentrated in the period between the two Vatican Councils and we are much indebted to theologians such as Ferrone, Franzelin, Scheeben, Dillenschneider, and Koster for their spadework and insights. But newer problems have arisen, particularly since the publication of Humanae Vitae, which have focused a closer scrutiny of the role of the faithful in the formation of Christian moral teachings and evaluations.

Our first consideration concerns basic terminology. Recent theological investigations have developed a distinction between sensus fidelium and consensus fidelium. Sensus fidelium involves the basic "instinct", "feel", or "experience" of the christian faith which a person enjoys as a result of being baptized, and immersed in some degree in the life of Christ within a particular community. Consensus fidelium is the manifest and verifiable agreement to which the faithful testify concerning a particular doctrine or practice at a given time or place in history. These are but broad descriptions of two extremely complicated terms. We will devote considerable space in our first chapter to a much more precise delineation of the difference between the two, and the implications involved in them.

It is also noteworthy to point out that much of the theological inquiry until recently has concerned itself with the use of consensus fidelium as a source for evaluating doctrinal questions under dispute or in need of clarification. The use of consensus fidelium as a source of judging moral questions, while evident throughout Christian history, has only recently become the point of specific investigation to any great depth. But this new attention is turning up many allusions to its use in this sphere of Christianity, a fact which will become clearer as we proceed.

Another important factor that must always be kept in mind is the new stress, particularly within many Roman Catholic writers and in the documents of the Second Vatican Council, on the inclusion of all members of the Church in the term "faithful". Each member of the faithful enjoys a particular role, office, or function within the Church. Thus, while it will be helpful to distinguish between the various kinds of consensus that have appeared either in history or in theological source books, we must still keep this inherent overlapping in mind, or we will tend to locate consensus fidelium in the laity only. Our study, as we shall shortly see, will concern itself mainly with the consensus fidelium as it manifests itself in the laity, but the wider ambit of consensus fidelium within other groups of Christians within the Church will frequently intrude into our discussions, an intrusion which we would rather regard as a good tendency of the Church's direction today rather than a confusion or denial of the existence of different functions within the Church. The whole concept is extremely "organic" in "tone", to use two of Kirk's metaphors which we will meet later on, a fact

which inevitably tends to preclude any mathematically-certain division of the subjects under discussion, namely the faithful People of God.

Fr. Magnus Lührer, in writing for the new compendium Mysterium Salutis, has clarified these difficulties in another way. He points out that any consideration of consensus fidelium will have to be seen in an ecclesial dimension. This arises, obviously, from the nature of the problem since we are dealing with an inter-locking capacity of the laity and the teaching office of the Church in the formation of moral judgments.⁵ He also alludes to the fact that until now, any theological speculation has been the almost exclusive priority of clerical theologians, but that today, theological acumen has also been increasingly developed by laymen. Indeed, this has become so obvious as to become almost a truism. Yet, the problem still remains as to what extent any consensus on the part of laypeople is to be considered in any ultimate formulation, whether definitive, or normative, made by the teaching authority of the Church.

M. l'Abbe Marcel Lefebvre has further highlighted three other "cautiones" in this area of consensus fidelium. He points out that often any appeal to the opinion of the Christian community can sometimes be construed as a Lutheran pretension "qui voulait que le peuple soit juge de son évêque en matière de doctrine", or as "une capitulation devant les attaques du démocratisme de l'esprit gallican."⁶ He relates this to the value given to religious sentiment by the Modernists in the first part of this century and mentions the attendant problem of Illuminism which plagued this "heresy of heresies."

Finally, he mentions those who object to any consideration of this consensus when they complain that such a proof is a kind of tributary to a certain theological or philosophical relativism: "La vérité ou fausseté d'une doctrine, disent-ils, n'a absolument rien à faire avec le nombre de bouches qui l'affirment ou la nient." ⁷ In England, these very difficulties were affirmed in 1947 in a survey on religious opinions called Mass-Observation. The main thrust of this report stressed the chaos of mass democracy as affecting moral standards, the vacuum existing in people ready to believe anything, and the decay of popular belief in orthodoxy. ⁸ While one point of this report may merely emphasize the necessity of basing one's consensus of any teaching on people who are more than borderline Christians, it does outline the perils of trying to support too many Christian tenets, whether of the faith or morals, on simply what "everybody else is saying or doing" or on simply "what I feel is right." ⁹

We have pointed out a few of the difficulties associated with the problem of consensus fidelium to alert us to the pitfalls into which superficial or inconclusive considerations of consensus fidelium can lead. Our remarks have mostly been drawn from Roman Catholic sources since this is where the main theological investigations have been undertaken in an ex professo manner, and it is from these sources that we will establish the areas that need deeper study for moral theology. Since "The question is the mother of the answer", to quote an old adage, it will be essential that we establish as carefully as possible the problem at hand and what we are hoping to find in our search. A brief study of work already done on sensus and consensus fidelium seems quite in order.

III. THE APPROACH OF OUR ANALYSIS

A. General Scope :

Our project can be summarized as follows :

- i. To delineate briefly the development and meaning of the concepts *sensus fidelium* and *consensus fidelium* from both Roman and Anglican sources; also to give the English and Anglican setting for the type of theologian and laymen we are going to study, namely the English Anglo-Catholic;
- ii. To survey the use of *Consensus fidelium* as a source of moral judgment in the "line" of Anglican Moral Theology which leads up to Kenneth Kirk;
- iii. To deal with the use of *consensus fidelium* in the writings of Kenneth Kirk and to relate this with the English ethos we have established in part (i) along with the implications this may have on moral questions in general.

B. Turning to Anglicanism

The value of studying a theme in moral theology by analyzing it from the viewpoint of another Christian tradition has been specifically urged by both the Second Vatican Council,¹⁰ and, more recently, by the special report prepared by a joint commission of Roman Catholic and Anglican theologians meeting in 1967 in Malta.¹¹ The report specifically encourages further studies by both traditions on mutual points affecting each other in moral theology. That Anglicanism is fertile soil in which to explore the problem of *consensus fidelium* was mentioned in 1954 by Fr. Y. Congar, when he pointed out that, with respect to certain problems of ecclesiology, and particularly

with problems associated with *sensus fidelium* "les théologiens orthodoxes et les théologiens anglicans de la nuance anglo-catholique sont ici d'accord avec nous." ¹² Obviously this does not apply to ALL areas of the fields mentioned, but once the main lines of divergency are set forth, we do have an excellent springboard in the Anglican tradition to explore our problem. Congar was concerned with *sensus fidelium* in questions of doctrine, but the study of Anglican moral theology cannot be thereby excluded. This is the whole point of our research. We should also note that it is primarily the Anglo-Catholic line of thought within Anglicanism which will provide us with our basic frame of reference, although we will, from time to time, consider closely related segments of Anglicanism where it would be helpful in clarifying particular issues under discussion. This will become clearer as we continue to specify what we mean by the "line" of Anglican moral theology.

Anglicanism has always wrestled with the problems associated with authority and the individual, and the unique structure of the Church of England has enabled it to develop numerous interesting aspects on the role of the laity in the Church. The problem is by no means solved, and it is not our intention to pass a definitive judgment on it, nor is it our object to present any detailed criticism of Anglicanism in comparison with Roman Catholicism on *sensus fidelium*. The whole ecumenical spirit dictates that we should approach the matter in as positive and open a mind as possible, and to make our observations along areas still not clearly developed rather than categorically condemning particular views or positions held by one or another Church. We would like to approach our subject with a view to learning rather than to destruction, and it is hoped that this attitude will properly

dispose us to find the Spirit of truth from the matter we will examine.

C. Kenneth Kirk and the "line" of Anglican Moral Theology

Since most of our research will be in writings which have not been translated into any of the Continental languages, we feel that frequent briefings will be necessary as we come to each heading or individual under discussion. This is especially true of both the subject and the whole country under discussion, since we feel that it just cannot be approached in vacuo.

Thus, once we have situated ourselves within the English Anglo-Catholic mentality, we will then begin our study through the eyes of its sole light in moral theology for the first half of this century, Bishop Kenneth Kirk, 1886-1954. Actually, moral theology has been a kind of "Cinderella" within Anglican Divinity.¹³ There was a long gap in Anglican Moral theology from the 17th Century Anglican Divines like Jeremy Taylor and Richard Sanderson until Bishop Kirk's efforts in the nineteen twenties and thirties. The 19th Century Tractarians wrote little on specifically moral questions except as these entered into their concern with ascetical or devotional theology.¹⁴ The turn of the century produced three manuals of some use to Anglicans,¹⁵ but they were, in the main, merely recapitulations from an Anglican point of view, of earlier or contemporary Roman manuals. It took a man like Bishop Kirk to size up the situation of Anglican moral theology, and, together with his vast amount of solid Christian training and foundation in scholastic and Caroline theology as well as his innumerable pastoral experiences in England and at Oxford, he was able to indicate many of the directions which any future manual

of Anglican Moral Theology would take. Kirk stands as a kind of a bridge between the past traditions of Anglican Moral Theology and their present trends as represented by writers of the second half of this century.¹⁶

With this in mind, it is easy to see that Bishop Kirk presents us with an excellent focal point for our thesis. But *consensus fidelium* as a source of moral judgment is not a theme that should be viewed from the writings of Kirk alone. Due to the many influences on Kirk of earlier theologians, it will be of no small value to trace this theme in some of Kirk's predecessors in order to understand Kirk's position more fully. It is not our intention to make any extensive comparison of Kirk's thinking on *consensus fidelium* with his mentors, but rather to show how *consensus fidelium* has emerged within the writings of these men. This will more than adequately prepare us not only for Kirk's explicit treatment of the theme, but also for his method of treatment which is so identified with the Anglican theological tradition within England.

Only two full-length works have been done explicitly on Bishop Kirk. The first is a major presentation of his moral theology set out in a very comprehensive and systematic manner by Francis Frost, now teaching at the University of Lille, France.¹⁷ It is the best analytical and critical work on Kirk done to date, and it can justly be used as a kind of vade mecum for any further studies of Kirk. The second work is a shorter one, recently presented and defended at the University of Oxford in 1968 by a German Benedictine, Fr. Augustin Pätz, of Trier.¹⁸ It is a good guide to several specific themes which highlight Kirk as teacher, spiritual guide, administrator, founder of religious schools,

and shepherd of a diocese. Both theses allude to our theme, but neither treat it extensively or in any great detail. Neither thesis, it must be added, purports to situate Kirk's thinking within the spectrum of Anglican Moral Theology. It is for these reasons that we feel our study of Kirk and his tradition with respect to consensus fidelium is worthwhile.

D. Specific Outline and Methodology of the Thesis

Our first task is to give the exact setting of the problem. Here, we will briefly consider the English mentality in which Anglicanism thrives. Brevity is necessary here, since this is not the essential point of our study, but the fact remains that the English people do manifest characteristics which must be mentioned in order to understand their approach to theological problems. A note on the specific genre of Anglicanism is also very much in order at the outset. Our next step will then be to examine the development of the key terms which will be under discussion throughout the study. Again, we feel that a brief, but comprehensive survey of the whole field of theological development both Roman and Anglican, is essential here in order to clearly point out where the difficulties lie. Also in this initial chapter will be a brief biographical sketch of Kirk along with an introduction to his theological milieu. Since we are viewing our historical section with the eyes of Kirk, as it were, we should have this small character and theological sketch of our viewer before we launch forth into his past.

Chapter two will deal with consensus fidelium and its use in a selection of Kirk's mentors. Obviously, it is impossible to be exhaustive since the writings of these men are immense. But consensus

fidelium is such a small point in their works that our choice of writers and our somewhat brief treatment of them seems justified. What is more important, however, is that this is the first time that anyone has ever studied a theme of Kirk's in the light of his past sources.¹⁹ Also, the underlying concept of the Church will have to be frequently outlined as we consider each personage, since the problems connected with consensus fidelium are so closely interrelated with the contemporary thought on the church. Our choice of men will include Richard Hooker, Richard Sanderson, Jeremy Taylor, and the Puritan Richard Baxter for the other side of the coin at the time. St. Thomas Aquinas was also a primary source for the theology of Kirk as well as the Carolines under discussion. However, it is not our intention to enter into any extensive treatment of his thinking on consensus fidelium since this has already been done in some detail by other writers.²⁰ We will allude to him only when it is necessary to clarify any references to his thinking by the men we have mentioned or by Kirk himself. The chapter will conclude with a connecting link between the Carolines and Kirk. Here we will allude to several mentions of our theme which we have observed in the writers of this 150 year span, more in an effort to lead into Kirk's own allusions to them (eg. John Henry Newman) rather than to extensively study their writings as a specific work. All of this chapter should provide us with a good background and preparation for the manner of treatment of consensus fidelium in the works of Kirk, a point which we cannot stress too much when considering Anglicanism on any specific theme.

Our final chapter will deal with Kirk's own use of consensus fidelium as a source of moral judgment. This will include allusions

to several historical manifestations of consensus fidelium as well as its specific occurrence in Kirk's ecclesiology and his moral theology. Each of these areas will be introduced by general summaries of Kirk's general theological leanings as an immediate preparation to each division under discussion.

This, then, is the scope of our "jalon." The period under discussion spans five centuries, but the topic is one that needs a historical perspective particularly when seen with special reference to a man of Kirk's stature. Clearly then, our work is cut out, so we now proceed to the problem itself.

FOOTNOTES FOR THE INTRODUCTION

1. There is a great difference between the concepts sensus fidelium and consensus fidelium which will be explained in the first chapter. Due to the frequent use of these terms in the text, we think it will be less distracting to the reader if they are written without the underlining. In many recent works in English, the use of these terms has become more and more accepted as commonly used English words without the usual italic designation, and we wish to continue this practice.
2. E.g., cf. Lumen Gentium, 12 and 15, (AAS, 57 (1967), 16-17).
3. Cf. Y. Congar, Jalons pour une Théologie du Laïcat, Paris, 1954, pp. 394-407, with an excellent bibliography; also, R. Hofmann, Moral-Theologische Erkenntnis- Und Methodenlehre, München, 1963, pp. 127-33; LRK, (1960), III, col. 43, and IV, col. 945-48; and G. Thils, L'Infallibilité du Peuple Chrétien 'in credendo', Louvain, 1963.
4. Cf. P.C. Billenschneider, Le Sens de la foi et le Progrès Dogmatique du Mystère Marial, Rome, 1954; also H. Lefebvre, "Le Valeur du consentement universel de l'Eglise", Studia Montis Regii, 1958, pp. 61-92; and H. Hamann, Die Neuren Katholischen Erklärungen der Dogmentwicklung-Beiträge zur neuen Geschichte der katholischen Theologie, 7, Essen, 1965, pp. 252-3.
5. "Glaubenssinn und Glaubenskonsens müssen in ihrer kirchlichen Einbettung gesehen werden. Der Glaube des einzelnen ist ein Glaube in der kirchlichen Gemeinschaft mit allen Bezügen, die sich daraus ergeben, vor allem auch mit dem Bezug auf die lehrantliche Proposition des Dogmas, die zwar keineswegs Ziel des unmittelbar auf Gott ausgerichteten Glaubensaktes ist, wohl aber der Erreichung dieses Ziels durch wahre Formalisierung dient. Erst recht ist der in Erscheinung tretende Glaubenskonsens immer auch an der lehrantlichen Verkündigung orientiert. Dieser Sachverhalt ist für die Erfassung des christlichen Volkes als 'locus theologicus' von grosser Bedeutung, da er eine isolierte Betrachtungsweise ausschliesst. Der Glaubenskonsens der christlichen Volkes ist immer auch eine Resonanz der gesamtkirchlichen Überlieferung und der aktuellen Lehrverkündigung und bedarf der kritischen Interpretation durch das Lehramt der Kirche." Mysterium Salutis, Einsiedeln, 1965, I, pp. 552-3.
6. Art. cit., p. 62.
7. Ibid.
8. Op. cit., London, 1947, pp. 7-9. This is a scientific fact-finding body founded in 1937 to study the habits, behaviour, and opinions of ordinary people in England.

9. Several interesting conclusions of the report may be cited here: "The report reveals, at the level of opinion, a mental and moral chaos — the chaos of mass democracy." (p.7.) It goes on to state that the people are a vacuum and are ready to believe anything, being open to exploitation by any resolute opportunist with any ideology. "The vacuum is a local condition, created in this case by the decay of popular belief in orthodoxy." (pp. 7-8.) "The hard-core of the problem is in those who are permanently indifferent to any doctrine, not in the few who have lost their beliefs." (p.8.) The big conclusion was: "Established leadership is becoming increasingly remote from ordinary people." (p.158.)
10. Cf. Vatican II, Ecumenism, 4, p. 349. (edition in bibliography.)
11. Cf. "Towards Unity with the Anglicans", Harvard Correspondence, Vol. 5, No. 12 (Dec. 1968), pp. 373 ff.
12. Op. cit., p. 399.
13. Cf. Thomas Wood, "An Anglican Manual", Church Quarterly Review, cxlvi (1948), p. 154.
14. Cf. V.A. Demant, "Kenneth Kirk as Moral Theologian", Church Quarterly Review, clviii (1957), p. 423.
15. J.J. Elmendorf, Elements of Moral Theology, based on the Summa Theologiae of St. Thomas Aquinas, 2nd. ed., New York, 1902 (now out of print); J. Skimmer, Synopsis of Moral and Ascetical Theology, London, 1892; W.W. Webb, The Cure of Souls, New York, 1892.
16. H.R. McAtee, Bishop E.C. Mortimer, Thomas Wood, and L. Dewar are considered to be moral theologians following in the vein of Kirk. Bishop J.A.T. Robinson, Canon D. Rhymes of Southwark, and H.A. Williams are Anglican moral theologians who have made a far greater jump from the more traditional views of Kirk than have any of his immediate successors first mentioned here. Canon Herbert Waddams of Canterbury is a more recent popularizer of Kirk.
177. L'Enseignement Moral de Bishop Kirk, Monographie de la pensée moraliste anglican, 1886-1954, Université de Lille, 1965. A large part of Frost's thesis is published in a french review: cf. F. Frost, "Un Plaidoyer pour une Morale Theocentrique: Aperçus sur l'oeuvre de Bishop Kirk", Mélanges de Science Religieuse, XLII, No. 4, 1965 (Décembre), pp. 220-266, and XXXIII, No. 2, 1966 (juin), pp. 94-126.
18. Patterns of Pastoral Thinking in Kenneth Escott Kirk, a dissertation submitted for the Degree of Bachelor of letters at the University of Oxford, April, 1968.
19. Frost has very meticulously indicated the sources of Kirk's thinking, but he has not traced any development of these themes as they emerged from the sources, nor has he attempted to indicate Kirk's influence on any of his successors. (Cf. FROST, p. i.) Fr. Pitts

appended two shorter notes in which he compared Kirk with William Temple and Herbert Henson. (Cf. Pitz, pp. 145-150.) Our projection is at least an initial step in tracing a theme of Kirk's in his predecessors.

20. Congar has already indicated the work done on "Aquinas and sensus Fidelium". Cf. Op. cit., p. 398, footnote 72.

P A R T O N ECONSENSUS FIDELIUM : PAST AND PRESENTCHAPTER ONE : ESTABLISHING THE PROBLEM OF CONSENSUS FIDELIUMI KENNETH KIRK, ENGLAND, AND ANGLICANISMA. THE "FOCAL FIGURE" OF OUR STUDY :

Our whole theme is being presented "through the eyes and ears" of Bishop Kirk, as it were. Thus, we will present a brief introduction to Kirk before proceeding into the discussion of the problem itself of consensus fidelium.

1. Meet Kenneth Kirk :

The life and teachings of Bishop Kirk have been recently presented in a very readable biography written by his son-in-law, Canon Eric W. Kemp of Oxford University.¹ More particulars can be found in the testimonia printed in the Oxford Diocesan Magazine at the time of the Bishop's death² and several further details of general interest are contained in the summary of Kirk's life in Francis Frost's thesis.³ Since 1957, brief references to Kirk have been included in new editions of theological dictionaries and lectionaries.⁴ John Macquarrie regards Kirk as "the greatest Anglican moral theologian of recent times, and it is largely due to his teaching and influence that there has taken place a revival of interest in moral theology in the Church of England."⁵ We will content ourselves here simply with a chronology of the principle events in the life of Bishop Kirk.

Chronological Curriculum Vitae

- 1886 : Born Feb. 21st, in Sheffield, England of Frank Kirk and Edith Escott, both Methodists;
- 1894 : Entered Sheffield Royal Grammar School;
- 1899 : Confirmed in Anglican Church after a gradual shifting to Anglicanism by the Kirk family;
- 1904 : Entered St. John's College, Oxford;
- 1906 : Graduated with a First in Honour Classical Moderations;

- 1908 : Graduated with a First in "Greats", also from Oxford;
- 1909 : Assumed post as Foreign Students' Secretary for the Student Christian Movement (SCM) in London;
- 1910 : Appointed as assistant in the Department of Philosophy at University College in London; studied philosophy and theology at the Sorbonne, Paris, for seven weeks in preparation for teaching;
- 1912 : Ordained Deacon in York; worked in a parish in Yorkshire;
- 1915 : Ordained priest;
- 1914 : Served as chaplain with 66th Division in World War I;
- 1917 : Returned to England and gave courses in Moral Theology in Yorkshire;
- 1918 : Became a Fellow of Magdalen College, Oxford;
- 1920 : First major book published: Some Principles of Moral Theology.
- 1921 : Married Beatrice Radcliffe;
- 1922 : Became a Fellow and chaplain in charge of Trinity College, Oxford;
- 1925 : Published Ignorance, Faith and Conformity;
- 1927 : Published Conscience and Its Problems;
- 1928 : Gave the Dampton Lectures: The Vision of God (Publ. in 1931)
- 1933 : Transferred to Christ Church, Oxford, where he succeeded Dr. Ottley in the chair of Pastoral Theology;
- 1934 : Mrs. Kirk died of Pneumonia;
- 1935 : Published some of his best sermons: The Fourth River.
- 1937 : Named Bishop of Oxford; published The Story of the Woodard Schools;
- 1938 : Named president of the "Advisory Council" for religious communities of the Anglican Communion;
- 1939 : Edited The Study of Theology;
- 1943 : Directed the publication of A Directory of Religious Life;
- 1946 : Edited The Apostolic Ministry;
- 1948 : Supported the minority view in the South India Scheme;
- 1954 : Died on June 8.

During a life as busy as Kirk's, it is hard to understand how he found time to do so much writing. Before becoming Bishop of Oxford, his thinking

found its way into no less than 11 books along with dozens of smaller articles and reviews. After his consecration, he concentrated on his monthly article in the Oxford Diocesan Magazine,⁶ edited two major works,⁷ contributed numerous articles to theological journals, and preached countless sermons. With such a vast output, one would expect to find a certain evolution in Kirk's thinking. Yet, strange to say, apart from a few significant issues within Anglicanism itself the main directions of his thought remained basically the same. His approaches to the re-formulation of Anglican Theology, despite an original presentation of terms and categories in his contribution in 1959, for example, still bear the same marks as his original thrust in 1920.⁸

2. Some Preliminary Observations on Kenneth Kirk.

Since our study covers the "line" of Anglican Moral Theology, it will be helpful to delineate the theological climate which immediately led up to Kirk and which was blossoming during Kirk's lifetime. This will give us our first introduction into Anglican methodology and pedagogy, approaches we feel are essential if we are to grasp all the threads that come into play with a theme as complex as *consensus fidelium*.

a. Kirk's Era and his own Theological Methodology.

The period of the 1920's and the 1930's in which Kirk wrote his major theological works was an era of genuine ferment within Anglican theology. The publication of a series of essays entitled Lux Mundi (edited by Charles Gore) in 1889 was one of the sparks which kindled a blaze of Anglican theological writing on every aspect of Christianity from Biblical research to social justice.¹⁰ The term "Liberal Catholicism" came to the fore to describe these writers and thinkers, and its distinguishing feature has been described as "a break with the past. Instead of discussing its problems in the light of traditional theological principles and attempting to continue the development of traditional theology, it tried to build up theology entirely de novo upon the basis of contemporary science and philosophy."¹¹

But Kirk, for the most part, remained outside the pale of this group of theologians.¹² True, he did share many of their leanings with regard to the use of scientific developments in theological questions, and his moral theology rightly advanced in this direction. Yet he never

departed from his use of authentic Christian sources, and this hearkening back to a kind of theologia perennis in his thinking, as Prof. Mascall calls it,¹⁵ is what makes his writings so valuable to us in the discussion of our theme. It is Kirk's attempt to use both the traditional and the newer applications of modern sciences like sociology and psychology, that gives his writings scope and importance. Perhaps he did not go far enough in applying his insights in these areas to the problems of modern man, and perhaps his solutions may appear to some as still smacking too much of the traditional.¹⁴ This is not our immediate concern here. What is important is the fact that Kirk did inject into Anglican Moral Theology a distinctively fresh approach. The American theologian, Robert Page, has summed up Kirk's approach very well :

Although not without his rigidities, Kirk was able to combine an astonishingly learned and skilful application of the materials of the Christian heritage, both biblical and historical, with a genuine openness to knowledge derived from contemporary work in psychology and, to a lesser degree, sociology. This gave to his consideration of moral problems a depth and relevance rarely matched by his successors. This method of combining the best insights of the Christian tradition with the empirical data made available by the social sciences must be the method of any moral theology of consequence. Psychology and sociology have made impressive strides in the half-century since Kirk began to do his work, and there is urgent need that his method be utilized in doing for the present generation the task he so ably performed for his own.¹⁵

This evaluation of Kirk's approach to the problems of moral theology clearly indicates to what extent Kirk shared a few of the tendencies of the so-called "Liberal Catholics" and also shows how he definitely cannot be assessed as one of them without innumerable exceptions.¹⁶ The revival of Anglican Moral Theology after the first World War certainly came through the efforts of Kirk. "It is to be regretted", however, "that there have been few successors of his calibre, though there have been various minor studies of problems of human conduct."¹⁷ In brief, we are dealing with a man of many parts.

b. Kirk the Pastor and Teacher.

We can gain a few more interesting insights into the Anglican methodological outlook by considering the practical side of Kirk. "All Kenneth Kirk's published work resulted directly from his experiences as pastor", and this "is no less true of the four substantial volumes issued between 1929 and 1931 which form the heart of his contribution

to English religious thought....." ¹⁸ This pastoral concern, adequately analysed in Augustin Pitts's thesis, is another reason why we will use Kirk as our focus for considering consensus fidelium. His immense theological background was colored and flavored by an incisive penetration of men's habits and ways, a fact which will be discussed shortly when we look at the English temperament. Also, Kirk enjoyed a good dose of that solidly Anglo-Saxon good sense, which served him well in achieving a balance in his approach to many vexing problems. ¹⁹ His theology was not handed down from any sort of "ivory tower."

As a teacher, Kirk had an interesting manner of approaching problems. One of his former students remarked that "To the end he retained one of the common and entertaining characteristics of the very able young man: he seemed to prefer a subtle, roundabout, and involved argument to a more direct one." ²⁰ Canon V. Demant puts it in another way: "I think also he enjoyed the task of intellectual tidying up where terms have got muddled --- with the gift that your friends call clarity of mind and your enemies call hair-splitting." ²¹ This subtlety does occur in some of his writings, but it is usually supported by a rich supply of footnotes and personal observations. These will give us many interesting leads for both Kirk's own use of consensus fidelium as well as his use of the earlier figures whom we are going to consider before arriving at Kirk. Canon Kemp has summed up Kirk's pedagogy: ²²

1. One should always, as far as possible, go to the original sources;
2. If one neglects to do this, one should not expect to get away with it and fool intelligent people;
3. Christianity is a matter of life, not merely of argument.

All in all, Kirk had a particular reluctance to generalize about human beings. He always stressed the problems of individuals and his moral theology abhors absolutes. This does not mean that Kirk has fallen into the trap of situation ethics. ²³ Indeed, the best proof of this is the statement by Joseph Fletcher, one of the strongest advocates of situation ethics, that Kirk has not gone far enough. ²⁴ However, Kirk did understand the English mentality and had an excellent grasp of their life-situations. As pastor and teacher, he tried to formulate a moral theology that was neither overly-rigoristic and authoritarian nor totally lax and without any norms whatsoever.

Hence, Kirk's sources were both traditional and modern. He leaned heavily on the Caroline moral theologians as well as St. Thomas Aquinas. Of course his biblical and patristical sources abound. Even Roman Catholic manuals were often used in his supporting notes. Of all these sources, especially the Caroline ones, Kirk felt that they "do not hesitate to draw upon the traditional moral theology and canon law of the past, which rightly regarded, are no more than the formulated experience of the Christian centuries."²⁵

This is but an initial glimpse of Kirk and it is not intended to be any more. The approach we have chosen for our theme means that we need only this introduction to enable us to begin to use Kirk's eyes to probe our theme. But we must pause for several more introductory areas which must be given their proper setting before we have woven all the threads in the background for a complete understanding of consensus fidelium as a source of moral judgment.

B. England and Anglicanism.

"Our Church is not simply the Church of the majority of individual Englishmen, but its history and its character are intertwined with the history and character of the nation as a whole. Its order, its services, its formularies all reflect the strength and the weakness, the characteristics and the limitations of the English character."²⁶ This comment points out quite well why consensus fidelium must be considered in the light of a certain milieu and so must include a general understanding of the background and temperament of the people from whom these theological considerations are drawn.

1. A Few Notes on the English Temperament.

Dietrick Bonhöffer once observed that Anglo-Saxon thought is deeply engrained with nominalism. He maintains that "in nominalism the individual precedes the whole, in that the individual and empirically given thing is what is real, while totality is only a concept, a nomen. The individual stands at the beginning, unity at the end."²⁷ He contrasts this with the German-continental philosophical tradition which is governed by "realism and idealism, for which the whole is the original reality and the individual entity only a derivation."²⁸ He correctly

prefaced his remark by declaring that it was not a "wholly satisfactory one." Yet, the generalization does provide a good beginning for this brief analysis. The stress on the individual pervades the English mentality. One need only mention the development of democracy in England in support of this observation. The individual's opinion is constantly being sought out by the authorities in both the ecclesiastical and civil spheres, a fact that is borne out by the English penchant for surveys, reports, studies, and committee analyses. This results in a markedly English attitude of mind which allows the individual to conform quite readily to existing and contemporary conventions or practices as long as they do not conflict with his personal life, his circle of friends, or his considered freedoms.²⁹ Its importance in theological methodology and ethical enquiry will become evident as we study our theme in depth.³⁰

This beginning with the "empirically given" has resulted in another aspect of English character. Kirk himself noted it when dealing with the problems of English education. He felt that the English were too ready to accept existing institutions and in these included schools, universities, and even creeds. He felt that they should not be left unexamined just because they satisfied our fathers.³¹ What Kirk is saying with regard to these three "institutions" does apply in more general way to a certain conservatism which one finds in the English temperament, a factor which must be juxtaposed with the empirical penchant we have just described. It accounts in another way for Kirk's strong insistence on authentic Christian traditions in his own treatment of theological themes.

The concentration on the individual and the empirically-given thing results in another interesting observation on the British temper which Prof. C.H. Dodd calls a "practical opportunism." He feels that the English cherish a deep suspicion of all large historical generalizations. He cites one historical opinion, that of A.L. Fisher, in which history is viewed as only one emergency following upon another as wave follows upon wave. Dodd thinks that this interpretation of history is in fact the "ideology" corresponding to "our favorite practice of 'muddling through'."³² This may be typing the English temperament somewhat uncomplimentarily and bluntly, but it does produce much evidence in their way of acting to bear honorable mention. Nor is it entirely a fault. It emerges as a genuine knack to adapt principles to changing situations

without losing the ultimate root or "Grund" of the principle. More and Cross tackle it in another way: "That is the Englishman's way: to talk about what lies on the surface and to avoid as long as possible the deeper concerns of the heart."³⁵ They are quick to add, however, that the deeper concerns do emerge, though slowly and reluctantly.

We can also turn to Kirk's views on English education once more for another interesting factor.³⁴ He criticized English education as being a failure but English training as being a real success. The average English schoolboy is described as "being thrown, without previous preparation, into the society of a large number of other boys, and expected from the first to study them and learn how to deal with them fairly and yet firmly."³⁵ Kirk concluded from this type of involvement that the student was forced to take his place and to share, "giving equal opportunities to the rest; yielding place to those with greater ability than himself; taking charge of those with less. He is expected to do this by instinct, and as far as possible without any authority behind him except his own tact and insight."³⁶ From this, the conclusion is made by Kirk that the young Englishman is taught a gradual responsibility based on his own merits, discernment and enthusiasm. All this develops, in time, qualities of tact, sympathy and discretion which give him great powers of leadership. He then notes how congenial this is to the British temperament and the amazing results it has had in the annals of war, colonial history and Imperial Government. The key point here is the gradual entrusting of responsibility which so characterizes the English thinking. And while there are many critics of British treatment by members of various countries affected in the political situations just mentioned, nevertheless this confidence in what could be called the "principle of subsidiarity" with respect to leadership does stand out among the English.

Another quick reservation was made by Kirk about the glories of this leadership training. He pointed out that even though this training does teach the Englishman to lead and influence others, "it does not, as a rule, teach him to assume leadership unless he is directly called upon to do so."³⁷ This could be a direct corollary to the acceptance of the "empirically-given thing" of Bonhöffer. It also follows hand in hand with the conservatism which we have mentioned.

The weaknesses of the English mind were described by Kirk as being "by nature placid, inactive, and so far as real thought goes, unenterprising."³⁸ He added that if it were given the right stimulus, it

could produce high developments of idealism, decision and devotion. And he felt that it was here that the emphasis in education must be placed, since "education will secure the best results by appealing to the one strong point in the English mind -- its overwhelming interest in character."³⁹ Kirk derived this deduction from his experiences as army chaplain in the First World War, and his use of characters from English novels in his moral writings shows just how much he did rely on this aspect of the English mentality. Again, we cannot help but feel that this is a further application of the Englishman's driving concern for the individual, and always from the experiential, empirical vantage point. It is a key factor in Kirk's sources of moral judgments, and the whole approach of Anglican moral theology to moral questions manifests this pronounced tendency.

A full-scale inquiry into the psychological and sociological make-up of Englishmen along with its implications in developments of the 20th Century such as mass-media, increased mobility, and the changing political situation of the world and of Britain have been dealt with in many other sources.⁴⁰ It can lead one into all kinds of fascinating byways which would interest any student of Anglican theology. For our purposes here, the traits we have highlighted can serve as a starting point for the rest of our treatment. Many more will emerge under other headings and the picture of the English layman, nay, of the Englishman, since all members of the Church of England share in their nationality, will be adequately painted.

2. The Spirit of Anglicanism.

"The Anglican Church of England has always been the scene of clashing opinions and interpretations."⁴¹ This remark by an outstanding ecumenist is not meant to frighten anyone away from any attempt to present a coherent development of a theme within Anglicanism, but to prepare a reader for an accepted divergency of views which is quite unique in Christian traditions. It does give to Anglicanism a rich spectrum of opinions and views in which to view a theme. The variations of Reformation and post-Reformation theology often completely intermingle themselves within Anglicanism, but in such a way that the Lambeth Conference of 1948 loudly proclaimed that "the Churches of the Anglican Communion are Catholic in the sense of the English Reformation. They are Catholic but reformed; they are reformed but Catholic"⁴²

And as for the present growth within Anglicanism, Bishop John Robinson has boasted that the Church of England has changed more quickly over the past twenty years than at any time since the Elizabethan settlement.⁴³ How then can anything definitively Anglican be presented with respect to a theme? It will be precisely in viewing a theme, and especially our theme of consensus fidelium, in the light of the "spirit" of Anglicanism, that we will be able to answer that question. Much of the approach of Anglicanism is tied in with Anglican ecclesiology, a subject we must defer until we treat of our individual personages under discussion. Here, we will add only a few more colours to our portrait of the English Anglican.

Van de Pol has indicated that Anglicanism has a pronounced liturgical character. This results in a general shying away from anthropocentric inclinations in liturgy which means, normally, that Anglicans do not go to Church to be esthetically touched or edified. "Their common purpose is to practice daily prayer, to listen to Scripture and to worship God."⁴⁴ He adds that Anglicanism has a remarkably biblical character which leads the Anglican not "to order his life according to a moral system but according to the example of biblical witnesses of faith in the Old and New Testaments."⁴⁵ This emphasis on worship as well as the Scriptures will play a vital role in all of the theologians we will study concerning consensus fidelium and moral judgments.

We must also remember, as we pointed out earlier when speaking of the English temperament, that Anglicanism does bear "the clear stamp of a definite people in language, mentality and culture."⁴⁶ This means that we are dealing with a mentality which gives an impression of "quiet, control, and importance... a Christianity of the practical and sound mind."⁴⁷ An unusual stress will be accordingly found as to the freedom of the individual and his personal views or of the immediate group surrounding him.

Dr. A.M. Ramsey gives us another hint concerning the Anglican spirit. He discerns a distinctively Platonistic strain in Anglican writers of the last century especially, such as Gore, Temple and A.E. Taylor. He also notes the Anglican sensitivity to the significance of spirituality and instances Kirk in particular here. He goes on to observe the Anglican devotion to scripture, the Fathers of the Church, and finally the constant Anglican striving for the Via Media.⁴⁸

This is a very significant characteristic of Anglicanism. Some feel that the principle of the Via Media between Romanism and Protestantism was not a part of Anglicanism at its inception, since Anglicanism WAS Protestant-orientated at first.⁴⁹ But the gradual drift towards this middle-way approach, both with regard to the two polarities in Christendom after the Reformation as well as with regard to a basic theological methodology, has more and more become a hallmark of Anglicanism, and particularly of Anglican moral theology.⁵⁰ It aims at introducing into religion "that love of balance, restraint, moderation, measure, which, from sources beyond our reckoning, appears to be innate in the English temper."⁵¹ Yes, Anglicanism leans heavily on this use of the Via Media claiming that it avoids the extremes of Romanism and Radical Protestantism. As a result, English theologians follow it to its conclusions especially when it involves the nature of authority in tradition and Scripture, and they draw from it two basic tenets in particular: (1) The practical distinction between fundamentals and accessories of religion; (2) The axiomatic rejection of infallibility.⁵² The problems associated with these two tenets are thorny ones, even within Anglicanism, but no theme in the Anglican tradition can be approached without clearly establishing these premises at the outset.

All this so far adds up to a very unique theological methodology within Anglicanism.⁵³ It is an approach which does not seek finality but directions.⁵⁴ Indeed, it often leaves many things rather unsettled,⁵⁵ and tends to appear quite undisciplined⁵⁶ and lacking any coherent system.⁵⁷ It claims no official philosophy⁵⁸ and it does not espouse any theologian in the way that Roman Catholicism has adopted an Aquinas or an Alphonsus.⁵⁹ Anglicanism has also been typed as empirical,⁶⁰ eclectic,⁶¹ pragmatic,⁶² as well as showing Pelagianistic tendencies, as we have mentioned.⁶³ Some have evaluated Anglicanism as being more historical and practical than theological and speculative, but they are also quick to balance this by saying that there is a large segment within Anglicanism to which this does not apply.⁶⁴

Most authors point out a distinct dynamism in the Anglican corpus of writings that augurs for growth and genuinely new insights in endeavoring to present a relevant Christian message. Kirk, along with many others who speak in broad terms about Anglicanism, sees in this unique mélange

of attributes a kind of Anglican "genius", and refers to it in terms of a "novel and providential experiment 'within the legitimate bounds of true catholicism'." ⁶⁵

This leads us to one last observation about Anglicanism. Within this "experiment" we find a divergency of views towards the concept of authority. The accompanying emphases on the individual, the stress on the "empirically given", the rejection of infallibility, and the stress on the distinction between essentials and non-essentials, must always be remembered when dealing with this problem. Anglican ecclesiology, too, particularly as it has evolved since Henry VIII, is of equal importance here. Kirk himself wrestled with this problem, and some feel his solutions were unsatisfactory, even to himself. ⁶⁶ It also means that within Anglican theology much weight is given to arguments drawn from custom, as well as from Scripture, the Fathers of the Church and the early ecumenical councils. ⁶⁷ This conflict between those entrusted with the teaching authority within the Church and the rights of the individual's conscience recurs time and again in any critique or assessment of Anglicanism.

Thus, we find ourselves dealing with a particular "Anglican ethos", hard to define but perhaps well summed up by D. Leeming who quotes from the Preface to the Prayer Book: Anglicanism keeps a mean between two extremes, between too much stiffness in refusing and too much easiness in admitting any variations. "Anglican worship is restrained and dignified; its preaching appeals rather to good sense than to emotions, and its writing rather to balance and substance than to exhaustive scholarship. To all this, of course, there are many exceptions." ⁶⁸ This assessment sums up, in a general way, part of the Anglican approach to the faith of Christendom and its practice. It is the Via Media, a term we are using in its rather loose but generally accepted sense, which best describes the Anglican method in theology. The "exhaustive scholarship" of the theologians we are going to study, we feel, manifests the exceptions that Leeming is referring to, along with their close adherence to the historical continuity within Christianity. It is with this in mind that we hope to extract from their writings anything that may enrich our concept of consensus fidelium as a source of moral judgment.

II. CONSENSUS FIDELIUM: THEOLOGICAL PRECISIONS.

A. INTRODUCTION.

The problem of "Consensus fidelium as a source of moral judgment" presents several basic difficulties at the outset. As we mentioned in our general introduction, the terminology of this subject has not been precisioned to any great degree until only recently, and much of this precisioning has taken place within Roman Catholic circles. Indeed, we find usages of "sensus" and "consensus fidelium", "sensus Ecclesiae", "sensus catholicus", "sensus fidei", etc. often side by side with few indications of any nuance of distinction. Yet these expressions are not exactly equivalent: "...elles relèvent, non seulement de moments historiques différents, mais de points de vue différents." ⁶⁹

Along with this terminological maze is also the frequent use of consensus among various groups of Christians within the Church itself. Sometimes a consensus may be considered as including all, part, or various combinations of the faithful. Thus, a consensus of theologians can include both clerics and laymen, or merely clerics alone. This too needs clarification.

We also have various distinctions one meets in theologians within the realm of Ecclesiology. One such distinction is, for example, that between "Ecclesia docens" and "Ecclesia discens". This too must be examined in our study, since it profoundly influences several of our writers to be studied. Again, the whole problem of authority in the Church looms up.

It is to the necessary clarification of these terms that we now turn.

B. TERMINOLOGICAL CLARIFICATIONS.

The Anglican Communion, due to its particular ethos and methodology, has not evolved such a scholastic analysis into the theological understanding of the nature of sensus and consensus fidelium as have Roman theologians. Another important point, a factor which we will soon prove, is that consensus fidelium within Anglican Theology, is often presumed by its writers, or else gradually assumed as a theological

source, without any great analysis of its nature leading up to its use. It is with this in mind, that we hope to arrive at a clear-cut notion of both the nature and the working use of the consensus fidelium from these two directions, Roman Catholic and Anglican theology.

1. Basic Generic Terms.

a. "Instinctus Fidei" : This is more a philosophical concept, but it deserves mention since it plays a part in the understanding of the act of faith by which a man believes or acts. It is generally described as a basic religious tendency common to all men in general, and it is felt to motivate, or at least underlie, in a broad sense, any specific act of faith or religious experience.⁷⁰

In some ways this "instinctus fidei" is very similar to the type of religious consciousness which R. Hofmann refers to as "Glaubensbewusstsein". He elaborates this concept by referring to it as the first and "unmittelbare, allgemeinste und umfassendste Quelle moraltheologischer Erkenntnis."⁷¹ As such, it is a very broad concept which consists of many elements including the basic religious instinct of man, along with the various practices which specify how this instinct is to be expressed in the community in which he lives. The various consensus fidelium would be express manifestations of the "Glaubensbewusstsein."

b. "Christiani populi fides" : Christian writers frequently use this generic phrase to indicate "le trésor objectif de la foi gardée dans L'Eglise par la grace du Saint-Esprit."⁷² Implicit in this phrase are two aspects of Christian faith, an objective and abstract element which is often termed "quae creditur", and is spoken of generally when considering such notions as the "Depositum Fidei", and the subjective element of faith which is concerned with that "qua creditur fides", the living reality and personal response inherent in true biblical faith. As Congar points out,⁷³ this classification is thoroughly Thomistic and is generally accepted by Roman Catholics and Anglicans alike. Similarly, we have the term "sensus Ecclesiae", the "sense of the Church", which primarily means "what the Church believes, what it sees in its sources, its interpretations of texts and events."⁷⁴ Congar then lists eight variations of the use of "sensus Ecclesiae" in the Council of Trent alone, but shows how all have the same fundamental meaning we have just indicated.

Of interest to us here is the fact that the term "sensus Ecclesiae" is almost always used with regard to Tradition. And Congar scores a good historical point by telling us that Tradition in the early Church does not separate "a subjective sense, a kind of instinct of faith, from the objective content; it does not recognize any autonomy in the mystical and subjective instinct for the things of God as opposed to the means God has chosen for his self-revelation to men: revelation, the Church, the doctors, and saints." ⁷⁵

We are prepared for a further development in terminology, and this emerges with our next term.

c. "Sensus fidei" : About the 15th Century, we have a new interest in the subjective sense of faith being taken up by scholastic theologians. This is described as a kind of a "Catholic instinct" where faith is concerned. "Il relève d'une analyse des puissances de la foi dans le sujet religieux." ⁷⁶ It is significant to note that this "sensus fidei" is common to all members of the Church, both hierarchy and laity, theologians and simple believers. All receive the faith obediently yet actively in their lives, and, though various distinctions must still be made, there still remains this great overlapping in the explanation of the subjective aspect of faith. ⁷⁷

Explicit references to *sensus fidei* are to be found in such medieval theologians as H. Cano, where it is used as a criteria for Christian doctrine. ⁷⁸ Mähler paralleled it to the romantic idea of the genius or spirit of a whole people, a "Volksgeist", but without applying it in a completely unqualifiedly way to the Church's tradition. His linking of this spirit to the Holy Spirit as its efficient cause and to the reality of Christ for its content of truth and light adds a dynamic element that is lacking in many of his contemporaries. ⁷⁹

The notion of *sensus fidei* appears also in Newman's "illative sense", which is described as a reality of the same order, i.e. a faculty of perception, but considered at different levels and in different roles. The Illative sense "is a faculty for foreseeing results, and answers to that first outline of conviction that forms before one has attained the full certitude of truth", while the *sensus fidei* is "a faculty for grasping the implications, as yet not elucidated, of a reality which is already

in its possession."⁸⁰ This is obviously bound up with Newman's idea of the development of dogma, as well as his ideas concerning consulting the laity, ideas we will have occasion to return to later on.

The *sensus fidei* has also been referred to by St. Thomas Aquinas in terms of a certain co-natural knowledge in the mind of the believer. "This co-naturality in the act of faith is always a new kind of adhesion to the object of faith, but it may also, by a sort of instinct, give one a better understanding of the object "which is called a 'supernatural *sensus fidei*'." ⁸¹ Writers also point out that this "instinct of faith" may be attained by "a procedure insufficient to generate logical certainty and using only arguments of congruity."⁸² While St. Thomas "limited his considerations to the individual believer, modern theologians have extended the notion to the whole community of the faithful in space and time, and have seen the *sensus fidei* as a principle of development and a fruit of fellowship in the Church."⁸³

Sensus fidei has also been described in terms of the Church's "consciousness or self-awareness", and in this sense under two aspects, the subjective and the objective, i.e. as an act or faculty and as a constant.⁸⁴ As an act or faculty, *sensus fidei* produces "eine Art instinktiver Urteile hinsichtlich des Glaubensinhaltes" which "bezeichnet aber eig. keinen Instinkt, sondern einen besonderen Erkenntnismodus."⁸⁵ R. Hofmann describes this unique form of knowing as a way of knowing God's will with a certain inner astonishment ("Betroffenheit"), a poetic designation which aptly hints at the dynamic aspect of *sensus fidei*.⁸⁶

We can see that the new stress on the psychological and subjective aspects of our knowledge in the process of the act of faith has blossomed into several interesting and colorful projections as to just what the *sensus fidei* is. As we have already hinted, the difference between *sensus fidei* and *sensus fidelium* is very subtle and not always made by theologians. The *sensus fidei* deals more with the analysis of the powers of faith in the religious subject, while the *sensus fidelium* or the *sensus ecclesiae* devolves from the theologians of the 16th century and carries with it the note of doctrinal criteriology.^{86a} Obviously, the various ways of describing the processes of *sensus fidei* can also be used to describe *sensus fidelium*, and there will be much overlapping here. The terms are certainly not exclusive of one another, although in one sense, *sensus fidelium* can be understood as a subjective part

under the wider scope of *sensus fidei*. The big difference for us, which we will shortly point out, is between *sensus fidelium* and *consensus fidelium*, not between *sensus fidei* and *sensus fidelium*.

d. "Sensus Fidelium"

Several writers have developed the nature of *sensus fidelium* in great detail.⁸⁷ We shall select a few of the more significant definitions of *sensus fidelium* which will assist us in our delineation of the problem.

Generally, *sensus fidelium* is described as "*sens de la foi*", "*Glaubenssinn*", and "understanding of the faith."⁸⁸ It is further specified as "*sens des fideles*"⁸⁹ or as the "faith of the people", a rather vague and clumsy transliteration into English. The Latin expression is usually used in English texts. Hamman cites several definitions from theologians within the past 100 years. All of these arise out of the Roman Catholic Church's grappling with the problem of Tradition, and particularly from the theological writing surrounding the two Marian definitions of 1850 and 1954. It is impossible to consider them without at least mentioning here their relationship with wider themes such as the development of dogma, the role of authority and infallibility, the manifestation of the inspiration and gifts of the Holy Spirit, etc.

Schoeben attributed a passive infallibility to the whole people of God including the laity. "Sie ist in gewisser Beziehung noch unmittelbaren Eigentum des Glaubenskörpers als des Lehrkörpers. Sie wird effektiv durch den Lehrkörper vermittelt, aber nur insofern, als dieser das ordentliche Massere Organ des zugleich unmittelbar im Glaubenskörper wirkenden Heiligen Geistes ist."⁹⁰ Thus the claim for freedom from error or inerrancy is also rooted in the whole body of believers. The teachings of Christ are able to be manifested via a double form, the official teachings of the Church and the "Glaubensbekenntnis." Schoeben also points out how this "Glaubensbekenntnis" of the body of the faithful receives a certain specific, temporal, "logisch" presentation in the pronouncements of the teaching office.

In this sense, he speaks of the "Glaubensbekenntnis... als orientierendes Moment die spätere Entscheidung Lehrkörpers beeinflussen und insofern auf die eigene Tätigkeit des Lehrkörpers zurückwirken kann." ⁹¹ Sensus Fidelium is then described by Scheeben in terms of a "Erscheinungsform der aktiven Überlieferung", and as a "Wirkung und Wiederhall der eigentlichen Lehrtradition." ⁹² There are implications here of a passive role only for the laity, but Scheeben has taken a big step forward from his predecessors such as Perrone and Franzelin ⁹³ who simply equated the concrete handing on of Tradition with the Magisterium of the Church manifested through its official pronouncements and the visible teachings of the doctors of the church and the clergy. Even the last two groups were sometimes excluded as the bearers of tradition. ⁹⁴ The ever-present disjunctive idea of an "ecclesia docens" and an "ecclesia discens" is also present in Scheeben's descriptions of sensus fidelium, but his emphasis on the role of the faithful is a positive and fruitful insight. Yet, the problem of the actual extent of the influence and actual manifestation of insights in doctrine or practice arising originally from the faithful without being only an "echo" of the "Lehrtradition" is still quite undeveloped.

M.D. Koster added several new insights when he described sensus fidelium as a "Last und Neigung verbundene Empfänglichkeit und Auffassungsfähigkeit des Geistes, wie sie auf das ihm Sukkörnliche und Eigenthümliche im einzelnen geht." ⁹⁶ Koster has by far the most penetrating speculation on sensus fidelium and his careful attempts to link it up with the gifts of wisdom, understanding, and knowledge as well as the priority he gives to "Glaubenssinn" as a "locus theologicus" are impressive, though not without sharp criticisms. ⁹⁷ Another interesting advance in thought is Koster's assertion that there is only one "Glaubenssinn" in the Church, effected by one Spirit, and that the Magisterium, the Fathers, the theologians, and the faithful all work together in unison from this one "Glaubenssinn." The individual contributions of each of these "groups" can, however, be separately evaluated, but he feels that this must not be done in too exclusive a manner. This is a point well worth remembering as we proceed with our study, but it can tend to blot out any emphasis on the specific gifts of the Holy Spirit as well as the necessary diversification of functions within the Church. ⁹⁸

Koster also has a tendency to make "Glaubenssinn" into a kind of "middle" through which Tradition is introduced into the Church. Again, this is criticized by the sources we have indicated, but the whole of Koster's considerations must be weighed to catch the positive thrust in his arguments rather than too many of the flaws in it. In general, it is a definite jump forward from the almost totally passive role ascribed to the laity in the Franzelin "Tradition-Magisterium" school.

Dillenschneider pursues a more dynamic approach to *sensus fidei* and to *sensus fidelium*. (As the latter is a subjective part of the former, writers often use them interchangeably, as does our author here.) He allows *sensus fidei* to demonstrate the actuality of the faith along with a certain ongoing and growing instinctivity.⁹⁹ First of all, he excludes from *sensus fidelium* totally free and subjective judgments without recourse to any objective criteria. This tendency is found in the Reformers and writers like Schleiermacher and Ritschl. He also rules out the Modernist idea that it only consists in a Christian feeling or personal sentiment.¹⁰⁰ His description of *sensus fidelium* now comes forth: "Der intuitive übernatürliche Sinn des Glaubenden, Frucht der Kraft seines Glaubens und der Gaben des Hl. Geistes, wodurch er in der Gemeinschaft der Kirche fähig ist, die Virtualitäten des Offenbarungsgutes zu unterscheiden, das ihm objektiv durch das Lehramt vorgelegt ist."¹⁰¹

The broad lines of development, then, appear as follows: the Franzelin "Tradition-Magisterium" school was countered by the more subjective and dynamically orientated spirit of Nähler, Scheeben, Newman, Blondel, Draguet, and de Lubac, all of whom tried to give Tradition a wider ambit.¹⁰² Congar took another tack in stressing the prophetic element in the faith of all Christians, and his work is especially significant for this determination.¹⁰³ Chenu saw the "Christliche Bewusstsein" as a principle of continuing growth and a creative source of new life, "ein Prinzip organischer Kontinuität, deren unfehlbares Instrument in der gottmenschlichen Wirklichkeit der Kirche, des mystischen Leibes Christi, das Lehramt ist."¹⁰⁴ Koster refused to make Tradition into an objective sum of teachings but preferred to stress the subjective handing on of the Christian sentiment ("Gefühl"), or the Christian "sense" ("Sinn"). Dillenschneider opted for a description of *sensus fidei* in terms of a Tradition that

was "die conscientia fidei, die sich aussert in der Gesamtheit der lehrenden und der hörenden Kirche", thus still clinging to a concept of the Church that tends to sharply distinguish hearing and teaching. ¹⁰⁵

It is a brief article by M. Seckler which affords us our final insight regarding the theological nature of *sensus fidelium*. He does not distinguish *sensus fidei* and *sensus fidelium* as much as we have chosen to do in our discussion of the two. He maintains that "Natur. G. (*sensus fidei*, *sensus fidelium*) ist allg. ein aus dem Glauben hervorgehender "Sinn" für alles, was diesen Glauben betrifft." ¹⁰⁶ Seckler refuses to call "Glaubenssinn" an instinct, but rather a special kind of knowing. As a result, we end up with "weniger das Ergebnis einer begrifflichen Arbeit als einer konkreten Erfahrung, die sich infolge vorausgehender Erlebnisse und erworbener Erkenntnisse spontan einstellt." ¹⁰⁷ Hamman notes that a wider perspective has been opened up by Seckler's contention that "der Glaubenssinn weder in Syllogismen noch durch affektive Intuition allein zur Erkenntnis seines Gegenstandes gelangt, sondern durch eine in der Dynamik des Geistes gründende rationale Erkenntnis unreflexer Art, die sich des Logischen bedient, ohne darin aufzugehen, da das Objekt der Glaubenserkenntnis gleichzeitig Prinzip dieser Erkenntnis ist." ¹⁰⁸ Seckler did not follow up this idea further. He only notes that the result of the "Glaubenssinn" is the actual content of the "Glaubensbewusstsein", and then goes on to speak of the role of the teaching office of the Church as an authenticator and critical interpreter of the "Glaubenssinn." ¹⁰⁹ Seckler is very careful to always preserve the necessary inter-relationship that exists between the *Glaubenssinn* and the teaching office of the Church.

Sensus fidelium thus emerges from this complex development in terms of various analogues. It appears as a manifestation of Tradition, as an "Echo" of the Magisterium, which can be considered in an official or merely unofficial (eg. the doctors of the Church) sense, as a kind of "illative sense", a basic "Christian sense" or even "Christian sentiment", a "flair for the faith", a spontaneous

manifestation of certain gifts of the Holy Spirit in the believing and acting Christian, an "experience" of a non-logical kind, or a unique form of faith-epistemology. It has a dynamic and ongoing or developing aspect to it; it is prophetic; and it is rooted in the Holy Spirit as well as in the corporate nature of the Church and so it can never be entirely subjective. 110

With all this in mind, we can now go on to the specific distinction between *sensus fidelium* and *consensus fidelium* before contrasting these views with the more existential presentation of the Anglican tradition.

e. "Consensus Fidelium"

First of all, we should note the various types of consensus that are related to *consensus fidelium* or separate from it. We can immediately set aside certain historical forms of consensus such as the "Consensus Tigurinus", the "Consensus Genevensis" or the "Formula Consensus Ecclesiarum Helveticarum", all of which were various Reformation manifestoes concerning an agreed formula of certain aspects of Christian doctrine. 111

We should also allude here to the philosophical category of "consensus universalis" which is generally described as a common criteria used to assess certain beliefs which are felt to be common to all mankind or to a very large segment of mankind. The universal consensus regarding the existence of a supreme Being is a good example. This category will appear from time to time in our discussions, since it is closely related to *consensus fidelium*. 112 It is also related to certain philosophical theories concerning morality which appeared in the 16th century (eg. "The Morality of Common Sense"), and will occur as a parallel source when we treat of "common sense" in Kirke's writings, as well as the common opinions of mankind in the writings of the 16th and 17th Century theologians whom we are going to consider.

Two other forms of consensus which must be considered are "consensus Patrum" and "consensus theologorum." 113 The moral unanimity of the Fathers of the Church on any form of doctrine or practice has always been regarded as a "locus theologicus" in theology by both Anglican and Roman theologians alike. From the 8th Century on,

the role of individual theologians as well as internationally recognized schools of theology came to the fore, and any agreement on their part again became an influence in both official Church teaching as well as local or national presentations of the faith. The consensus of these groups, particularly that of theologians, cannot be entirely ruled out of our area of study as we have seen from the work of at least one of the men we have mentioned under *sensus fidelium* (Koster). This is why we have to keep the broad picture in mind as well as the specific corner of it on which we are focusing. The faithful, lay Christians, are, by and large, our point of study, and one can never forget, particularly today, that many laymen are becoming excellent theologians.¹¹⁴ Our study has a significant historical section to it, and thus we shall be concentrating on the layman qua layman in it. It goes without saying that we are again concerned with a problem of ecclesiology. The Anglican Church, and particularly the "line" of Anglican moral theology that we are going to examine (heretofore indicated as "Anglo-Catholic", especially with respect to Kirk himself¹¹⁵) does have a clear demarcation between cleric and layman. For purposes of specification, then, we will be usually considering the consensus of the layman as opposed to ordained clergymen, but we must always remain open to the fact that these neat categories are not as clear-cut as they once were.¹¹⁶

In the past, theologians did not clearly distinguish between *sensus fidelium* and *consensus fidelium*. The main note that constantly surfaces regarding *consensus fidelium* is hinted at in Michl's definition of *sensus fidelium*, where he speaks of the "allgemeinen und konstanten Glaubensbewusstsein der Christen."¹¹⁷ Theologians have used *consensus fidelium* as a criteria of Tradition, but only when it has been certain, clear, and concerned with matters that were not riddled with subtleties. *Consensus fidelium*, like *sensus fidelium*, was also at one time identified with the magisterium. Passaglia and Schrader declared it to represent "die Verkündigung der lehrenden Kirche."¹¹⁸ M. Seckler considers the difficulty in terms of the problem of infallibility, and concludes that the consensus is infallible only when it "Wirksam lässt sich sicher nur aus dem moralisch-einstimmigen Zeugnis (consensus) (sic) des gesamten Glaubenskörper erkennen" "Der consensus fidelium ist statistisch festzustellen, der sensus fidei theologisch zu begründen."¹¹⁹ This is a very significant remark, since, remembering

that Beckler does not clearly distinguish *sensus fidei* and *sensus fidelium*, it is one of the rare explicit distinctions made between *sensus fidelium* and *consensus fidelium* by any of the theologians whose works we have considered. But from all we have said thus far, it seems to be quite in order.

All of the analogues of *sensus fidelium* which we have gleaned from our summary do head up the theological and conceptually-orientated nature of *sensus fidelium* as opposed to a more existential and empirically-verifiable nature of *consensus fidelium*. M. Löhrer is helpful here :

Der Glaubenssinn als solcher ist nicht unmittelbar zugänglich. Zugänglich sind hingegen die verschiedenen Formen des Bekenntnisses und Zeugnisses, in denen sich der Glaubenssinn ausdrückt. Dabei ist freilich zu beachten, dass solche Objektivierungen keineswegs eine adäquate und eindeutige Ausdrucksform des Glaubenssinnes darstellen oder darstellen müssen. 120

This is the precise difficulty that faces us in this work. M. LeFebvre felt that "le consentement des fideles" could be viewed as "une témoignage vécu",¹²¹ a neat expression but not too helpful. It appears that the "sens de la foi" which is inherent in the faithful Christian, while at times it can be ascertained somewhat post-factum on certain articles of belief or in certain areas of religious or moral practice, such as occurred during the Arian heresy or the Marian definitions, nevertheless is still very difficult to pin down and assess. Precisely how the *sensus fidelium* becomes clear and accurate, "statistisch festzustellen", "zugänglich" or "get-at-able", in the form of an open and examinable *consensus fidelium* is a prickly query. The *sensus fidelium* can be termed the "living and available belief" of the Christian community while the *consensus fidelium* emerges as the visible, external crystallization for public examination, collation, and acceptance or rejection, of this "available belief." Yet, the theological, sociological and ecclesiological determinations of this still remain very much shrouded in fog.

A recent statement issued by the German Bishops has indicated that "Questions of faith, of ethical norms, and of the sacramental life cannot be solved by means of majority decisions. Here the basic principle of democracy — that all power comes from the people — is not valid. Here it is rather that office in the Church is bound to the Lord alone

in the obedience of faith. Hence the burden of responsibility continues to exist in the particular office of the Pope, of the Bishops, and of the priests." ¹²² Such is the pulse of the Roman Catholic tradition on the question of *sensus* and *consensus fidelium*.

C. A NOTE ON ANGLICAN TEACHING REGARDING CONSENSUS FIDELIUM

Our theological development thus far has been mainly drawn from Roman Catholic sources. As a final setting for the problem, it will be helpful to examine several official statements produced by Anglicanism along with a few theological studies made by several Anglican theologians on *consensus fidelium*. This will afford us a more existential view of *consensus fidelium*, and will give us a different kind of "working definition" to which we can refer in the rest of our treatment of the theme.

1. The Commission on Christian Doctrine.

This commission was appointed by the Archbishops of Canterbury and York in 1922, but its report did not appear until 1935. In its statement concerning authority in the Church, the report dealt explicitly with the concept of *consensus fidelium*. First, the report deals with the authority of the Church in the realm of doctrine. This authority arises from its commission to preach the Gospel to all the world, and therefore the Church has the promise of Our Lord that He would always be with His disciples along with the Spirit who would guide them. The Report then goes on to describe how the Church's understanding of the Gospel is continually renewed by its "experience" of communion with God through Christ. It makes the point that the authority of its doctrinal formulations ought always to be interpreted as resting, at least in part, upon their acceptance by the whole body of the faithful.

"This authority, in so far as it is derived from such a *consensus fidelium*, rests upon the range and quality of the manifold experience which that *consensus* gathers up, and upon the witness which, alike in the devotional and other practice of Christians generally and in the doctrine of theologians, it bears to the truth of the Gospel. The weight of the *consensus fidelium* does not depend on mere numbers or on the extension of a belief at any one time, but on continuance through the ages and the extent to which the *consensus* is genuinely free." ¹²³

The Report further emphasizes the necessity of all Christians to grant a very high authority to doctrines which the Church has been generally united in teaching, underlining the limitations of each individual's limited range of knowledge and stressing the far wider scope of the bases of the Church's knowledge and belief. It then assails as "presumptuous" the individual Christian who would reject any part of that belief unless he felt himself bound in conscience so to do, and unless he felt that he had "substantial reasons for holding that what he rejects is not essential to the truth and value of Christianity." 124

A further application of this teaching is made in the light of Anglican ecclesiology when the report asserts :

"At the same time, belief resting on external authority alone cannot have the full value of faith, since faith requires a personal appropriation of what is believed in. Therefore, every individual ought to test his belief in practice, and, so far as his ability and training qualify him, to think out his own belief, and to distinguish between what he has accepted on authority only and what he has appropriated in thought or experience. But he must recognize that it is only in the fellowship and worship of the community that he can come fully to appreciate and accept." 125

2. The Lambeth Conference of 1948.

The Committee Report on "The Meaning and Unity of the Anglican Communion" of this conference again took up the question of consensus fidelium under the general heading of authority in the Church. It categorically asserted that "The positive nature of the authority which binds the Anglican Communion together is therefore seen to be moral and spiritual, resting on the truth of the Gospel, and on a charity which is patient and willing to defer to the common mind." 126 This Report taught that authority was inherited by the Anglican Communion from the undivided Church of the early centuries of the Christian era, and was to be considered as "single" since it was derived from a single Divine Source. This authority reflects within itself the richness and historicity of the divine Revelation, the authority of the eternal Father, the Incarnate Son, and the life-giving Spirit. It "is distributed among Scripture, Tradition, Creeds, the Ministry of the Word and Sacraments, the witness of the saints, and the consensus fidelium, which is the continuing experience of

the Holy Spirit through His faithful people in the Church." 127

The authority within the Anglican Communion is seen to be dispersed rather than centralized, and the many elements that constitute it are seen as "together contributing by a process of mutual support, mutual checking and redressing of errors or exaggerations to the many-sided fullness of the authority which Christ has committed to His Church." 128 The Report then goes on to describe various aspects of authority as viewed by the Anglican Community in terms of avoiding temptations to tyranny, the dangers of unchecked power, its suppleness and elasticity, and the difficulties which it can create in those trying to obey it along with the great demands it makes on one's faith.

We then come to the interrelation of the elements in authority which we have just cited. They are seen in organic relation to each other so that

"Just as the discipline of the scientific method proceeds from the collection of data to the ordering of these data in formulae, the publishing of results obtained, and their verification by experience, so Catholic Christianity presents us with an organic process of life and thought in which religious experience has been, and is, described, intellectually ordered, mediated, and verified ... (This) religious experience is described in Scripture, defined in creeds and in continuous theological study, mediated in the Ministry of the Word and Sacraments by persons called and commissioned by God through the Church, and is verified in the witness of saints and in the consensus fidelium." 129

This citation shows a quite different orientation to the various theological sources involved in establishing a concept of authority as compared with the direction we have observed in the Roman Theologians. We find a further substantiation of the dynamic and existential understanding of consensus fidelium in the Conference's near-verbatim repetition of the 1935 Commission's statement on consensus fidelium :

"The Christ-like life carries its own authority, and the authority of doctrinal formulations, by General Councils or otherwise, rests at least in part on their acceptance by the whole body of the faithful, though the weight of this consensus does not depend on mere numbers or on the extension of a belief at any one time, but on continuance through the ages, and the extent to which the consensus is genuinely free." 130

3. Further Anglican Theological Speculations

Before drawing up a summary of the relevant points from these official statements, it will be helpful to refer to a few theological projections made by Anglicans on consensus fidelium which give fresh insight for our final "working definition". In an excellent article published in The Expository Times, Prof. C.F.D. Moule of Cambridge University gives a fine biblical background for any teaching on consensus fidelium. After this preparation, he offers a very concise and pithy description of consensus fidelium which he formulates as follows: "The organ of perception through which the Holy Spirit may be expected to speak with distinctively Christian moral guidance is the Christian worshipping congregation listening critically." ¹³¹ Prof. Moule stressed in a parenthesis that each of the last five words of the definition is vital to the definition, and then he goes on to clarify them. All that we wish to do in our conclusion is to assess the definition in the light of the two reports we have quoted from.

But before formulating these conclusions, mention should be made of another Anglican writer, Michael Keeling, who goes into the implications of Acts 15:28: "It has been decided by the Holy Spirit and by ourselves not to saddle you with any burden beyond these essentials." He concludes that this is the key to the Christian community's understanding of itself as a source of moral authority. Why? Because it "... believes that it is a people through whom the Spirit works.... The will of God is expressed through what the whole Christian community thinks — what is technically called 'the mind of the Church' — and it is shown primarily in ways of worship and ways of living, and only secondarily in the decisions of councils, and in doctrines and creeds." ¹³² He maintains that this consensus may take a long time to express itself since it must work through the consciences and worship of a vast number of people. He also emphasizes that this "process of decision making" is not to be confused with decisions taken through any particular organ or institution. Wrong decisions may be made at any time by a given man or body of men, but "the Christian belief is that in the end there will emerge a consensus which will correct the mistake." ¹³³ He concludes by giving a parallel description of the theologoumenon "Sobernost" which is to be found in the theology of the Orthodox tradition. ¹³⁴

Further references to the actual use of consensus fidelium in the realm of moral judgments may be found in other Lambeth Conferences, for example, ¹³⁵ but these do not add anything of further use to us at this point with regard to the basic Anglican understanding of consensus fidelium. Thus, we will proceed to summarize what is relevant to our findings and relate this to the theological setting we have been building up.

i. These Anglican sources clearly show that consensus fidelium is considered as a definite and authentic source and criteria of Christian doctrine and practice. It is extremely interrelated with the whole problem of authority which will occupy us when we deal with Kirk. We should also note the role given to consensus fidelium as a "verification" of what is authentic in the Christian "religious experience." While neither report tries to distinguish explicitly between sensus fidelium and consensus fidelium, yet the reference to being willing to "defer to the common mind" has the same force as that which we have attributed to consensus fidelium. That the act of deference is considered in terms of "verification" accords with our description of consensus fidelium as the manifestation or specification of sensus fidelium. Thus, there seems to be agreement between the meanings of the terms used in the Anglican documents and the understanding of them as we have traced it within the Roman tradition. ¹³⁶

ii. We can also note the clear use of consensus fidelium as a source not only in questions of doctrine but also in questions of practice too. The fact that the Report of 1935, for example, set out to deal with the authority of the Church in matters of doctrine must be balanced with the reference to a consensus concerning devotional and other practices of the Church. ¹³⁷ The Report also stresses the necessity of every Christian testing his belief in practice which would clearly involve moral judgments too. Michael Keeling is quite explicit in calling consensus fidelium — the mind of the Church shown in ways of living — a source of moral judgment.

iii. These pronouncements regarding consensus fidelium afford us several insights into its nature as viewed by Anglicans. They always situate consensus fidelium within the aura of a worshipping and praying community.¹³⁸ This stresses not only the community aspect of consensus fidelium but also the dynamic aspect of the action of the Holy Spirit operative here and now in the Christian assembly. The important element of faith perceived WITH others is a good counterbalance to the extremes of illuminism, quietism, and subjective individualism which were mentioned earlier as potential risks in dealing with this source.¹³⁹ Prof. Moule has given us what might be regarded as a certain ideal setting when he describes consensus fidelium as "the Christian worshipping congregation listening critically." We immediately perceive the ongoing, dynamic, flexible, evaluative, and even reformable nature of consensus fidelium, and the Lambeth Conference's assessment of it in terms of the "continuing experience of the Holy Spirit through His faithful people" says the same thing in but another way.¹⁴⁰ Nor does this see consensus fidelium as a mere "situational ad hoc solution", but rather puts more emphasis on it as a "process of decision-making." By placing it side by side with Scripture and Tradition as well as within a sacramentally-orientated Church, we cannot but help feel that the ultimate reliance on Christ and the Holy Spirit as well as the reference to a living, teaching interpreter, namely the Church, gives the whole concept perspective and authenticity.

Finally, we can note the two qualifications that Lambeth specifies: the consensus must manifest a "continuance through the ages", and it must be "genuinely free."¹⁴¹ Historical continuity gives us the necessary thread for any consensus fidelium, since without a link with God's Incarnation and its continuance in time, we are in danger of total relativism and subjectivity. It also allows for full spontaneity of the spirit, since any consensus arrived at as a result of political or sociological pressures must be denuded of these pressures to determine the precise core of the message of the Spirit inherent in the consensus. And here, many difficulties can be immediately perceived. Imperfections abound in historical situations and even the ministry may stray into error. But the positive function of consensus fidelium within history (not merely in history, which gives one a feeling that it is always something said and done, only in the past) has played a vital role in the formation of Christian doctrine and practices. Canon Eric Kemp asserts that "As a matter of fact it has been the consensus fidelium formed over a number of

years which has determined whether any particular formulation of doctrine was or was not true to the revelation given in the scriptures."¹⁴² All of these factors show that consensus fidelium has far more depth and complexities to it than any facile designation of a "Gallup Poll" or a "majority rule" subtitle allows.

4. Summary: A Working Definition of Consensus Fidelium.

It may be helpful if we tried to bring together all the elements concerning consensus fidelium which we have pulled together from these Anglican sources and formulate a working definition of what it is.

Consensus fidelium may be described as **THE MANIFEST, MORAL, AND FREE AGREEMENT OF THE CRITICALLY LISTENING AND WORSHIPPING COMMUNITY OF THE FAITHFUL, WHICH EXPRESSES THE AUTHENTIC AND CONTINUING EXPERIENCE OF THE HOLY SPIRIT, AFFORDING US WITH ONE EXPERIENTIAL GUIDE TO GENUINE CHRISTIAN DOCTRINE AND PRACTICE AS VERIFIED WITHIN THE PAST AND THE PRESENT HISTORICAL REALITY.**

- "manifest" : It is distinct from consensus fidelium: it is external, assessable, and "get-at-able" ("zugänglich"); it is the "verification" of consensus fidelium.
- "moral" : It is the fruit of the agreement of the whole body of the faithful. As with the consensus Patrum, it does not need to be a 100% agreement, but a significant majority to clearly indicate the direction of the Spirit. The extent of this unanimity needs further discussion.
- "free" : The action of the Holy Spirit must be uncoerced and spontaneous; ¹⁴³
- "agreement": This is inherent in the very meaning of the word "consensus"; it is only when we do find some kind of agreement regarding doctrine or practice that we can refer to the christian experience as any kind of a theological locus or source of judgment. But many problems still remain as to the actual extent and determination of this agreement.

- "critically listening" : This implies that there is a distinctly rational element in consensus fidelium. Any true consensus must take cognizance of the cultural, sociological, and scientific milieu of the surrounding ethos. The Spirit does not speak in a vacuum. But this does not imply that the whole process takes place in a purely logical or scientific way, either. The non-rational element is present too. ¹⁴⁴
- "worshipping" : The true setting for the consensus is a prayer-filled and faith-orientated atmosphere. This applies especially to specific occasions of determining a consensus fidelium.
- "community of the faithful" : For our purposes, we are only considering the laity, but there must always be a horizontal relationship to the rest of the Church. Very often any clear-cut distinction is impossible, as we have mentioned.
- "which expresses the authentic and continuing experience of the Holy Spirit" : There must be a link with the historical facts of Revelation as well as their manifestation throughout the ages. Consensus fidelium is both a verification of past agreements by the Christian church, AND present ones being formulated. This is explicitated in the last part of the definition "as verified within the past and present historical reality." ¹⁴⁵
- "one experiential guide" : The consensus is not the ONLY source of Christian doctrine or practice. It is something which is living, and publically, in some form of vital action, bears out the consensus fidelium. It is "experiential." It concerns faith and "practice."

D. SENSUS FIDELIUM AND CONSENSUS FIDELIUM: SOME PROBLEM AREAS

Our grappling with the use of consensus fidelium as a source of moral judgment in the tradition of Anglican Moral Theology will be greatly aided if we are aware of a few of the lacunae discovered from our survey

of the theological investigations undertaken by the theologians considered. Good moral theology must always be well founded on good dogmatic theology. This was a primary tenet of Kirk's.¹⁴⁶ The close relationship between *sensus fidelium* and *consensus fidelium* is all too clear by now.

Some of the theological problem-areas that must underlie our own inquiry, even with regard to moral judgments, in the use of *consensus fidelium* may be listed as follows :

1. Since the *sensus fidelium* is rooted in a living, teaching Church, to what extent do the faithful figure in any manifestation of authoritative teaching, whether in questions of faith or morals? What limits or delineations may be drawn up which will be useful in actual practice? Can the Church's exercise of authority be viewed in any new or fresher lights? What excesses are to be eschewed?
2. All writers associate *sensus fidelium* and any resulting consensus with the action of the Holy Spirit in the Church. However, there is still much work to be done as to the exact relationship of the gifts of the Spirit and recent work being done in sense perception, experimental contacts, communitarity, and a more detailed connection with the life of grace and the ways in which it is made manifest, must be delved into for newer insights.
3. "Eine wirkliche Verwandtschaft mit den Glaubensdingen kommt erst durch die Einwohnung Gottes zustande."¹⁴⁷ With this in mind, one can reasonably wonder to just what extent this indwelling of God in the Christian will be related to any *consensus fidelium* which may have become manifest in the past or is being formulated in the present. Can any positive reflections be made about an existing *consensus fidelium* and the concurrent "*consensus Dei*" or "*consensus erga Deum*"? (These are expressions we have coined and will be used interchangeably in the text.)
4. Since the action of the Holy Spirit is now seen to be ever more dynamic, ongoing and developing in the manifestation of Tradition (as opposed to a more fixed and static notion where Tradition = Magisterium only), then to what extent does this influence concepts of development of dogm and/or moral practices? Does this mean

there can be some kind of a "new revelation"? In what way can revelation be a "continuous development"?

5. Is it possible to have a truth of the faith emerge from the *sensus fidelium* and be manifested by a *consensus fidelium* which might have preceded both theological speculation and the official teachings of the Church?
6. To what extent can *consensus fidelium* influence a development in the faith or practice of the Church after the teaching office has officially pronounced on the specific question?
7. Since both *sensus fidelium* and *consensus fidelium* are referred to as a kind of "unreflexive Act" which defies syllogistic logic, what similar types of "mental operations" or "knowing principles" can be studied to help us to understand this unique kind of faith-operation? Where do areas of study concerning common-sense, the arts, sociology, etc. fit in, especially in a moral consensus? ¹⁴⁹
8. Many writers consider the gift of "piety" a key source in evaluating the subjective dispositions of those considered in determining any *consensus fidelium*. ¹⁵⁰ Are there any positive norms that could be formulated to further delineate this gift of the spirit and which could be applied or at least upheld as ideals in concrete practical cases of working out a consensus?
9. To what extent is the commonly accepted note of "moral unanimity" or "universality" generally associated with *consensus fidelium* valid? Is this a collective, quantitative or geographical criteria? ¹⁵¹
10. What further implications from these queries follow for the Church's understanding of authority, both its nature and its use, as well as for the specific area of the use of *consensus fidelium* as a source of moral judgment? ¹⁵²

These questions give some idea of the problems that beset us as we now turn to the use of *consensus fidelium* in Anglicanism. Obviously we cannot hope to answer them all. Indeed, the whole theological world today is pondering them. But these theological problem-areas must be kept in mind since they are the same problem areas for both Anglicanism and Roman Catholicism. In Anglicanism, as we have pointed out, we will find ourselves dealing more often with a particular theological methodology or approach to each difficulty. In one

way, this is very helpful, since the key areas concerned with consensus fidelium concern the precise mode of precisioning the manifestations of the sensus fidelium. Our sources will show us more insights with regard to the use of consensus fidelium than with its nature, precisely for this reason. Our study will often taken on a more existentially- rather than essentially-orientated direction from the nature of the writers approached. We must harken back more and more to our introductory sections on the English temperament and the spirit of Anglicanism to remind us of the kind of tradition we are studying. Also, the methodology and ethos of each writer plays a larger role in this theme than it would normally play in more speculative topics. Mackey has remarked in passing that "there is no doubt that Catholic theology is still far from the last word on the subject."¹⁵⁵ Perhaps our own limited search within Anglican moral thought can benefit us, although they too would be the first to say that they do not have all the answers on the subject either.

FOOTNOTES FOR CHAPTER ONE

1. The Life and Letters of Kenneth Escott Kirk, Bishop of Oxford 1937-1954, London, 1959, 221pp.
2. R.C. Mortimer, "The Late Bishop of Oxford", ODM, Oct. 1954, pp. 28-29; Obituary by the Bishop of Buckingham, ODM, August, 1954, pp. 98-99; "Three Memories of the Late Bishop", ODM, August, 1954, pp. 115-119;
 - "Dr. Kirk as a Theologian", S.C. Carpenter, pp. 115-116;
 - "Dr. Kirk and the Woodard Schools", R.C.F., pp. 117-118;
 - "Dr. Kirk's work for the Religious Communities", F.P. Marton, pp. 118-119.
3. Cf. FROST, pp. 5-8
4. Cf. LTHK, (1960), Vol. VI, col. 307; New Catholic Encyclopedia, VIII, p. 205; F.L. Cross, The Oxford Dictionary of the Christian Church, pp. 770-771.
5. A Dictionary of Christian Ethics, London, 1967, p. 190.
6. Fr. Frost has performed a major task in outlining year by year, all of the publications of Kirk during his lifetime. Cf. FROST, pp.9-27
7. The Study of Theology, London, 1939; The Apostolic Ministry, London, 1946.
8. F. Frost has covered the full scope of Kirk's moral theology, and his observations and criticisms of Kirk are well presented. We will draw on them as needed in an effort to fully understand Kirk's thought on this one point. Cf. FROST, "La Merale de Bishop Kirk", pp. 29-33, and "La Synthese de Kirk", pp. 379-382.
9. Kirk himself made an interesting comment: "Only an incurable optimist ... will expect complete consistency even from the greatest writers." TheoE., p. 55.
10. Cf. Robert Page, New Directions in Anglican Theology, p.1.
11. E.L. Mascall, "The Future of Anglican Theology, XXXIX, (Dec. 1939), p. 407. Prof. Mascall also pointed out two grave defects with this Liberal Catholicism: 1. Its Catholicism was something less than the Catholicism of the Church; 2. The philosophical basis which it assumed was very questionable and has already become outmoded. Cf. Art. cit., p. 407.
12. "In retrospect it is apparent that Kirk was detached from much of the prevailing liberal spirit of the time. While he had competence in New Testament criticism akin to his contemporaries, he was in reaction from the pragmatism and immanentism which he sensed as faults of the period. In lectures on The Crisis of Christian Rationalism (1936) he criticised Hegelian influences which still lingered in Anglican theology; and later in a Gore Memorial Lecture entitled 'The Coherence of Christian Doctrine' he pleaded for that unity of dogma which the later Liberal Catholicism tended to obscure." A.M. Ramsey, From Gore to Temple, pp. 107-108.

13. Cf. art. cit., p.410
14. Cf. Joseph Fletcher, Situation Ethics, The New Morality, London, 1966, where Kirk is typed as a "soft legalist" but "hard as flint underneath", p. 73.
15. Op. cit., p. 165.
16. Anglican Moral Theology along with Roman Catholic Moral theology has been described as follows : "...there is too much law in it, too many hair-splitting legal distinctions, too much deduction from fixed principles, too little attention to empirical evidence (for instance, in psychology and sociology), too simple a notion of the term 'natural', and too little concern for perfection as against minimum obligations." Cited by R. Page, op. cit., p. 165, from an article by Ronald Preston summarizing criticisms made in 1939 by M.B. Stewart, Theology, Jan. 1961, p. 4.
17. H. Waddams, A New Introduction to Moral Theology, London, 1965, p. 36.
18. E.W. Kemp, in the Forward to the new abridged edition of The Vision of God, London, 1966, p.vii.
19. Cf. FROST, p.7.
20. J.S. Bezzant reviewing The Life and Letters of Kenneth Escott Kirk, Bishop of Oxford 1937-1954, by E.W. Kemp, The Journal of Theological Studies, N.S. XII (Oct. 1961), p. 401.
21. V. Demant, "Kenneth Kirk as Moral Theologian", The Church Quarterly Review, vol. 158 (Oct. - Dec., 1957), p. 426.
22. Cf. KEMP, p. 49.
23. Cf. FROST, pp. 379-382, for a good critique of Kirk on the problem of his tendencies to situationalism. This point will occur again when we treat of Kirk's moral theology.
24. Fletcher initially sides with Kirk but later on in his book he takes sharp issue with him. Thus he asserts: "We need only to recall how the dean of Anglican moral theologians, Bishop Kenneth Kirk, ended his effort to be a casuist, a practical moralist. Pointing out that at most the number of unalterable principles must be "very small", Kirk admitted that "if we followed out this line of thought to the end (as has rarely been done in Christian ethics), there could strictly speaking be only one such principle. For if any principle has an inalienable right to be observed, every other principle would have to be waived if the two came into conflict in a given case." (CAIP, pp. 351-352.) Exactly! Christian ethics has indeed failed to follow up that line of thought! But situation ethics picks it up." Op. cit., p. 36. Further on, Fletcher discusses Kirk's use of a case from one of Sir Walter Scott's novels (CAIP, pp. 351-352) and proceeds to scathe Kirk as "hard as flint underneath." p. 73. Fletcher is hardly befriending Kirk as a true

exponent of situation ethics.

25. CAIP, p. xvii.
26. E.J. Bicknell, A Theological Introduction to the Thirty-Nine Articles, (1955ed.), p. 301.
27. No Rusty Swords, pp. 98-99.
28. Ibid.
29. "An Englishman does not like to come into conflict with the society to which he belongs, but still less does he like to sacrifice his own individuality. This easily leads to the development of an official or public, and a private or hidden, world of thought, to both of which an Englishman can do justice without much trouble. This applies to the realm of religion as well. As long as he enjoys a certain amount of personal freedom and no force is brought to bear on his conscience he will, if at all possible, conform to what is official and prescribed. But at the same time he will go his way in his personal life and in the smaller or greater circle of persons who are similarly minded." W.H. Van de Pol, World Protestantism, London, 1964, p. 196.
30. The new method of ethical enquiry was praised by the editor of Theology, G.R. Dunstan: "The new method is less assured about the solution; but it does recognize the complexity of the issues, and the more so as it elicits from the specialists severally concerned their own professional — that is, ethical — stake in the problem." LXVIII, (March, 1965), p. 123.
31. Cf. SSM, pp. 34; 98-100.
32. The Bible Today, p. 125.
33. Paul Elmer More and Frank Leslie Cross, Anglicanism, p. xxii.
34. It must be pointed out that even though Kirk wrote this in 1918, the overall pertinence still obtains, and has relevance for our study.
35. SSM, p. 73.
36. Ibid.
37. Ibid., p. 91. Kirk continues: "Give him a position and a responsibility and he will carry it out well and intelligently; but do not expect him to undertake it unless persuaded from without, or to see and seize opportunities of setting an example or leading a reform on his own initiative. He prefers to remain a private citizen, even when conscious of an aptitude for public life." Ibid., p. 91.
38. SSM, p. 75.
39. Ibid.

40. Eg. Cf. David Martin, A Sociology of English Religion, London, 1967, which also contains a good bibliography and interesting subjects for further research. M.J. Jackson also has some interesting contemporary observations about what he calls the "social eidos" ("the underlying pattern of emotional attitudes") in his article "The Spirit of the Age in Church Reform", Theology LXXI, August, 1968, pp. 357-363.
41. W.H. Van de Pol, op. cit., p. 196. Cf. M. Villain, Unity, London, 1963, pp. 132-149.
42. The Lambeth Conference, II, p. 83. It goes on to explain that that this "is not only an important source of Anglican teaching, it is also the means by which the Anglican tradition has been sustained. The English Reformers were not trying to make a new Church. It continued to be the Church of England, the Ecclesia Anglicana, as Magna Carta described it in 1215. For this reason the Anglican Communion is not a sect. It is a true part of the Catholic Church." Ibid.
43. Cf. The New Reformation, London, 1965, p. 20.
44. Op. cit., p. 233.
45. Ibid.
46. Ibid., p. 232. Cf. also the Church and State Report of 1935, p. 26; and the Committee Report dealing with "The Anglican Communion -- A Fellowship", The Lambeth Conference, 1948, pp. 84-86; also S.L. Ollard, "Church and State", Dictionary of English Church History, p. 115. Mgr. Laurence Gouldar, in a brief article in The Catholic Herald, Mar. 14, 1969, p. 3, made these remarks about English non-Catholics which are very much ad rem: "The English non-Catholic way of thinking is a great puzzle to many Catholics, particularly to those who have always been Catholics, more so to Continental Catholics. It is something peculiarly English, and takes to religion much the same attitude which the people of this country gave to politics, or did until we became serious about them. To most religious Englishmen, there is a great distinction between personal and institutional religion. It is the latter which really matters. Membership of a Church is much less important and often not important at all. We must bear this in mind when the question of unity comes up To the Anglican with his undefined concept of independent Churches, unity will be something in the nature of the British Commonwealth -- an association of autonomous nations held together by the lightest of bonds and differing in many things."
47. Van de Pol, Op. cit., p. 233.
48. Cf. From Gore to Temple, pp. 164-165.
49. Van de Pol notes that in no other country were so many varying influences at work in the Reformation. "In this connection one usually speaks of the via media of Anglicanism. This is alright provided the via media is not looked upon as a middle path between the Catholic Church and the Reformation. The via media refers to

the method of reform. It is a matter of avoiding extremes such as Puritanism. The via media means that only those teachings and practices of Romanism were rejected which the Reformation considered contrary to the testimony of Sacred Scripture. At the same time many elements were preserved which Puritanism had unjustly rejected because of an exaggerated one-sidedness and extremism." Op. cit., p. 228.

50. "Meanwhile Anglican theology was inclining more and more to the principle of a via media between Romanism and Protestantism. The Caroline divines regarded the catholicity of the Church of England as its most important attribute and its Protestantism as something incidental and passing, particularly if it deviated from the teaching, institutions and customs of the undivided Church of the first few centuries. They read and interpreted Sacred Scripture not in the light of the Reformation but in that of the Church Fathers. Moreover in the controversies between the Calvinists and Arminians they sided with the latter. Just as the Puritans were unable to distinguish between catholic and Catholic Christianity so also did the Caroline divines risk losing sight of the distinction between Reformation and second generation Protestantism." Ibid., pp. 242-243.
51. More and Cross, op. cit., p. xxii.
52. Ibid., p. xxiv. Also, of. A. Vidler's article, "Appended Note on 'Authority' and 'Liberty' in the Church", in Soundings, Cambridge, 1962, pp. 142-145. Also of. R. Page, op. cit., p. 33.
53. "If the distinctiveness of Anglicanism lies not in a theology but in a theological method, the distinctiveness of the method lies in the conjunction of these elements in one theological instrument." H.R. McAadoo, The Spirit of Anglicanism, London, 1965, p. vi.
54. More and Cross, op. cit., p. xx.
55. "It was a policy of leaving as open questions very much on which there was no conciliar decision of the Universal Church requiring acceptance of a particular belief under pain of anathema; of condemning certain extreme positions, and allowing as lawful widely differing opinions which came between them ... This policy is seen in its fullest development in the Articles of Religion." Henry Wace, An Appeal to the First Six Centuries, containing an address on Variations in Doctrine and Practice, London, 1905, p. 11.
56. Cf. A.T. Hanson, Beyond Anglicanism, p.110. This "undisciplined" aspect of Anglicanism has been further refined in the following comment: "Not only in the seventeenth century but from the time of Henry VIII to the present day, if there is any outstanding note of the English temper it is a humility of awe before the divine mysteries of faith and a recognition of the incompetence of language to define the ultimate paradox of experience. It is a pragmatism not of the lips only, as with the scholastics of the past or the present, but from a deep conviction that the rationalization of the supernatural is always in danger of pushing on to a formula which magnifies one half of the truth to an Absolute by excluding the other half." More and Cross, op. cit., p. xxxvii.

57. Cf. the introduction by WM. Temple in Doctrine in the Church of England, a report submitted to the Archbishop of Canterbury, 1935, p. 25.
58. Ibid., p. 10.
59. Ibid., pp. 4-5. The introduction describes the indebtedness of Anglicanism to Patristic writings, particularly the Greek Fathers, and pays special tribute to St. Augustine.
60. "By empiricism in Anglican theology, I have in mind the basic assumption that sound theological work is inseparable from matter of fact rooted in human experience ... One seeks to stick close to that experience, avoiding so far as possible a priori assumptions in approaching and understanding the data." R. Page, op. cit., p. 40.
61. Ibid., p. 32.
62. "If the Anglican differs from the Romanist or the radical Protestant, it is because more definitely and consciously than either he justifies his belief by the pragmatic test of experience, namely: "Does it work?" It is not that he rejects authority for an unchecked individualism; he sees that his personal experience is no more than a fragment of the larger experience of mankind, and must be controlled at every step by that accumulation of wisdom which is the voice of the Church. What he rejects is the Absolute of authority based on a priori theories of infallibility. Rather, looking within and without, he asks the consequences of believing or not believing. How does acceptance of the dogma of the Incarnation work out in practice? Does faith bring with it any proof of its objective validity?" More and Cross, op. cit., p. xxxiii.
63. "As I regard Pelagianism as of all heresies spiritually the most pernicious, I share in some degree the Continental anxiety concerning our habitual inclination towards it. Yet, I am glad that we have not been lastingly subjected to the distinctively Augustinian doctrine of the Fall, but can balance this with the very different doctrine of some of the Greek Fathers." William Temple, Introduction to Doctrine in the Church of England, p. 6.
64. Cf. Van de Pol, op. cit., pp. 234-235
65. CAIP, pp. xiv-xv.
66. "But he was all along bothered about the relation of authority and liberty, and I think never quite to his own satisfaction stated an Anglican theory of authority — as indeed who else has ever done?" V. Demant, art. cit., p. 426. Prof. Demant was one of Kirk's students, a fact which make his comments even more poignant.
67. Cf. William Temple, op. cit., p. 5.
68. Bernard Leeming, "Anglican Communion", Sacramentum Mundi, I, p. 36.
69. Y. Congar, Jalons pour une Théologie du Laïcat, p. 398.

70. Cf. Ibid.
71. Op. cit., p. 128.
72. Y. Congar, op. cit., p. 398.
73. Tradition and Traditions, London, 1963, p. 314.
74. Ibid., pp. 315-316. Congar gives a good list of Patristic and medieval sources for *sensus ecclesiae* here.
75. Ibid., p. 317.
76. Y. Congar, Jalons pour une Theologie du Lafcat, p. 398, footnote 71.
77. Cf. J. Mackey, The Modern Theology of Tradition, pp. London, 1962, 104ff.
78. Cf. Congar, Tradition, p. 317, footnote 1; also Congar, Jalons, p. 398.
79. Cf. Congar, Tradition, p. 317; of also, Hamman, op. cit., p. 244.
80. Congar, Tradition, p. 318. This is actually a comparison made by Congar, but it fits in well here to give us a capsule summary of an important and necessary aspect of Newman's thought.
81. Candido Pozo, "Development of Dogma", Sacramentum Mundi, II, p. 101; cf. also ST, II, II, q. 2, art. 3, ad. 2. and De Veritate, q. 14, a. 8, c.
82. Cf. Pozo, ibid., p. 101; for more studies done on the thought of St. Thomas regarding *sensus fidei*, cf. Congar, Tradition and Traditions, pp. 318-319, and Hamman, op. cit., p. 259, footnote 271.
83. Congar, Tradition and Traditions, p. 318.
84. Ibid., pp. 319-321. Congar again takes up Newman's thinking on this, and adds some very pertinent remarks which are helpful in studying the twofold aspect of Tradition and avoiding any purely subjective approach when considering the consciousness of the Church by itself.
85. LThK, IV, col. 945.
86. Cf. op. cit., p. 128. Hofmann adds that "Der Glaubensbesitz hat jedoch eine rationale Struktur, in der er auch mit anderen Glaubenswahrheiten und mit dem Glaubensbewusstsein anderer Zeiten zuverlässig verbunden ist." Ibid.
- 86a Cf. Y. Congar, Jalons pour une Theologie du Lafcat, p. 398, footnote, 71.
87. Cf. especially Hamman's excellent bibliography, op. cit., pp. 242-261. Also J. Mackey, The Modern Theology of Tradition, pp. 97ff; and —, Tradition and Change in the Church, Dublin,

1968, for doctrinal applications. (This work will not be referred to again in our study, so all references to Mackey will be to the first work indicated.)

88. J. Mackey, The Modern Theology of Tradition, p. 95. Cf. also LThK, IV, col. 945.
89. M. Lefebvre, art. cit., pp. 61-92. Cf. also J. Beumer, "Glaubenssinn der Kirche?", Trier Theologische Zeitschrift, 61(1952), p. 129-142; ---, "Glaubenssinn der Kirche als Quelle einer Definition", Theologie und Glaube, 45(1955), pp. 250-260.
90. H. Hamman, op cit., p. 243.
91. Ibid.
92. Ibid.
93. Bainvel-Billot-Deneffe, Dieckmann, Michel, Filograssi, Burghardt, Mazzella, Cardinal Tisserant and Bálac are all regarded as Roman theologians subscribing to the Franzelin "Tradition=Magisterium" view. Cf. Hamman, op. cit. p. 261, and Mackey, The Modern Theology of Tradition, pp. 95-104.
94. J. Mackey, op. cit., p. 97.
95. Strangely enough, the article in The New Catholic Encyclopedia (1967) by B. Forshaw entitled "Consensus of the Faithful", p. 211, even though citing Vatican II on this point, still tends in the same direction, calling the "ecclesia discens... the correlative of the active infallibility of the ecclesia docens". Candido Pozo's article "Development of Dogma" in Sacramentum Mundi, II, p. 101, corrects this dated view: "Meanwhile the distinction between the teaching and the Church learning was generally understood to signify that the latter was a passive partner. But there is no such thing as passivity under the action of grace." The work of Scheeben with regard to this whole question is praised in the article on "Infallibility" in Sacramentum Mundi, III, (1968), p. 133.
96. Hamman, op cit., p. 245.
97. Hamman analyzes and criticises both Koster's views and those of Beumer, Koster's most extensive critic. Cf. Hamman, op. cit., pp. 247ff. Also, J. Beumer, art. cit., Trier Theologische Zeitschrift, 61(1952), pp. 129-142, and also J. Mackey, op. cit., pp. 77-79; 91; 104-105; 131-134.
98. Cf. J. Mackey, op. cit., p. 79.
99. "Sie leitet sich ab von der scholastischen Lehre über die Fähigkeit der Glaubens, durch die es dem Gläubigen möglich wird, die verborgenen Virtualitäten des Glaubensschatzes zu erkennen und wie instinktiv zu erfassen." Hamman, op. cit., p. 254.

100. Hamman, op. cit., p. 261.
101. Ibid., p. 255. A good critique of Dillenschneider is given on p. 257.
102. Ibid., p. 261.
103. "Le Fonction Prophétique de l'Eglise", Irenikon, 24(1951), esp. pp. 441-443.
104. Hamman, op. cit., p. 261.
105. Ibid. Newer philosophical views of H. Rondet and K. Rahner are summarized on p. 260. They stress what they call the "Logic of Finding."
106. LThK², Freiburg, 1960, IV, col. 945.
107. Ibid.
108. Op. cit., p. 258.
109. Ibid., p. 259.
110. LThK, Col. 947. A brief but incisive and practical insertion of the role of *sensus fidelium* is to be found in Patrick Granfield's article "Ecclesial Cybernetics: Communication in the Church", Theological Studies, Vol. 29, (Dec. 1968), 4, pp. 662-676.
111. Cf. "Consensus", Enciclopedia Cattolica, Sansoni, Firenze, 1950, IV, col. 407-408.
112. Cf. "Consensus Gentium", LThK, III, col. 46; "Le Consentement Universel", DTC, IV, p. 108; Hastings Encyclopedia of Religion and Ethics, ii, 280b.
113. Cf. LThK², III, col. 44-45.
114. This is not merely a 20th century phenomenon. Origin and Justin were laymen. W.G. Ward, a contemporary of Newman's, was singled out as an exceptional lay theologian by Newman's critics, who opposed Newman's whole notion of consulting the laity in questions of doctrine. Cf. John C. Haughey, "The Bishops and Cardinal Newman", America, Nov. 30, 1968, pp. 554-5.
115. Kirk's own ecclesiology will show that he did not favor designating laymen in the negative manner of "non-clerics". Cf. ODN, Nov. 1943, p. 94.
116. Cf. H. Kraemer, A Theology of the Laity, Ch. 2.
117. Hamman, op. cit., p. 243.
118. Ibid., p. 242.
119. LThK², IV, col. 946; cf. also ibid., III, col. 43-44.

120. Mysterium Salutis, I, p. 552.
121. Art. Cit., p. 66.
122. "Faith and Discipline" : Statement issued by the German bishops after their special meeting at Fulda, Dec. 27 and 28, 1968, Herder Correspondence, Vol. 6, No. 3, March, 1969, p. 81.
123. Doctrine in the Church of England, London, 1938, p. 35.
124. Ibid.
125. Ibid.
126. The Lambeth Conference, 1948, London, 1948, Part II, p. 85.
127. Ibid., p. 84.
128. Ibid., p. 85.
129. Ibid.
130. Ibid. Also, cf. Doctrine in the Church of England, p. 35, from which this statement is practically lifted verbatim. Cf. A. Hanson, op. cit., p. 107, where he makes further comments concerning the background to this statement.
131. "The New Testament and Moral Decisions", loc. cit. 74 (1963), p. 372. Prof. Moule makes some interesting statements which are worth setting down here. He says that it is his belief that "a distinctively Christian moral decision is always addressed to a particular situation and never adequately definable in terms simply of the principle behind it" and denies that this is "the same thing as saying that Christian morals are merely relative." (p. 370) He describes Christian moral judgments, regardless of how much they may vary with changing circumstances, as, by definition, "the judgments of those who believe the major affirmations of the Christian faith to be true." (Ibid.) Thus, the moral prescriptions presented in the N.T. are to be seen more in terms of an "ideal", indicating a "quality and direction." (p.371) He sums this up by saying: "In short, the New Testament, on examination, turns out to be concerned, not with the regulation of life by rules of conduct, but with the description of, and invitation into, a relationship — the relationship of children in a family with one another and with their Father." (p. 371)
132. Morals in a Free Society, London, 1967, p. 27.
133. Ibid.
134. Much attention has been focused recently on these Orthodox views of the Church. The term "sobornost" is one that is found implicitly in the writings of Alexei Stepanovich Khomyakov (1804-60). It comes from the Russian verb "sobirat", which means "to assemble", "to reunite." But it cannot be understood

in merely its lexical definition since its full meaning implies a whole organic concept of the Church and of the confession of faith. The concepts love, freedom, unity, fellowship and harmony are all inherent in it. Sergei Bulgakov, another recent Russian theologian, translates it by the French word conciliarité, and gives it the meanings of unity, harmony, catholicity, and ecumenicity. It implies viewing Catholicity qualitatively (Ubi Christus, ibi Ecclesia) rather than quantitatively (the Roman position, according to some). It is transcendent to the individual and only becomes immanent to the believer to the degree in which he is filled with the spirit of the Church. This whole concept has many implications for ecclesiology as well as for authority within the Church, and is not without serious criticisms. Cf. Louis J. Shein, "The Doctrine of "Sobornost" and Christian Unity", Canadian Journal of Theology, Vol. 11, (July, 1965), pp. 174-182; Y. Congar, "Le Peuple fidèle et la fonction prophétique de l'Eglise", Irenikon, XXIV (1951), pp. 445-457; W.J. Sparrow Simpson, "The Place of the Laity in the Church", op. cit., pp. 124-5; M. Villain describes "Sobornost" as the "Church's sub-conscious — or better still, its superconscious; it is the Church's intimate experience of its own life, as a result of which it knows that it is full of the Spirit and Truth. It belongs to all, clergy and laity, and this is what constitutes, properly speaking, the authority of the Church." "Spiritual Approaches to Orthodoxy", Unity, p. 160. A good bibliography is also appended along with emphasis on the works of Friedrich Kelller, whose work on the concepts of "Volksfrömmigkeit" and "Frömmigkeit der einzelnen Kirchengemeinschaften" has been recently recommended. His works are: Die Ostkirchen; Der Katholizismus, and Das Gebet, München, 1969. (The writer has not yet been able to obtain these references.)

135. "In the ensuing Synodal Discussions great care was taken to ascertain the relevant facts, and to bring to bear on them the insights of moral theology; there has been consultation with the Church in other provinces, in order to give the local Church the benefit of a consensus fidelium on the subject, if one there be. "The Family in Contemporary Society, London, 1958, p. 13.
136. It must be clearly understood that we are not trying to JUDGE Anglican theology by Roman categories or distinctions. All we are endeavoring in this chapter is to precision the exact connotations of the consensus in the light of the most recent developments so that we will not find ourselves continually bogged down with new distinctions.
137. Cf. op. cit., pp. 35ff.
138. Cf. C. Moule, art. cit., p. 373: "The use of Scripture by the New Testament Christians, as much as of any other data, is conditioned constantly by their living contact with God in Jesus Christ through the Holy Spirit. It is God thus revealed, thus approached, and not any written code, who is the answer to their ethical inquiries, and the ultimate source of moral authority... for ethics the formula might rather be 'The Scriptures to lead to God in Jesus Christ; the Holy Spirit in the Church through Jesus Christ to teach'. How this works out in specific instances,

and how the Church is, in practice, to avoid the Scylla of legalism and the Charybdis of antinomianism is matter for earnest thought and prayer." Ibid.

139. Eg. cf. Lefebvre, art. cit., pp. 62ff.; also, cf. Y. Congar, Jalons pour une Théologie due Laïcet, pp. 400ff, where he treats of the Modernist tendencies in this respect.
140. Committee Report of the Lambeth Conference, 1948, p. 84.
141. Ibid., p. 85.
142. Counsel and Consent, p. 214.
143. "And it is in the Holy Spirit, not in any written code, that the true answer to the demand for specifically Christian rulings must be sought." C. Moule, art. cit., p. 371. Prof. Moule immediately goes on to forestall our instinctive objection that this might lead to some kind of illuminism by emphasizing that this guidance needs a corporate and objective setting which is not suggested by, say, the "inner Light" concept of the Quakers. "What is important is a clearly intelligible communication from God; and this he evidently expects to be available when Christians are assembled together, to worship God in Jesus Christ, expecting inspired utterances to be made by the assembled worshippers, and ready to undertake the responsibility of the collective sifting of these and discrimination between them." Ibid.
144. "All alike will have whatever Christian experience is already behind them as a guide ... Thus, in seeking guidance about the immediate problem, these Christians in the great pagan city are going to bring to bear the combined insight of their religious past and of their specialized knowledge and gifts;" Ibid., p. 371.
145. "If by morals we mean the specific moral decisions reached for a given situation, these are indeed relative. But, for Christians, there is also something constant and absolute, namely, God known in Jesus Christ -- the doctrine of God and man involved in the Incarnation. The relative is the decision as to what action this implies in given circumstances." Ibid. And THIS IS EXACTLY WHERE THE PROBLEM LIES.
146. Cf. The Coherence of Christian Doctrine, London, 1950.
147. Hamman, op cit., p. 258.
148. Cf. ibid., pp. 243-4; 251; 257.
149. "Men, whether collectively or singly, do not normally grow in understanding through formal syllogistic argument ... (for) the faith and love of Christians will sometimes reach a deeper understanding of Christian truth without formal theologizing.... In matters of revealed truth, as in many other matters, the process

of growing in one's understanding of the truth one possesses is not confined to either leaders or experts. "H. Davis, "Our Lady's Assumption", in Mother of the Redeemer, ed. McNamara, Dublin, 1959, cited in J. Mackey, op. cit., p. 113. C. Bálic also develops this aspect: "Il senso cristiano e il progresso del dogma", Gregorianum, 33 (1952), pp. 106-134.

150. Thus Koster again : Cf. J. Mackey, op. cit., pp. 91 and 105; also Hamman, op. cit., p. 248.
151. The etymological derivations and uses of the words "consensus" "consent", and "consult" have been the subject of some interesting, but frequently hair-splitting, writing. Very little is added to the theological development which we have undertaken to outline although a few subtle distinctions do arise which support the findings we have already determined. Cf. The Oxford English Dictionary, Oxford, 1933, p. 851; James Hastings, "Consent", A Dictionary of the Bible, Edinburgh, 1900, I, p. 475; --, Encyclopedia of Religion and Ethics, Edinburgh, 1911, IV, pp. 64-65; and W. Sparrow Simpson, The Place of the Laity in the Church, London, 1918, p. 48.
152. Congar cites Blondel: "A man can carry more truth implicit in the practice of his life than he can at first fully comprehend: that it is often by becoming conscious of the fuller implications of his practice that he finally becomes conscious of the fuller implications of his faith." Cited in J. Mackey, op. cit., p. 109.
153. Op. cit., p. 110. Several areas still remain quite untapped regarding our theme. One of them lies in the writings of the Modernists, both Catholic and Anglican. Another would be in the investigation of the Liberal Catholics of the 19th century. Cf. Hamman, op. cit., p. 245 and 250.

C H A P T E R T W O

CONSENSUS FIDELIUM IN KIRK'S MENTORS

Introduction.

Kenneth Kirk's moral theology leans heavily on St. Thomas Aquinas, Richard Hooker, the Caroline moral theologians Jeremy Taylor, Robert Sanderson, and Joseph Hall, and even to some extent on the Puritan Richard Baxter.¹ It is precisely for this reason that we are attempting a brief survey of a selection of these men in order to discover how they considered any consensus fidelium should be used in the formulation of Christian moral judgments. We are omitting any explicit treatment of St. Thomas Aquinas, since, as we have mentioned earlier, much work has already been done on his thinking by several other writers.² We will only refer to his thinking where it is necessary for our own discussion of a particular concern. What we are essentially searching for here is the role and use these men attribute to consensus fidelium in moral judgments. Few of them deal with it at any great explicit length, and none of them have struggled to offer a fixed description of it as we have tried to do in our first chapter. Thus, our task will be to untangle any references to consensus fidelium that we are able to glean from their writings or from the men who knew them best. This will obviously involve explanatory notes concerning the historical situation in which they found themselves, the prevalent ecclesiology in England at the time, and the distinct theological methodology of each writer along with some of the counter-forces that forced them to think and write as they did. It is impossible to separate the concept of consensus fidelium as a source of moral judgment from other, closely-related fields such as doctrine, liturgy, or even Church order. But this difficulty may be more of a blessing than a curse, as the outcome of our whole project will reveal.

The scope of this chapter is large, and the extent of these men's writings vast. But the point we are searching for is an extremely small one when their writings are perused even briefly. It is with this in mind that we feel this study is a justified and fruitful approach to our final treatment of consensus fidelium in the writings of Kirk.

I. RICHARD HOOKER (c. 1554-1600)

A. The Church and the Layman in the Tudor Period.

Long before the Reformation, the English layman enjoyed more than a mere spectator's role in his Church affairs. The decline and decadence of the monasteries, the slump in good education facilities, hospitals, and almshouses, all helped to offer to the layman new outlets for any initiative and assistance he wished to display.³ His share in the democratic system of government which was steadily evolving in England overflowed into a frequently highly active role in the ecclesiastical machinery of diocesan synods and national conventions, particularly when the concern affected him personally such as in marriage questions.⁴ Though his participation appeared to be restricted more or less to a strictly consultative basis, yet the presence of such active engagement by the layman is usually completely overlooked by moderns who view this as a unique phenomenon of the 20th Century alone.

Richard Hooker was a contemporary of Elizabeth I (1559-1603). These were the times when Anglicanism was stabilizing itself, with the help of the Queen, in what is generally referred to as the Elizabethan Settlement. The Church of England, even when under direct control by Rome, had always boasted of a powerfully nationalistic bent. This of course, had recently become strained by the papal extractions and intrusions up until Henry VIII,⁵ and the events leading up to the final severance of England from Rome, while holding cause for blame on both sides, are too well known to be repeated here. What did result, however, was a unique combination of Catholicism and Protestantism in the setting up of an established national Church called "The Establishment."⁶

This close connection between the Church and the State has always been a distinguishing mark of the Church of England. It crystallized what had been a natural tendency even from the early middle ages. But it must not be considered as something uniquely English. The ecclesiastical history of Germany, Spain, and France, to mention but a few examples, is replete with manifestations of the

same tendency. The appellation cuius regio eius religio is not an English maxim in origin.⁷ However, the Reformation had made the identification complete and synonymous, so that "what was done both by King and Parliament was in a great degree justified by the prevailing conception, which was nearly true in fact, that the Church was co-extensive with the Nation."⁸ True, this relationship in the Tudor period was "somewhat obscured and confused by the party divisions on ecclesiastical matters, both in Church and nation, by the dread of Rome-ward reaction and by the rise and growing separatism of the Puritan movement. But to counterbalance these trends, a great national loyalty to the Church, as established, grew up under Elizabeth, increased under the Stuarts, and lasted well into the eighteenth century."⁹ The identification of Church and State became the law of the land by an Act of Parliament called the Elizabethan Settlement. Kirk's summary of the prevailing atmosphere is to the point: the "true recipient of the loyalty of individuals is neither an hereditary monarch clothed with divine right (the only person of whom this could be said was an exile over the water), nor any group of adventurers who may have seized or usurped the temporal power, but the nation as a whole."¹⁰ Thus, a sense of national corporateness had emerged, although not without the assistance of a frequent heavy hand on the part of the royal power aimed at such divergent groups as the Puritans, the Papists, and even smaller groups like the Anabaptists. The rejection of the Pope's infallible authority had irretrievably committed Anglicanism to a conception of ultimate authority which, in its essence, was rational rather than oracular, and thus demanded only a minimum standard of conformity.¹¹ All this must be borne in mind when we examine Hooker's great work.

B. A Note on the Thirty-Nine Articles.

Another factor must be briefly considered before jumping into Hooker's writings. While the value of the Thirty-Nine Articles is seen in a different light by today's Anglicans as compared to the Reformers themselves or their contemporary theologians,¹² we can still use them as a profitable "starting-point" both for Richard Hooker and our own development of consensus fidelium in the "line"

of Anglican Moral Theology. They resulted from an attempt to establish some sort of equilibrium between the Catholics and the Puritans, and, true to the Anglican "Genius", a document gradually emerged which was very ambivalent and thus capable of interpretation by both sides.¹³ However, insofar as they state the position of the English Reformers in opposition to certain tenets of Roman Catholics and Puritanism, they can be considered as truly Protestant.¹⁴ There is a strong inference (it is not stated explicitly) in the Articles towards certain Reformation views which distinguish the Church into a visible Church, i.e. an organized society in which the Gospel is preached and the sacraments administered, and an invisible Church, i.e. all men who personally respond in faith to God's grace in Christ. This invisible Church, they maintain, is what the New Testament refers to when it speaks of the body of Christ.¹⁵

With these comments in mind, we will cite two of the Articles which are related to our theme,¹⁶ and make only the remarks which highlight or assist us in our understanding of consensus fidelium. The commentaries we have chosen to follow for these remarks will serve two purposes :

(1) To give us some of the "feel" we need for the Anglican understanding of authority and tradition in the Church, according to some of the most recent interpretations of the Articles. This is necessary since many of the writings on the Articles in the past have been strongly prejudiced in one way or another. Thus, while the comments do go beyond the actual content of the article, they are accurate in reflecting the historical understanding and interpretation of them as well as giving us the true implications which Anglicanism sees in its Articles, even today. This will be further verified when we come to the mention of them in Kirk;

(2) They indicate the "germ-source" of several areas where consensus fidelium could become a source for the formulation of a moral judgment or a re-evaluation of a moral practice already in existence. But we must stress that the Articles are the barest of outlines, and their implications have been the fruit of years of development within the Anglican tradition.

Art. XX : Of the Authority of the Church.

The Church hath power to decree Rites and Ceremonies, and authority in Controversies of Faith; and yet it is not lawful for the Church to ordain anything that is contrary to God's word written, neither may it so expound one place of Scripture that it be repugnant to another. Wherefore, although the Church be a witness and a keeper of Holy Writ, yet as it ought not to decree anything against the same, so besides the same ought it not to enforce anything to be believed for necessity of Salvation. 17

We can note the following regarding this particular article :

1. The Anglican Church claims a moral authority (auctoritas, not ius) in controversies of Faith. It claims full legal power (ius) in matters of discipline. Thus, a Society can prevent a man from speaking or acting but not from thinking. With regard to matters of belief, the Church does not possess absolute power (ius) but only authority (auctoritas). The first (ius) is said to give power which cannot be innocently resisted, while the second (auctoritas) gives only weight or influence, which, when coming from the Society of the Church, is truly weighty. This article only concerns matters of difference, "Controversies of Faith." Private judgment is not given up, but the individual is expected to weigh fully "the mind of the Church" in all matters of difference.¹⁸

2. "This authority in Controversies of Faith is associated with the Church and not only with the ministry."¹⁹ Effectively, this means the whole nation, as we have indicated. "Our Prayer Book was found by the whole body of Christians; the clergy in Convocation, and the Laity in Parliament, and the Articles rest on exactly the same foundation."²⁰ We must remember that a very large section of Hooker's Ecclesiastical Polity strongly supported the thinking of this particular article, which was aimed at the Puritan thesis that nothing was of force in Church life unless it could be proved from Scripture.

3. Care must be taken to distinguish between the actual exposition of the Church and the opinions of individual Christians, "however great, good and representative they may be. The Church, as a Church, has expounded exceedingly little, and has wisely left

most to the individual judgment and conscience of Christian people." 21

4. Ecclesia Docens, and "hear the Church" (as used in the articles) refer to discipline, not to doctrine, and mean testimony rather than instruction.²² However, the mention of "Controversies of Faith" has also been interpreted to include developing moral practises."²³

5. What is meant by the "mind of the Church" of England may be seen from one of the Homilies, which stresses the completeness of Scripture regarding what we ought to do, eschew, believe and love. The humble man may search there without any danger of error, and "if we read once, twice, or thrice and understand not, let us not cease so, but still continue reading, praying, asking of others, and so by still knocking, at last the door shall be open."²⁴

6. In the last, "resort must always be made to the enlightened private judgment of the individual. And this is equally true of the man who surrenders his judgment to an infallible Church as well as of the man who maintains his position as individually responsible to God for his faith." Our commentator goes on to assert that the individual judgment will "naturally and rightly be checked by the consensus of the Church so far as he is able to discover it, and then be exercised with all the light available."²⁵

Art. XXXIV : Of the Tradition in the Church.

It is not necessary that Traditions and Ceremonies be in all places one, and utterly alike; for at all times they have been divers, and may be changed according to the diversities of countries, times, and men's manners, so that nothing be ordained against God's Word.

Whosoever through his private judgment, willingly and purposely, doth openly break the traditions and ceremonies of the Church, which be not repugnant to the Word of God, and be ordained and approved by common authority, ought to be rebuked openly, that others may fear to do the like, as he that offendeth against the common order of the Church, and hurteth the authority of the Magistrate, and woundeth the conscience of the weak brethren.

Every particular or national Church has authority to ordain, change, and abolish ceremonies or rites of the Church, ordained by man's authority, so that all things be done to edifying. 26

1. E. Bicknell makes the observation that "Disciplinary rules which the consciousness of the Church in one part of the world may feel to be necessary for the safeguarding of Christian morality or the propagation of the Christian faith, may in another part of the world be unnecessary or even harmful

Due regard is to be paid to the customs and rituals of other Churches.... we are bound to recognize differences of race and temperament, of age and education." ²⁷ Bicknell has some interesting remarks concerning morals and custom, but the pith of his thought is found in the idea that any moral practice "that is not repugnant to the Word of God" can suffer a change or modification from century to century or from region to region. He also emphasizes that it is the mind of the national Church and its needs that becomes the determining factor, a factor that can be pushed to extreme nationalism, as in the case of the Eastern Orthodox Church. ²⁸ His remarks concerning various adaptations regarding customs and various customs decreed by Councils of the Church regarding devotion or practice are interesting, but best left to our explicit section on the role of custom in the theology of Kirk.

2. Griffith Thomas reasserts that the Church as a whole has spoken explicitly only with regard to very few points of faith, and these are easily obtainable. The primary source always remains Scripture, which is the supreme rule of faith and practice, along with everything the Anglican Church prescribes concerning tradition and ceremonies in the light of the principles set forth in the articles. ²⁹

What can we extract from these two articles and the commentaries we have cited in interpreting them which will be of use to us in our study of consensus fidelium? The following summary points may be of use as we prepare for Richard Hooker :

1. "The mind of the Church", which consists of the whole nation and therefore the laity, is considered as a source in "Controversies of Faith." This is because the Church is said to possess moral authority in questions of practice; this authority carries "weight" or "influence" only, not "power." It is associated not with the ministry alone, but with the whole Church.

2. Customs are held to vary with individual cultures, times,

and countries. Anglicans are divided concerning just what constitutes these customs. Some theologians such as T.P. Boulton, maintained that there was a three-fold distinction when referring to customs: (1) those of Divine Tradition (e.g. contained in the New Testament); (2) those of Apostolic Tradition (e.g. the Sunday observance), and (3) those of Ecclesiastical Tradition (e.g. doctrines or ordinances dating from post-Apostolic times, resting solely on the authority of individual churches, and concerning dogmas, rituals and "morals.") If this distinction were maintained, then change or adaptation could only take place with regard to the third group of customs. But more recent theologians within Anglicanism think that Anglicanism has never held this distinction, and they frequently cite St. Augustine who simply states that customs may vary with "countries, time, and men's manners."³⁰ The force of the Articles we have cited does not infer that customs of divine origin may be tampered with by the Church. But the Articles do not contain any clear-cut distinction between different types of customs short of this general statement. Thus, the inclusion of "morals" in this principle of variability regarding customs still obtains, but the big question will be to just what EXTENT this variability in morals may be pushed with regard to particular moral customs. Richard Hooker will also lean on St. Augustine, as we shall soon see. But it will only be when we arrive at Kirk that we will have a more detailed treatment of both the power of the Church to revamp customs, as well as the extent of the customs to which the Church may apply her revisions. All the Thirty-Nine Articles contain is a very reserved right of revision without any specific reference to exactly WHAT customs may be revised, even with their direct reference to the supremacy of Sacred Scripture.

3. The Articles contain only the basic principles concerning authority and traditions. The Commentaries have pointed out to us the extent to which these principles have been able to successfully support the true spirit of Anglicanism. This was our only purpose in treating them in this manner. The essential directions of Anglican theology (as relevant to our theme) have been pointed out and we can now begin to further the development through the writings of Richard Hooker and the Carolines.

C. Richard Hooker's Theological Methodology.

Richard Hooker is revered as "the Father of Anglo-Catholic thought."³¹ When we look at his writings, we must always bear in mind what we said earlier about Anglican theology and its method, since "What we have to look for in the ecclesiastical literature of England is not so much finality as direction."³² As a result, we find Hooker establishing a method in theology rather than outlining a system and his masterpiece, the Ecclesiastical Polity (EP) must be viewed in terms of an interpretation and application of the English Reformation rather than as an Anglican formulary.³³ Indeed, his work has given to all Anglican theology a "tone and a direction which it has never lost."³⁴

Hooker grappled with the ever-plaguing problem of authority and its sources. Anglicanism had rejected the supremacy of Rome but it was loath to embrace the opposite pole, namely the Puritanical "Bibliolatry" which had taken hold of a segment of the population.³⁵ This meant that Hooker had to situate his sources of authority in the form of a careful balance between Sacred Scripture, reason and law. The authority of Scripture remained unimpeached by all branches of opinion and belief in Hooker's day, but it was the Puritanical tenet the 'Scriptures ought to be the only rule of all our actions' including Church order and practice that nettled Hooker. He felt that man's reason was being entirely ignored, especially in non-essential matters, and thus developed his whole outlook on law with much assistance from St. Thomas Aquinas.³⁶

Very briefly, Hooker viewed Scripture and nature as serving man jointly. His achievement was to see all of the created order as a whole in which law and Scripture were both components.³⁷ Reason is a necessary supplement to the Word of God, and it is also necessary if any disputation or discussion is to take place. Hooker viewed law as "an implanted directive expressing itself as and through reason within a situation in which freedom was real and grace not irresistible."³⁸

Particular laws are not so much a series of promulgations as a pattern of characteristic behaviour whereby all things are directed "in the means whereby they tend to their own perfection." ³⁹ With this concept of law and reason in mind, Hooker was able to go on to say that reason was competent and necessary to deal with questions of ecclesiastical polity, and to be a criteria in theological formulations of Christian belief and practice. ⁴⁰

This clearly Thomistic doctrine on reason and law stands at the base of Hooker's thinking. He was trying to offset the ultra-authoritative background not only of the Roman system which Anglicanism had just rejected, but also the rigid and inflexible character of English Calvinism as manifested by the Puritans.

We must also bear in mind another prevalent influence which prompted Hooker's thinking here. Europe and, of course England, were still in the grips of a pre-scientific cosmology which manifested itself in the popular mind in forms of magic, witches and spirits that were used to account for many of the improbables of life. The arbitrary always seemed present and there was a general lack of accumulated or tested knowledge of natural phenomena in themselves. This had an effort on thinking, and meant that "the establishment of a reasonable ground for experience, with the consequences for theology which this implies, was only gradual." ⁴¹ It is very significant with this background in mind when we find theologians endeavoring to give importance to what the laity might be thinking or acting in their Christian lives. Indeed, ANY small allusion takes on a double importance. It is also why Hooker's attempt to blend the positive values of both the scholastic approach to faith and reason and the newer insights being propounded in his time has been labelled "liberal conservatism" ⁴² a term which was to become the trademark of the practical divinity of the 17th Century Caroline theologians.

But the stress on the permanency of Law, however, does not preclude further development of variations and details in human actions and norms of guidance. For Hooker, this development took place in a Church that was an organic and not a static institution. The method of Church government and ecclesiastical administration (= "Ecclesiastical Polity")

will change according to circumstances. Thus, the Church of England, though reformed, possesses continuity with the medieval Church,⁴³ while at the same time being the visible organized Church in a particular society. In fact, he goes further, and states that "the visible organized Church is a political society, 'a court not temporal merely', yet able to control its own legislation in a way analogous to that in which the civil state through parliament makes its laws. Hooker clearly held that Church and Nation are one: "there is not any man of the Church of England but the same man is also a member of the commonwealth, nor any member of the commonwealth which is not also of the Church of England ..."^{43a} This concept of the Church was almost identical with that of Henry VIII. Thus Church and Nation both constituted the same body, administered for spiritual purposes by a set of officials responsible to the crown. "Church and Commonwealth import things different, but those things are accidents, and such accidents as should always dwell lovingly together in the same Church.... If the Commonwealth be Christian, that very thing doth make it the Church."⁴⁴ It was only under "the dominion of infidels that the Church of Christ and their Commonwealth were two societies independant."⁴⁵ Hooker then goes on at great lengths to explain the implications of this doctrine as against prevalent Church-State separation theories.

New for the relevance to our theme. Hooker's thought patterns clearly recognize a value for the operations of man's reason. His emphasis on seeing human reason as sharing in divine reason frees him from any accusation of being totally humanistic or even Pelagianistic. What is refreshing for his time was a new stress on the insights and processes of the discoveries of science through reason, a big step considering the prevalent tendencies of fidelism and occultism rampant then. His ecclesiology does reflect the contractual theory of political government, and there will often be found a tension in his thought between seeing the Church in some ways as operating as a kind of democracy and yet in other ways as operating in a hierarchically-orientated constitutional monarchy. This is difficult to untangle since it is so rooted in the very English situation of the time as well as the whole Anglican mentality. But there are enough trends in his thought patterns to provide us a few insights towards our consideration of the use of consensus fidelium as a source of moral judgment. And

one must always remember that moral judgments often involve wider concerns than only the prescriptions of the Decalogue. Hooker's use of consensus fidelium in such areas as goodness, wisdom, doctrine and practice, ecclesiastical laws and Church polity can all be useful to us if we see the question in this wider ambit.

D. RICHARD HOOKER AND CONSENSUS FIDELIUM.

We run into the use of consensus fidelium in Hooker under a number of headings. It is apparent as a source in determining rites and ceremonies, closely following the lead contained in the Thirty-Nine Articles. It is also found in his ideas concerning the selection of candidates for Holy Orders.⁴⁶ We will treat it under the following five headings.

1. Goodness.

The Christian moral life should not be considered only in terms of what we should not do. A positive estimation of the Christian ideal must also be proclaimed. Hooker maintained that goodness is discernible in two ways : (1) "by knowledge of the causes whereby it is made such", and (2) "by observation of those signs and tokens, which being annexed always unto goodness, argue that where they are found, there also goodness is."⁴⁷ The first way is so hard that men ordinarily follow the second, and it is man's experience that the surest sign of goodness is the general consent of all men that it is so. Hence, "reason directs us to the good, and the individual's reason is assisted by the universal consensus of human reason."⁴⁸ This general and perpetual voice of men is as the sentence of God himself. The general persuasion of all men as to what is good is a "most certain token of evident goodness" and should never be overthrown

"till such times as we go from signs unto causes, and shew some manifest root or fountain thereof common unto all, whereby it may clearly appear how it hath come to pass that so many have been overseen. In which case surmises and slight probabilities will not serve, because the universal consent of man is the perfectest and strongest in this kind, which comprehendeth only the signs and tokens of goodness. Things casual do vary, and that which a man doth but chance to think well of, cannot still have the like hap. Wherefore,

although we know not the cause, yet this much we may know, that some necessary cause there is whensoever the judgments of all men generally, or for the most part run one and the same way, especially in matters of that discourse: for of things necessarily or naturally done, there is no more affirmed but this, — 'They keep always, or for the most part, one tenure, and God being the author of nature, her voice is but his instrument.'" 49

Hooker goes on to say that the rule of "natural agents which work after a sort of their own accord, as the beasts do, is the judgment of common sense of fancy concerning the sensible goodness of those objects wherewith they are to do." 50 Following these broad assertions, we are then given examples of various axioms that have always been upheld by all of mankind as being good, true, and requiring no proof. 51 His conclusions stress that all axioms and laws of this universally accepted nature stem from the fact that there is a God and we are his children who are to honour and love him and we must crave his aid by prayer. He then succinctly asserts that the "natural measure whereby to judge our doings, is the sentence of reason determining and setting down what is good to be done." 52 This sentence is either "mandatory, shewing what must be done" (e.g. between what is absolutely good or evil), or else "permissive, declaring only what may be done" (e.g. divorce among the early Jews), or "admonitory", which is what is most convenient for us to do (e.g. selling all, and laying it at the Apostles' feet (Acts, 4:37)). He concludes by giving the traditional teaching regarding the universality of this Law of Reason and the availability of it to all men, and then describes several characteristics which should be used in judging these laws : 53

1. The men keeping these universal laws are to resemble as closely as possible nature's own working: thus they should be "behoveful, beautiful, without superfluity or defect" ;
2. The Laws are investigable by Reason, without the help of Revelation supernatural and divine ;
3. The knowledge of them is general, and the world has always been acquainted with them.

Hooker then admits that certain lewd and wicked customs have

crept into the lives of both individuals and greater multitudes which smother the light of natural understanding. This is because "men will not bend their wits to examine whether things wherewith they have been accustomed be good or evil." ⁵⁴ He instances idolatry, and curtly sums it up as a "senseless stupidity" which is "afterwards imputed to custom."⁵⁵ Hooker felt that men went astray here because no faculty or power of man can rightly perform the functions allowed to it without the perpetual aid and concurrence of that Supreme Cause of all things. All these observations, says Hooker, pertain to the necessary universal laws, not to the probable collections for what is convenient for men, which territory involves free and arbitrary determinations.

2. Wisdom.

Hooker strongly defended the role of wisdom in teaching men every good way. Yet, he was always careful to uphold the various manners in which wisdom manifested herself. These were specified as four: (1) Scripture; (2) Nature; (3) Spiritual influence; and (4) "worldly experience and practice."⁵⁶ The obvious bone of contention here is the "Sola Scriptura" tenet of Hooker's adversaries, the Puritans. This is what forces Hooker to go to great lengths to affirm the positive value of man's own knowledge, especially regarding divine matters. All we can do here is to glean a few kernels regarding the use of consensus fidelium as a source of moral judgments.

Hooker never argued that man's authority alone, whether individually or corporately, would be the sole source for any moral teaching. But that it was a source is indisputable, according to him. ⁵⁷ He describes man's authority as "the force which his word hath for the assurance of another's mind that buildeth upon it," ⁵⁸ and he gives several scriptural sources to show that "in the mouth of two or three witnesses every word shall be confirmed." ⁵⁹ He clearly upholds the testimony of men in "matters of opinion and judgment" which are made known in the form of sentences of wise and expert men. ⁶⁰ He emphasizes that the "simpler sort" may follow such authorities out of ignorance and fear while wiser men show more discernment and so receive more general authoritative judgments

categorically asserting that "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 Scripture. The Scripture could not teach us the things that are of God, unless we did not credit men who have taught us that the words of Scripture do signify these things. Some way therefore, notwithstanding man's infirmity, yet his authority may enforce assent." ⁶¹

The value of the opinions of learned and holy men now take the witness stand. Hooker is most careful to assess any of their opinions in the light of a scriptural background. A consensus Patrum or consensus theologorum do serve as powerful witnesses to such an extent that a bare "yes" of an unlettered and vulgar person should hold little away before the "Nay" of all "the wise, grave and learned judgments that are in the whole world." ⁶² This would be sheer insolence and the very bane of the Christian religion.

3. Doctrine and Practice.

Hooker often separated matters of discipline from matters of faith and salvation, but this did not prevent him from drawing moral conclusions from both these areas. In this sense, they overlap in his thinking. For Hooker, matters belonging to the Church of Christ are not of one suit, since "Some things are merely of faith" and it suffices that we only know and believe them (e.g. the Trinity), while others are not only to be known but also to be done, since they concern the actions of men (e.g. charity). He affirms this in another way, as we have already seen: "What the Church of God standeth bound to know or do, the same in part nature teacheth." ⁶³ From these two bases, he proceeds to argue to the necessity of not only Scripture as the authority in faith and action, but also the authority of men under the guiding light of Scripture and the Spirit. He was most emphatic that all Church orders must be commanded in the word, i.e. grounded upon the word, at least according to the general rules of Holy Scripture. Anything found out by the light of reason, is received in just that respect as long as it is not against the Word of God, a clear re-affirmation of Article XX.

Here we arrive at some of Hooker's most pointed comments regarding consensus fidelium. He is dealing with "Church order" which usually means for Hooker method of Church government and ecclesiastical administration. But this also implies, as we have mentioned earlier, the practice of the faith and moral activity in many spheres of one's daily existence. This will become clearer as we study Hooker's ideas in this domain. Here too, we find Hooker frequently using arguments drawn from moral philosophy as well as moral theology. What we have already established regarding the role of human reason as well as the influence of the Spirit all underlie his approach. His use of consensus fidelium may be set down in four points :

1. Whenever reason is accused of being unable to search out and judge things divine, both regarding the properties of God and those duties of man towards him, Hooker frequently leans on St. Paul to declare that nature needs grace and grace uses nature. ⁶⁴
2. Heretical teachings and practices (= "counterfeit show of reason") must be countered by a true show of reason. To this effect, he quotes Tertullian who says that "We may, even in matters of God, be made wiser by reasons drawn from public persuasions, which are grafted in men's minds: so that they be made to further the truth, not to bolster the error." ⁶⁵ (The argument is an argument drawn from moral philosophy against heathens who deny God or the immortality of the soul, but Hooker cites it here, in the context of Church polity, to support his thesis of the validity of proofs drawn from natural reason, and, a fortiori, from a certain persuasion or consensus.)
3. "There is in the world no kind of knowledge, whereby any part of truth is seen, but we justly account it precious." ⁶⁶ But as if to immediately balance this, Hooker adds a rejoinder in which he deplores wise men, scribes and great disputers who are "wholly addicted unto their own wills, use their own wit, their learning and all the wisdom they have, to maintain that which their obstinate hearts are delighted with, esteeming in the frantic errors of their minds the

greatest madness in the world to be wisdom, and the highest wisdom foolishness." ⁶⁷

4. Hooker goes right to the heart of any consensus fidelium when he traces all true agreements of men to the Holy Spirit. He says that the operations of the Spirit, "especially these ordinary which be common unto all true Christian men, are as we know things secret and undiscernible even to the very soul where they are", since they are of a higher order. ⁶⁸ Thus, in order to truly discern the authentic spirit, since it is so privy and secret "we therefore stand on a plainer ground, when we gather by reason from the quality of things believed or done, that the spirit of God hath directed us in both, than if we settle ourselves to believe or to do any certain particular thing as being moved by the Spirit." ⁶⁹

Hooker then summarizes the whole chapter by re-asserting the validity of employing the use of reason (both individually and corporately) in deciding what laws are fit and conducive to the Church. His examples drawn from numerous moral difficulties indicate that he had moral practice ("action") as well as dogmatic teaching in mind.

4. Ecclesiastical Laws.

We now come to Hooker's use of man's advice in the formulation of Church Laws which are in no way, or only partly, contained in scripture. He goes through a number of standard classical distinctions whereby laws are separated into natural, divine, and positive, and then cites St. Augustine to support his use of the light of reason in helping man to determine the content and extent of such laws ⁷⁰ as well as St. Thomas Aquinas. ⁷¹ He agrees with St. Thomas that human laws must be made according to general laws of nature and without a contradiction to any positive law in Scripture. Moral laws, Hooker continues, even though ordained by God himself cease if the end or matter for which they are ordained cease, whether by alterations of persons or times. ⁷² "The matter of faith is constant, the matter contrariwise of action daily changeable." ⁷³ Hooker is

highly impressed by the mutability of almost all of the various types of law, except those which are absolutely certain from Scripture, and he presses his point concerning laws which are not clearly stated in Scripture by quoting verbatim from St. Augustine :

"For in those things, whereof the Scripture appointeth no certainty, the use of the People of God or the ordinances of our fathers must serve for a law. In which case if we will dispute, and condemn one sort by another's custom, it will be but matter of endless contention; where, foreasmuch as the labour of reasoning shall hardly beat into man's heads any certain or necessary truth, surely it standeth us upon to take heed, lest with the tempest of strife the brightness of charity and love be darkened." 74

This citation is used along with half a dozen Old Testament citations which describe practices performed by the Jews but lacking any specific scriptural command (e.g. anointing the head). Hooker here is arguing against the Puritans. He feels that "to reject all orders of the Church which men have established is to think worse of the laws of men in this respect, than either the judgment of wise men alloweth, or the law of God itself will bear." 75 But it is Augustine's reliance on "the People of God" as a source that adds even more significance to this citation when it is used by Hooker.

The value of this argument will become clearer in our next section dealing with ecclesiastical polity.

5. Church Polity and the Laymen.

Hooker consistently maintained a sharp difference between matters of "perpetual necessity to all men's salvation, and matters of ecclesiastical polity." 76 It was about the latter that Hooker challenged those who said that Scripture had set down "a complete form of Church polity, universal, perpetual, altogether unchangeable." 77 The "form" of church polity which Hooker maintained was not immutable included "'doctors, pastors, lay-elders, elderships compounded of these three; synods, consisting of many elderships; deacons, women-church-servants or widows, free consent of the people unto actions of greatest moment, after they be by churches or synods orderly resolves.'" 78 What worried Hooker here was a form of Presbyterian

government which his present adversaries, the Calvinists, were claiming as essential to ecclesiastical polity. To Hooker, "the matters wherein Church polity is conversant are the public religious duties of the Church, as the administration of the word and the sacraments, prayers, spiritual censures, and the like."⁷⁹ The Church will always be bound to these and the laws of polity appoint in what manner these are to be done.

All so far so good. Hooker wanted the Church to stress a "difference of persons in the Church" to properly execute these functions. God's clergy he called "a state,necessary by the plain word of God himself whereunto the rest of God's people must be subject as touching things that appertain to their souls' health."⁸⁰ The clergy is expected to be the light of the world, and "others (though better and wiser) must that way be subject to them."⁸¹ Following upon this, Hooker reaffirms the Anglican belief in the necessity of the episcopacy along with his stress on the necessary and inherent mutability of ecclesiastical polity.

We might be asking just where all this leads us? Does Hooker feel that the "free consent of the people unto actions of greatest moment (which obviously includes moral issues), after they be by churches or synods orderly resolves", is mutable, non-essential and therefore to be wholly ignored under the guise of absolute subjection to the clergy? Hardly. In Book III, he is simply arguing against the total non-hierarchical polity assumed by people like certain Dr. Bridges, to whom he ascribes this form of polity, or more precisely, the expression of it. In Book VIII, Hooker gives us a clearer understanding of the role of the laity in Church government and in the formation of laws, even those with a moral import.

Here, he is not thinking of divine positive laws either: Scripture already enuntiates these. He has in mind a church polity of deciding duties and practices. The exact nature of this with respect to moral judgments and the role of the laity in formulating them is our next concern.

Hooker explicitly held that "no ecclesiastical law be made in a Christian commonwealth, without consent as well of the laity as of the clergy, but least of all without consent of the highest power."⁸² He argues that in all societies, companies, and corporations, "what severally each shall be bound unto, it must be with all their assents ratified."⁸³

Hooker cites with approval the vulgar axiom "Quod omnes tangit ab omnibus tractari et approbari debet", ⁸⁴ and then proceeds to line up a small battery of historical data showing the active involvement of the laity in synods, even "when matters of faith are determined, whereunto all men must stand bound." ⁸⁵ He supports his statement with one made by Pope Innocent III (1215) : "As the laity should not hinder the clergy's jurisdiction, so neither is it reason that the laity's right should be abridged by the clergy." ⁸⁶ Hooker is most insistent that peace and justice are maintained by preserving unto every order their rights, and extends to the king, "their common parent" the chiefest sway in the making of laws.

We are then given several very interesting historical examples. In ancient Christian kingdoms, and even following the Tridentine decrees, we are told, canons devised by the clergy alone in their synods, whether provincial, national or general, did not by the mere force of the synod's agreement become law without any other approbation from king or country. He gives an example of certain exceptions made by Philip, King of Spain, in publishing the Tridentine decrees in the Low Countries, and argues :

"If therefore the king's exception taken against some part of the canons contained in that council, were a sufficient bar to make them of none effect within his territories; it followeth that the like exception against any other part had been also of like efficacy, and so consequently that no part thereof had obtained the strength of law, if he which excepted against a part had so done against the whole: as, what reason was there but that the same authority which limited might quite and clean have refused that council? Whoso alloweth the said act of the catholic king for good and lawful, must grant that the canons even of general councils have but the force of wise men's opinions concerning that whereof they treat, till they be publicly assented unto, where they are to take place as laws. That which an university of men, a company or corporation doth without consent of their rector, is as nothing. Except therefore, we make the king's authority over the clergy less in the greatest things, than the power of the meanest governor is in all things over the college or society which is under him; how should we think it a matter of decent, that the clergy should impose laws, the supreme governor's assent not asked?" ⁸⁷

This citation must be seen in the light of Hooker's own ecclesiology. The identification of the Church and the commonwealth to which we briefly alluded in introducing Hooker, is now becoming more and more in the picture.

Parliament and convocation in England are the body of the whole realm. They consist of king and subjects truly represented. It is a court which meddles with more than just leather and wool, to use Hooker's expression. Hooker now gives what is perhaps his most explicit statement on how laws are to be formed, and with what we have said about the Church being identified with the Nation, the application to moral judgments emerges more and more clearly :

"The most natural and religious course in making of laws is, that the matter of them be taken from the judgment of the wisest in those things which they are to concern. In matters of God, to set down a form of public prayer, a solemn confession of the articles of Christian faith, rites and ceremonies meet for the exercise of religion; it were unnatural not to think of pastors and bishops of our souls a great deal more fit, than men of secular trades and callings: howbeit, when all which the wisdom of all sorts can do is done for devising of laws in the Church, it is the general consent of all that giveth them the form and vigour of laws, without which they could be no more unto us than the counsels of physicians to the sick: well might they seem as wholesome admonitions and instructions, but laws could they never be without consent of the whole Church, to be guided by them. Whereunto both nature and the practice of the Church of God set down in Scripture, is found every way so fully consonant, that God himself would not impose, no not his own laws upon his people by the hand of Moses, without their free and open consent. Wherefore to define and determine even of the Church's affairs by way of assent and approbation, as laws are defined of in that right of power, which doth give them the force of laws; thus to define of our own church's regiment, the parliament of England hath competent authority." 88

Hooker viewed this power of both king and parliament as a kind of "negative voice" with regard to approving or not approving Church ordinances. Thus, laws which were enacted by any form of council regarding ecclesiastical polity, needed this public confirmation to achieve a binding force on the people for whom they were made. For Hooker, it was the entire community who gave general order by law as to how things were to be publically effected, and it was the king, as head of the community, along with the spiritual guides of the community, the clergy, who cause, according to the same law, every particular to be framed and ordered. 89

E. CONCLUSIONS.

Standing back from our data drawn from the writings of Hooker,

what conclusions can we present which will advance our search? The following points appear helpful :

1. The ecclesiology inherent in both the Thirty Nine Articles as well as in the theology of Richard Hooker clearly sees nature, law, and reason as a close complement to Sacred Scripture. This is further scored by the value given to man's wisdom, worldly experience and practice as an authentic source of evaluating the influence of the Spirit's guidance in moral questions. While this is nothing new, it still needed reaffirmation in a time when there was a great penchant towards depending overmuch on authoritarian decrees, fideism, and even superstitious practices. These criteria are also valuable in helping man to decide what is essential and non-essential in the message of Revelation. But it must be stressed that this is only ONE source of determining moral judgments.

Hooker strongly supports the assessment of reasons drawn from public persuasions, even in matters of God. This is especially true when it concerns moral teachings that directly affect the laity, as, for example, in marriage questions. The full impact of Hooker's historical comments about the decrees of the Council of Trent and their acceptance or rejection by the king and country bear on this point for our study. Yet, we must point out that Roman Catholic theology has never taught that positive laws of the Church need the approval of members of the Church for their validity. One could deduce this from Hooker's references along with his contractual understanding of ecclesiastical polity, an understanding which tended to delineate the relationship of the people and their leaders, both civil and ecclesiastical, in terms of mutual rights and responsibilities. Such a necessary consent would give to consensus fidelium an authority which is beyond its scope. There is always the danger of making the Church into a democracy, and this is not what it is. The exercise of authority within the Church deserves as much of the democratic spirit as will further the spread of the Kingdom in the world of each age in which the Church is presenting Christ. But to make the structure of the visible church (to use the image already alluded to), and the whole SOURCE AND VALIDITY of its authority dependent on the will of the majority, is not in accord with the Christian tradition.

But the role of consensus fidelium is vitally important in both the formulation and dissemination of the teachings of the Church. Positive moral legislations which are totally unacceptable to the people for whom they are prescribed are invitations to mass disobedience and bad faith, complete rejection of the authority of the Church, or a prelude to a plethora of legalistic exceptions and casuistical interpretations which, in effect, often nullify the true spirit of the legislation. It is here that the active involvement of the consensus fidelium can properly influence and ameliorate the actual legislation so that the Christian ideal is preserved along with enough precisening in the legislation to enable man, with all his human weaknesses, a fair possibility of being able to comply with the law in most normal circumstances in his life, and still grow towards the ideal. This has been the way Yahweh led the chosen people to a loftier ideal, and it has also been the way that the Church has absorbed masses of barbaric cultures into her fold and brought them to Christian adulthood over a period of time. Taken in this light, Hooker's use of the consent of the people is right on target.

2. Moral action would appear to be very difficult to establish in terms of universally valid and immutably fixed norms, axioms or principles. Hooker has a healthy respect for any rules set down in Scripture, but he always leans towards the position that these are none too many. Yet, on looking over the broad trend of his remarks, there appears to be a good inclination on his part to maintain an open mind towards a constant re-examination of men's practices, especially those of a "non-essential" nature. What Hooker says about laws ceasing when the end or matter for which they were ordained ceases, is well worth remembering with regard to many moral practices which we tend to drag along with us years after this precise usefulness has ceased. Here again, what Hooker feels about the consideration of public persuasions, the consensus fidelium, has importance. And lest we be inclined to feel that this is only "popular opinion", we must juxtapose this view of Hooker's with his concern about relying on the Holy Spirit, a reliance which is especially manifest when the community is gathered, a fact which harmonizes with our "worshipping community listening critically" from our working description of consensus fidelium. This precludes the ever-present dangers of quietism, illuminism, rationalism or individualism.

We can also credit Hooker with viewing the consensus fidelium within the full scope of the faithful, namely in those invested with Orders, or some other official function, as well as in the laity. It is this overlapping quality of consensus fidelium which gives it a certain universality and stability and which must be considered lest only one element of the faithful be considered to the detriment of the breathings of the Spirit within the rest of the body. The organic nature of consensus fidelium again comes to the fore.

3. Hooker also brings out another good point. The Christian subjects being sought out for any consensus must be known as "good, behoveful and beautiful without superfluity or defect." Even wise men addicted to their own wills are to be kept at a distance. Very interesting. This overall goodness and holiness may be difficult to ascertain or apply in practice, but it does point to a lofty ideal at which to aim. Of course, the problem still exists as to just what constitutes goodness and holiness in any given time or age, as well as the need to admit failings in all men. Here too, the consensus fidelium can be a valuable factor in endeavoring to involve only those people whose own houses are generally in order in any of the decision-making processes in the church. Also, it must be borne in the back of one's mind that people who are not making any effort at personal conversion are hardly in a position to give an opinion on the action of the Spirit in moral practices for the community of today. Richard Baxter will have much more to say on this point.

4. Hooker also manifests a steady pull in his thinking on consensus fidelium towards the ultimate Source of all practices of men, namely God himself. While he does not go into this relationship in any great detail with respect to our theme, yet what he says about the manifestations of goodness as accepted by all of mankind as leading to God, is more than a mere "way" to God. Ever lurking in the wings is the question of the exact relationship between how men regard God and the effect this has on their consensus in moral judgments. Unfortunately Hooker does not go into this question explicitly. He only says that Goodness is discernible in two ways, and steers clear of the first way ("By knowledge of the causes whereby it is made such") to develop his thinking on the second way ("by observation of those signs and tokens, which being annexed always unto goodness, argue

that where they are found, there also goodness is;" —Cf. "Goodness"). We have already noted the importance of this second way with respect to consensus fidelium. But it is the first way that needs more treatment with respect to consensus fidelium. If we over-emphasize God as being a God of reason, and Law, and all of our reason and laws as sharing in God's all-encompassing knowing and willing, we run the risk of a Christian formulation of truths and practices based on an intellectual and legalistically-orientated conception of God. The Christian life becomes one of duties and obligations rather than one of longings and ideals motivating us from love. Our practices become law-centred rather than love-centred and ideal-orientated. This is not meant to be any kind of blanket criticism of Hooker. It is only meant to point out the risk one has in adhering too rigidly to the scholastic notion of reason and law which Hooker subscribed to. Hooker emphasized this aspect, and rightly so, since the excesses of his times needed a sober reaffirmation of the role of reason and law in the life of the Church. But it can have devastating effects on a long-range view of the life of the Church if it remains unbalanced with the other side of the coin as well. And it is this close relationship that appears to be forever appearing between consensus fidelium and the "consensus Dei" (or "consensus erga Deum") and the resulting kind of moral practices on the part of the laity that is of primary interest to us. Hooker has the germs of the relationship at least, and in this he is being very faithful to his master, St. Thomas Aquinas. ⁹⁰

5. Finally, we can note again the great importance Hooker attaches to the consensus fidelium as a "ratification" of legislation promulgated by their representative lawmakers in parliament. That this "ratification" concerns moral teachings can be inferred from his references to "practice", "doing", and concerns of "peace and justice" in the material we have cited. ⁹¹ Ecclesiastical polity, as we have pointed out, has a wider ambit than merely administrative regimen, since it affects religious practices and devotions, certainly areas of moral judgment. Hooker stressed that the law needed the general consent of the people to give it "form and vigor", thereby making it more than a "counsel of physicians." "The nature and practice of the universal Church" as set down in Scripture are confirmed and found consonant with present practice by the free and open consent on the part of the people. The "consent" here is an agreement to a proposal, an active act of the will of the people, and it thus gells into a consensus

when approbation or rejection is manifest.⁹² That this external consensus fidelium is post factum to the legislation is also of interest since it indicates a direction which may have deeper effects on the determination of Christian morality than have been traditionally recognized. It may lead to a use of consensus fidelium as a source of Christian moral judgment which follows a teaching of the properly constituted hierarchy or magisterium of the Church, which Hooker recognised. Exactly how this factor would figure in any specific question of moral practice still needs more clarification, but the projection from Hooker's writings, even with all the necessary qualifications to his own ecclesiology and concepts of authority made, still strike one forcibly. It is very similar to the practice of the Eastern Orthodox Church in submitting all of their decrees of General Councils to subsequent ratification by the whole Church.⁹³

To sum up, we can note that the dialectical relationship between people and leaders is deeply rooted in the English governmental system. It also goes hand in glove with the importance the English give to the value of the individual, a factor which remains present in Englishmen today, despite all the current socialistic leanings. The "ratification element" offers new possibilities of evaluating the action of the Spirit in the community with regard to moral practices, especially those with no explicit reference in Revelation. Thus, is it possible for the Christian moral ideal in moral practices to be fully understood only after a particular promulgation by the Church? Can the consensus fidelium become a factor for a reversal, or at least a clarification, of a moral teaching that appears constant, but in reality is not? Hooker would say "certainly", at least regarding matters not explicitly mentioned in Scripture, although he would give great deference to a practice that enjoyed the constant and agreed teaching of the Church down through the ages and particularly manifest in the Fathers.

We must be careful not to push Hooker too far in any of these conclusions. With Hooker, as with all of the writers of the 16th and 17th century with whom we are dealing, there is a definite vagueness and inclination to draw back before arriving at anything too explicit on the idea of consensus fidelium as a source of moral judgment. Then too, so many of his ideas are couched in the terms of his day without the newer biblical or theological insights that we enjoy today. That he definitely

leans towards a somewhat democratic approach to many moral problems is obvious. But that he is opting for a "majority rule" morality is going too far, since he does maintain that the laity are to be subject to the clergy in spiritual matters. We can also point out that the moral abuses of Hooker's day appear to have been more the direct flouting of the Ten Commandments, plain and simple, than problems arising out of practices not mentioned explicitly in Revelation. Baxter's moralisings bear this out. The moral code was well-established and so there was little need for a great search of any consensus fidelium as a source of moral judgment.

Where does all this leave us with regard to Hooker? Actually, we have a number of "germs" for our search. These have been just described. They include the importance of including all forms of available and commonly agreed knowledge or convictions in preparing any moral judgment; the necessity of involving the laity in the formulation and ratification of moral practices, especially those immediately concerning them; and the importance of trying to formulate not just moral laws and practices, but ideals and principles, agreeable to all who are sincerely striving to live holy lives in the Spirit, practices that reflect a relationship with God, a "Father-Son" relationship rather than a "leader-led" relationship. We can say that this latter conclusion is present in Hooker by way of a parallel, since on the one hand he clearly advocates a kind of "shared-Authority" approach towards legislating moral practices in consonance with his democratic leanings, and on the other hand he still wants the laity to be led by the clergy, particularly in spiritual matters. The dichotomy is not wholly resolved, and, as is obvious, it involves the vexing question of authority in the Church, the spectre that haunts this whole essay. It is best if we simply point out this difficulty and move on, since it is not our task to embark on a criticism of the Anglican concept of authority as taught by Hooker.

And so, in one sense, Hooker can be said to opt for a "majority rule" element with regard to certain moral practises, especially those of the non-essential kind. But we must not push him too far on this and give him his due. Hooker stresses the action of the Spirit within reason, nature, law, and the whole community. This should not be over-simplified into a "majority rule" jargon. It is not that simple. Perhaps the only

tentative and sure statement we should make from Hooker's writings is the affirmation that any strong consensus fidelium concerning any moral practice, whether light or serious, should be taken as a strong indication of the movement of the Spirit, and one that cannot be ignored, especially when coming from very well-meaning and even holy people. Much more needs be said on the role of the Church and the authority of the Church. Hooker has given us the primary direction of Anglican thinking, which was the first thing we said we should look for in Hooker anyway. The possibilities of the role of consensus fidelium as a source of moral judgment are more and more to be seen in the light of the peculiar "genius" of English Anglicanism. The questions still remain as to how far these possibilities may be pushed and still remain the authentic operations of the Church Christ intended. Consensus fidelium as a source of moral judgment has indeed become a Pandora's Box.

II : THE CAROLINE DIVINES.

A : THE CAROLINE ERA.

Our survey of Anglican Moral theology now comes to one of the richest crops of writing in its four-hundred year old history. The "classic period of Anglican theology"⁹⁴ resulted from a tremendous upsurge in sermons, treatises and dissertations aimed at giving not only a sound dogmatic basis for the present state in which England found herself, but also in providing a viable and practical Christian moral theology so lacking in the writings, by and large, of the Tudor period.⁹⁵ What Kirk called a new "ethical stimulus"⁹⁶ in the seventeenth century resulted in a huge corpus of material which has conveniently, though somewhat in- exactly, become known as "Caroline Moral Theology."⁹⁷ These writers even included several Puritans such as Richard Baxter. This of course was due to the constant sway in the political arena between the Puritan kings who came from the north and the English incumbents. It is also closely related to the constant struggle for religious tolerance which minority groups within the realm were demanding. It is for this reason that any theme surveyed within this period needs some situating within the current political ecclesiastico-historical atmosphere. This is especially true of consensus fidelium.

The immense scope of Caroline writing is enough to stagger even an expert in the field. We are forced, then, to limit our undertaking to only an initial outline of the main characteristics of their approach to theological questions as well as the prevailing understanding of the Church at that time. Our survey will include a study of the writings of three Carolines on whom Kirk leaned very extensively, Richard Sanderson, Jeremy Taylor, and Richard Baxter. Sanderson and Taylor are regarded by most Anglican moral theologians today as being the outstanding moral theologians of the seventeenth Century while Baxter gives the best treatment of any theme from the Puritan side. None of these men, however, wrote any explicit treatises on consensus fidelium as a source of moral judgments. We are forced to extract small clues from their treatment of other theological disputes or from their writings on ecclesiology. Thus, while our evidence may appear sketchy, it is because this was not a key consideration in the works of these men. But we will discover several interesting approaches to the problem, which is what we can expect from an approach to theology which is characterized not so much by finality as by direction, the touchstone of Anglicanism. Of such "directions" do we now speak.

1. The Anglican Church in the Caroline Period.

"There is no doubt whatsoever that in its origin the Elizabethan Church was a product of statesmanship, not of theology. The main point in the mind of Elizabeth was not doctrinal unity but unified worship and external practice."⁹⁸ As a result of this emphasis on unified worship and external practice, we have a Church in England doctrinally following a policy of compromise, while interiorly in the hearts of many still reigned tenets which were basically Protestant. Richard Hooker had tried to reconcile doctrine and practice by stressing the place of reason and law in religion and theology while still insisting on the importance of authority in the Church. This is what guaranteed how scripture would be correctly understood as the rule of faith.

But the political situation was undergoing serious changes. The struggles with the Puritan kings from Scotland, the influence of the Divine Right of Kings, and the ever growing disparity between the episcopacy and convocation on the one hand and the laymen and Parliament on the other, all tended to alter the Tudor-Hooker proclamation that the Church is the

Nation and the Nation is the Church. The recognition of the rights of religious dissenters finally culminated in the Toleration Act of 1689 which was the first step in whittling away the identification of Church and State in an absolute sense.⁹⁹ England had now embarked on a method of trying to encompass as large a range of belief as possible within a definite system of church order, while still giving due deference to those who refused to fit into the system. The Via Media now began to dominate the Anglican scene. The English Church remained constant in refusing to commit itself to a rigid system of doctrine and practice, and yet preserved a tension of authority and freedom of variety and order which is its unique heritage in the Christian world. This view was maintained by Parliament in an effort to maintain some kind of religious unity in the whole country, but the exclusion of non-conformists from public life by the government, nevertheless created grave problems for all levels of Church Government for the next century.¹⁰⁰ Such was the confused setting of the seventeenth century.

Theologically speaking, the Carolines embarked on a plan of justifying the faith between extremes. Doctrinal controversies had subsided, and the problem of formulating the relationship of their Church as a whole to the Church of the past, to the present reform Churches of the Continent, and to the continuing Church of Rome remained the task at hand. They staunchly upheld that the Church must be Catholic, since "Being, by definition, common to all, the Catholic faith must be known by the universal consensus which upholds it ...Catholic for them means universal."¹⁰¹ Tradition is given more and more emphasis, although with varying degrees of interpretation, and the episcopal structure of the Church is stolidly maintained.¹⁰² Scholastic theology continues to underpin their treatment of law, reason, and conscience, and St. Thomas Aquinas was as much a prime source to their thinking then as he was to the later Anglican moralists of the late 19th century. It is not surprising, then, that Kirk should pen such a high regard for these early formulators of Anglican moral theology :

"The only successors of St. Thomas who can fairly be said to have attempted to carry out his ideal of combining the principle of authority with that of freedom are the little group of Anglican divines of the seventeenth century —Hooker,

Jeremy Taylor, Sanderson, Hall and their fellows. Their mistakes and limitations are obvious, even on the most casual reading; yet it is clear that they grasped and held fast the true ideal. They had no doubts whatsoever as to the authority and divine commission of the Church, yet they rejected with finality the tendency of the Roman communion to push that authority to extremes. One of the great needs of the Church of England today is renewed and detailed study of her great theologians of the Caroline period." 103

2. Caroline Moral Theology.

We conclude our introduction to the Carolines with a summary of the chief characteristics of their moral theology.

The value of the moral theology of these men, despite all their learning and background, stems from a key factor: to a man, they were pastors and preachers close to the people and understanding the needs of their flock. It is not surprising, then, that the current need for a well-grounded moral theology resulted in what is now generally called a "casuistical or practical divinity." 104 It was not "priestly" or "confession-orientated", but was "primarily concerned with the nurture of the Christian life, and, consequently, devoted ... (its) chief attention to the Christian virtues and the means by which they might be elicited and encouraged." 105 "The Divine Life in daily life might be its guiding maxim." 106 Their sources were Hooker, William Laud, 107 Chillingworth, 108 as well as the scholastics and St. Thomas Aquinas. 109 They opposed whatever might be labelled as 'Jesuitry', although at times as much from ignorance of what the Jesuits really taught as from prejudice based on actual excesses of the Jesuit casuistry prevalent then. 110 They eschewed formalism, quietism and sentimentality, and exercised an amazing spirit of moderation despite their rigoristic tendencies. 111 To a man, the Carolines were probabiliorists, 112 although its manifestation in their casuistry was a far healthier ingredient than it was in the moralists of the succeeding generations. 113 They were often divided on many issues but did manage an overall coherence as to present a viable and applicable moral theology to an age sadly in need of precision and fresh directives. 114

Another outstanding and eminently useful feature in their writings is the fusion of moral principles with ascetical ideals and liturgical

and devotional inspirations as well. Moral theology was seen as a "comprehensive science adequate to lead a heedful society in the ways of justice and the individual in the path of holiness." ¹¹⁵ In some ways their approach was quite a priori, but this was balanced by a healthy respect for the pastoral needs of those for whom they wrote. This will be an important point to bear in mind when we study Kirk, for he too saw moral theology as a "comprehensive science", while exercising a new emphasis on a more empirical approach in arriving at moral principles, which is the precise weakness of the Carolines. ¹¹⁶

3. The Layman in the Caroline Era.

In the seventeenth century the King enjoyed a strange duality. He was revered as a secular leader, but he also possessed a religious aura as well which was embodied in the doctrine of the "Divine Right of Kings." ¹¹⁷ There is a unique fusion of both the religious and the secular in the person of the king. From one point of view, then, he could be truthfully considered as a full-fledged member of the faithful, a fact to be kept in mind with regard to the subject of our theme. Then too, we have the Lords and elected representatives of Parliament, whose growing influence in all spheres can never be neglected. Thus, any reference to consensus fidelium implicitly bears with it these two factors, which would constitute the "experts" of the day outside of the official clergy.

As for the laity at large, the "populus", we know little of their knowledge of the faith. Their involvement in conferences, convocations, and synods, especially with regard to moral matters that concerned them explicitly, has already been established. ¹¹⁸ Whether it was a select elite or a general open-invitation is hard to determine. Fr. Tavard's study of the laity at this time certainly seems to leave us with the impression that the average person in England was badly instructed in the Church's doctrines. He cites one poll conducted in 1602 by a Rector in Eastwell, Kent, who discovered that "'scarcely ten in a hundred' had any knowledge of who Christ was", and Tavard concludes that "Anglicanism was thus undermined by popular ignorance." ¹¹⁹ H. Kraemer notes the problem of "the ignorance of the laity ... not only in Germany but in

England" which confronted the Church in trying to organize Church life on the basis of their own principles. ¹²⁰

That this "popular ignorance" extended to questions of morality may be viewed from several approaches, such as, for example, the morality plays of the 15th and 16th Centuries. ¹²¹ Indeed, some of the rigorist tendencies not only of the Puritans and Calvinists but also of the Anglicans too, would imply a somewhat degenerate populace, to put it mildly. One cannot view their treatises solely in terms of a real or alleged opposition to the laxity of many continental Roman casuists. The lack of dogmatic certainty which would certainly have filtered down to the ordinary layman would be bound to influence his moral practices. This will be a key point in the later development of our theme in Kirk. It is perhaps this overall ignorance of the laity which accounts for the scarcity of attention given to any consensus fidelium in moral judgments by the theologians of the period.

With this introduction and setting to the Caroline period we can now launch forth into our investigation of consensus fidelium. These practical theologians were hammering out their moral theology from pulpit and desk, "sharing it with the occupant of the pew. It is worth noting that even these Caroline writings which could fairly be described as treatises are not simply addressed to theologians and clergy alone, but to all Christian readers. More so perhaps than any other period, the Caroline age gave theology to the layman." ¹²² But to what extent did they draw any of their moral judgments from the layman? This is the "mis au point" to which we now turn.

B. ROBERT SANDERSON (1587-1663).

1. Sanderson as a Moral Theologian.

In considering the writings of the Bishop of Lincoln, we are following immediately on the footsteps of Richard Hooker. ¹²³ Sanderson's understanding of reason and law, his treatment of conscience and the particular cases of his time, and his sources of authority, to

mention but a few themes, all are permeated with the theological background of Hooker and Aquinas. Sanderson has been designated as "the first systematic Caroline moral theologian",¹²⁴ and a writer very close to Sanderson's lifetime called him "the best casuist of our nation and maybe of any nation else."¹²⁵ Like all the Caroline theologians, Sanderson tended to be a rigorist, but even here more recent studies tend to mitigate this general allegation, stressing the positive and constructive aspects of his rigorism.¹²⁶ But Sanderson's true greatness lies in his restoration of the rightful place of the individual conscience in opposition to the over-authoritarianism of the Papacy, unfairly called by him "the tyranny of the Roman Pontiff."¹²⁷ Yet, he realized the dangers of individualism, and insisted that "due regard be paid to the authority of the Catholic Church, and to judgment of men of piety and learning,"¹²⁸ — a good start for our theme.

Sanderson's writings, like all the Carolines, are vast and extensive.¹²⁹ The "occasional" nature of his output means that we will rarely find a closely-knit treatment of any one subject in the manualist sense, since his moral theology was spun in a complexity of sermons, lectures, and exposés arising from the current controversies of the day. He did not try to write a compendium on all aspects of the Christian life as did Taylor or Baxter. Sanderson tried to give to Anglicanism a casuistry that would serve as a kind of via media between the Roman authoritative approach (as taught by the Jesuits) and the Puritan "Bibliolatry" approach.¹³⁰ It is from this approach to theological controversies and presentations that Sanderson's regard for consensus fidelium must be drawn.

2. Sanderson, the Church and his sources of authority.

Sanderson embraced Hooker's concept of the Church as being synonymous with the Commonwealth. Also, for Sanderson "Human society was viewed as a vast organism, each individual and group within it having distinctive rights and duties which the competent Christian casuist would be prepared to interpret in any given situation."¹³¹ Sanderson declared in one of his sermons :

"God hath made us sociable creatures, contrived us into policies and societies and commonwealths; made us fellow-members of one body and every one another's members. (Emphasis Sanderson's.)

As, therefore, we are not born, so neither must we live, to and for ourselves alone; nay, every man of us hath a kind of right and interest in every other man of us, and our country and the commonwealth in us all." 132

But Sanderson clearly conceived of the Church in monarchical terms, and refused to admit any strict parallel between the structure of his day and a possible understanding of the Church as if it were a democracy in the Roman republican sense of the term. ¹³³ The King was head of the Commonwealth "cum summo imperio hoc est, in statu saltem Monarchico, ad unum regem *αὐτοκράτορα* et simpliciter *ὀλιγαρχουτα* ." ¹³⁴ He is careful to distinguish between the word "populus" in a collective sense which would include the whole community of the State, both sovereign and subjects together, and a disjunctive consideration of the subjects only, separate from the sovereign. ¹³⁵ It is clearly the disjunctive sense under which Sanderson considers the extent of any consensus fidelium in moral questions.

What did Sanderson uphold as authentic sources of authority in theology? He answers this in considering what the norms of conscience itself are, and it is worthwhile noting these norms as a final lead-in to his consideration of consensus fidelium. His conclusions are quite simple : ¹³⁶

1. "God alone has absolute and direct authority over the consciences of men."
2. "The proximate and immediate rule of Conscience (although it is not an adequate or ultimate rule) is the light enjoyed by the mind for the present; the Scholastics, following the Philosophers, usually call this Right Reason."
3. "As regards things to be supernaturally believed, Scripture is the only adequate rule of faith : likewise with regard to Actions, insofar as they are spiritual and ordered to a supernatural end, Scripture is the only and adequate Rule of Moral Acts."
4. His fourth conclusion penetrates to the heart of his moral theology and leads us directly to our theme : "The proper and adequate Rule of Conscience is the Will of God in

whatever way it is revealed to man."

Clearly, human reason is the focal point of all of Sanderson's norms, and it is precisely in the near-Thomistic sense of Innate Light (Light of Nature), infused Light (Scripture) and acquired Light (Teaching) that Sanderson develops his understanding of reason.¹³⁷ It is the sense and usage of the Church, especially the ancient Church, which gives us an excellent guide to Scripture, especially the more obscure passages.¹³⁸ Sanderson had a healthy respect for any unanimous consent to be found in the Fathers,¹³⁹ but he adhered religiously to Laud's rejection of any infallible teaching authority in the Church. Individual liberty was zealously protected, but within the confines of a monarchically-guided commonwealth ever striving for "the safety" or the "common good" of the nation.¹⁴⁰ He also felt that "the universal Christian Church here on earth has never failed from the whole faith, nor shall ever fail to the world's end", but he immediately qualified this by admitting a possible failing "not from the whole faith, yet from the purity of faith both in doctrine and worship."¹⁴¹ However, there will always be a small remnant who will keep the faith despite the corruption of the Church surrounding them.

Finally, we might ask just how one is ultimately to determine the will of God, Sanderson's most vital norm? He answers this in dealing with his "luman acquisitum" which is equivalent to 'moral science' :

"Clearly this is nothing other than a kind of completion and increase in degree of clarity of that light, whether it is of Nature or of Revelation, which was previously in the mind. It is when, through our own meditation or through the instruction from others, we grasp more clearly what is the will of God, which till now we have known either through the interior imprint of the Law of Nature or externally through the Revelation of God's Word. The principle means of this growth in clarity are rational and the Authority (i.e. the judgment and practice) (sic) of the Church."¹⁴²

Elsewhere, Sanderson states that while reason may be employed in the understanding and delineating of the Credenda,¹⁴³ yet it is a better guide in practice than in belief.¹⁴⁴ All of which leads us right to the heart of our quest. To what extent is any consensus of the judgment and practice of the laity in the Church (the Church

considered "disjunctively", according to Sanderson) to be used in guiding and establishing Christian Moral teachings? Sanderson has some interesting things to say in his treatment of the formation of human laws.

3. Consensus Fidelium as a Source of Moral Judgment.

a. The Consent of the People and the Formation of Human Laws. 145

Sanderson is here dealing with the binding force or obligation of human laws with respect to their efficient cause. He has previously determined in what manner human laws oblige and he lists seven areas: ¹⁴⁶

- i. Things impossible ;
- ii. Things possible but burdensome in the execution;
- iii. Things necessary ;
- iv. Things unnecessary and unbecoming ;
- v. Permissible evils ;
- vi. Things of a middle nature and indifferent in general ;
- vii. Ecclesiastical rites in particular.

He concludes by asserting that a subject must obey just laws, but he is not bound to obey unjust laws. He then turns his attention to the problem concerning in whom resides the just and lawful power to make laws, and it is under this aspect that consensus fidelium appears operative in moral matters.

Sanderson embarks on a lengthy treatment to show that the right of legislature is lodged in the supreme power, or the magistrate, which are those who administer the highest authority over the body of the State. ¹⁴⁷ We must note, as Sanderson does, that he is here dealing with "the public laws of a nation", and "laws of an inferior order only by analogy and a due proportion, as they advance near, or are more remote from, the perfection of the established laws of political bodies." ¹⁴⁸ However, from what we have already established regarding Sanderson's view of the Church and State, this preamble and its consequences cannot be dismissed entirely. Behind all of Sanderson's argumentation in support of his fundamental thesis that "the will of the prince ... is the only adequate and efficient cause of public laws", ¹⁴⁹ we see the prevailing

concept of the Divine Right of Kings lurking at every turn. As a result, he amasses a good collection of supports from Scripture, historians and lawyers to refine and augment his theme. But what he says regarding the consent of the people in the making of laws does interest us, especially since he has already outlined the matter of human laws as definitely including whole areas which involve moral issues.

He explicitly makes this query : "Whether the consent of the people be required to make a law obligatory?" ¹⁵⁰ He then proceeds to deny the validity of any totally voluntaristic or tyrannical form of government by a king, and in claiming that "some consent of the people" is required, he cites even the Jesuits who excused "many of the people of Germany, and other countries, for not conforming to the laws of the Trent Council, and the Pope's Bull in Coena Domini, ¹⁵¹ for no other reason than because those laws were never received by the consent of those nations. ¹⁵² He then makes a very strong statement : (the underlined parts are written in italics in the text cited) :

"I say, therefore, and it is the general opinion, that laws proposed and instituted by the head of a community, or by a prince, do not oblige the subjects to obedience, unless they are admitted by the community themselves, and allowed by the customs and suffrages of those that use them. A law is the common engagement of a city (153) ; according to Demosthenes, whose authority, if it be suspected in this case, because he lives in the popular state of Athens, I shall support with the testimony of Julian the civilian, who flourished when the Roman emperors ruled with a despotic power. Whose words are these, (154) the laws oblige us for no other reason than because they have been received by the judgment of the people." ¹⁵⁵

Sanderson now goes on to explain how the authority of the sovereign is NOT derived from the people (whom he calls the "giddy populace" ¹⁵⁶) but from God and shows that all political power is from patriarchal government, which is to be preferred to all other forms. He further instances examples of tyrants made by the People as well as the abuses that can emerge as a result of trying to court "the esteem of the wavering and fickle populace." ¹⁵⁷

We are now given a view of the role of the people in an elective monarchy, in municipal Corporations and Colleges, and whether they can

resume the power which they have been the means of conveying to the person elected by them. The problem of the consent of the people with regard to human laws is once more resumed.

He admits how "rashly and dangerously so vast a power" can be when attributed to people. But he is firmly convinced that "Nevertheless there are sufficient reasons of force to prove that in making of laws a regard ought to be had to the consent and approbation of the people." ¹⁵⁸ Four solid considerations are held up for our attention : ¹⁵⁹

1. According to Aristotle, a law ought to be void of passion; "but the laws of princes delivered rashly and without the consent of the subject, in favor of courtiers and parasites, are commonly passionate and corrupted with wicked desires of ungovernable affections;"
2. "Because those laws that are disapproved, when they are proposed to the subject, may, morally speaking, be presumed either to be unjust in themselves, or too burdensome to the people, or at least of no use to the public, and therefore ought not to be enacted, because to multiply laws without necessity is a great inconvenience to a State."
3. "Because it is evident that laws rightly constituted may be so abrogated by a contrary custom that they cease any longer to oblige; which custom is no more than a joint consent of the people, who omit to observe such laws as being useless, and of the prince who does not exact the observation of them. Since, therefore, to destroy and to make are effects of the same power, the force of a law seems not a little to depend upon the approbation and consent of the people."
4. He concludes that "because the consent of the people concurring with the power of the prince in the making of laws conduces so far to the public peace of the kingdom, and to the safety and security of the prince, that nothing can more effectually promote the happiness of both. For there is great reason to believe that all subjects will cheerfully and readily pay obedience to the prince who expects their consent, and to the laws approved by themselves."

Sanderson saw no opposition between the consent of the people and the supreme power of the prince, claiming that the kings of England, "whose supreme power was always, before these unhappy times, cheerfully recognized by every inhabitant of the kingdom, did never impose laws

upon their subjects without their consent." ¹⁶⁰ He clearly states :
 "It must be allowed, therefore, we conceive, that at least some consent
 of the people is required to the making of laws that are to oblige the
 Conscience of the subject." ¹⁶¹ Sanderson now embarks on a specification
 as to what sort and what degree of consent is necessary to make the
 will of the prince obtain the force of law. The factors may be schem-
 atized as follows :

	((i. Before the promulgation ;
	(a. <u>Time</u> :	(
	(ii. After the promulgation ;
	(
<u>Consent of the</u>	((
<u>People</u> :	(b. <u>Manner of</u>	i. Express consent, as by suffrage ;
	(<u>Giving</u> :	(
	(ii. Tacit consent, as by custom.

For his explanations of these types of consent, we will select what is
ad rem to our theme : ¹⁶²

1. Regarding tacit consent before the proposing of a law : Sanderson
 views the people here as having handed themselves over totally to their
 ruler or conqueror so as to readily accept whatever he enjoins upon them
 as law. He asserts that this degree of consent will not be very useful
 to the people if the prince abuses his power and becomes a tyrant. Yet
 it can forestall complaints by the people if an injury is done to them
 by the prince "(though not with injustice)", or if he imposes anything
 upon them which they would willingly avoid.

2. Tacit consent after the promulgation involves a lack of any objection
 to a law made and published by the prince. It is approved by the practice
 of the people and their observance of the law shows their conformity to
 the will of the prince. ¹⁶³ Actual obedience is seen as a greater ex-
 pression of consent than mere silence.

3. Consent by suffrage involves presenting an initial and imperfect draft
 of a law to the people for perusal. Anything inconvenient or absurd would
 be noted, and then the people, "or the greater part of them, if they deem

it beneficial to the public, or at least not prejudicial, would confirm it by their suffrage, that so by their consent it may pass into law." ¹⁶⁴ Sanderson compares this to the Rogatio Legum of the old Romans in the days of the flourishing Republic.

4. The express consent of the people before the enacting of the law is hailed by Sanderson as the greatest manifestation of the true liberty of the people, which "we Britons have long enjoyed under excellent princes, even to the envy of our neighbours." ¹⁶⁵ Here he describes the Parliamentary procedure in England where laws are debated by the mature deliberation of the Lords and Commons and then approved by their joint suffrage and consent before being presented to the King for confirmation and enactment or rejection. This is a method "that by the experience of all times has proved to be so wholesome for our Constitution, that if unseasonable counsels (to say no worse) had not prevailed to remove our ancient boundaries from their places, our churches, our universities, the king, the people, the commonwealth, and the private affairs of every man (which by the most just judgment of God are now running to ruin) might perhaps have flourished, as they have formerly, under the Divine protection to this day." ¹⁶⁶

In dealing with Ecclesiastical Laws ¹⁶⁷ concerning "rites and ecclesiastical matters and persons, with regard to the circumstances of outward worship, and promoting order, decency, and edification, besides those delivered by Christ and His Apostles in Scripture", he readily admits that new laws may be made. He objects, however, as to whom it is given to make laws "which not only oblige the Consciences of the Clergy, but of the laity also." ¹⁶⁸ Steering a middle course between what he calls the "Romanist" position on the one hand, and the "Puritanical Reformers" and the "Erastians" on the other, Sanderson feels that the right of making ecclesiastical laws

"is vested in the bishops and presbyters, and other persons duly elected by the whole body of the clergy of the whole realm, and assembled duly in a lawful synod....yet....the exercise of this right and power ought to depend, in every Christian state, upon the authority of the supreme civil magistrate, and this both 'a parte ante, et a parte post,' i.e. previously and subsequently to deliberation, so that

they cannot, without his permission first obtained, and being summoned by his mandate, or at least by his authority, either meet in order to make ecclesiastical canons; nor after they are thus called and authorized, are the canons, which may be agreed to in such a convention, of any force to oblige, till the assent of the supreme magistrate be obtained; by whose public authority and approbation so soon as they are confirmed, they immediately obtain the force of laws, and oblige the Conscience of the subject." 170

4. Conclusions drawn from Sanderson.

Has Sanderson offered us any fresh insights into the workings of consensus fidelium as a source of moral judgment? In the main, no. From what we have already noted in Hooker, we see here only a more specific delineation of "consent", most of which is generally contained in either legal or moral textbooks. We must content ourselves with the general direction of our writer, and in this sense we can select the following highlights :

a. Sanderson, like Hooker, tried to establish a true balance between reason and Scripture as norms of moral judgment. Scripture remains the point of reference concerning moral actions ordered to a supernatural end, but reason, in all its human manifestations is given a major role in our proximate actions, and in actions not explicitated in Scripture. We are assisted here by the "practice of the Church" 171 which can vary and develop throughout the ages. A certain dynamism appears in this interplay, although Sanderson's outlook would give the impression of leaning towards rather fixed norms.

b. His remark that reason is a better guide in practice than belief would need a careful analysis. Kelly tends to interpret "reason" here as "prudence" 172 in which case we may not be able to draw too many more general conclusions concerning consensus fidelium than the obvious one that what would be considered prudent in an individual sense, could, a fortiori, be considered a prudent action if found to be residing in the considered judgments of a larger group of the faithful. One feels, however, that Sanderson would rather leave the development and understanding of faith and practices, especially those of a more serious nature and not explicitly contained in Scripture, to a more selective group in the Church than to a consensus fidelium at

large. His rather disparaging remarks about the laity being "giddy", "fickle", and "wavering",¹⁷³ which do coincide with a populace knowing very little about the faith as we have pointed out, supports this in a general way. The role of the laity at large is one of trying to put their faith into practice to the best of their ability without too much querying as to newer developments or variations.

c. But we must not be too quick to "write off" the laity. Sanderson's considerations on the necessity of the consent of the laity concerning legislation are most interesting. Hooker has said the same things basically. And it is very difficult to sort out what would apply to statute laws only, or to liturgical laws, rubrics, and finally moral laws in what Sanderson says. All these are entwined with moral laws, especially due to Sanderson's frequent summations in which he indicates that these laws bind in conscience. We also find mingled in his treatment his whole political philosophy and his attempts to apply the typical Anglican methodological via media approach to all that he says without recourse to any absolute authority in a living Church today. Thus, while we have tried to situate his remarks only AFTER a careful situating within his whole treatment (e.g. of what constitutes the matter of human laws, before treating how these laws are effected in concert with the people and the legislator), one is still left slightly wondering if all that Sanderson says about the consent of the people being necessary for the law to be binding in conscience applies to moral judgments strictly speaking. So much of what Sanderson says in this tract (which is entitled, we are reminded, Conscience and the Human Law), tends to lead one towards thinking that Sanderson is thrashing out the old problem of "merely penal laws" rather than concerns of morality which go far beyond this consideration. This might leave one wondering why we even bothered to mention these points at all in our treatment of Sanderson. Our reply is simply the fact that there are still sufficient indications in the data assembled to allow at least an insight into the methodological value of consensus fidelium in the formation of laws within the Christian community to justify its treatment in this work. It would be dangerous to assume more from data than that which reasonably follows.

d. Yet, we can safely say that Sanderson does allow room in his moral theology for the positive role of the laity (especially through their representatives in Parliament) in the form of a validation, verification, ratification or rejection of particular moral practices, both before and after promulgation. And Sanderson makes these statements in full view of a duly constituted hierarchy with authority in spiritual matters over the laity. In Sanderson's view, then, the laity enjoy a clear right to consultation, especially in matters concerning their everyday lives. The acceptance or rejection of laws binding in conscience implies a reciprocal action in Church guidance which bears further study from scriptural parallels, along with the historical instances centering around the Council of Trent which both Sanderson and Hooker cite. This reciprocal action may reveal a conclusion that the efficacy of Church legislation needs this "replay" on the part of the laity in each district in order to become, if not binding in an absolute sense, at least authoritative guidance for the Christians living in a particular region with their particular version of the moral abuse or practice condemned or condoned by the Council's decision. It is this "give-and-take" between the authoritative element in the Church (whether it is vested in the hierarchy alone, or in Church+King, or in the King alone) and the dynamic-consultative-ratification interplay on the part of the faithful that Sanderson fruitfully explores. This dialogue appears as especially fruitful in areas of moral practice in which we have no certain revelation. Here, however, we must hasten to add that Sanderson's ideas as related to consensus fidelium in the theological setting we have established in Chapter one are really only seminal, since his reasons for ascertaining the consent of the people ¹⁷⁴ bear more on the presentation of a viable law rather than as a source for developing deeper insights into moral practices within the Christian Community. Sanderson seems to stress a more fixed and static law educed through the interplay of legislator and subject rather than an evolving and more ideal-orientated consideration of the Christian demand. But his process of formation is his greatest contribution, and this can have much use in determining moral practices and judgments.

e. Sanderson's clarifications of "consent" and its various types

are clear enough. The consent expressed implies internal assent. The process of obtaining the consent is well described and is noteworthy for the reasons just given above. The general appeal to parliamentary procedure is useful since it has many advantages over an overly-authoritarian type of decision-making machinery. But the dangers of final certitude, even as an ideal for today only, along with a hazy conception of authority which could lead to very pragmatic, and almost majority-rule type in Christian morality unless room is not given to a more clear-cut living teaching Church, still seems to haunt the whole theology of Sanderson.

With these remarks in mind, we can now turn our attention to another great Anglican moral theologian of the 17th Century, Jeremy Taylor, for a somewhat different approach to the whole problem.

C : JEREMY TAYLOR : 1613-1667.

1. Taylor, the Master Moral Theologian.

No study of a theme within the Caroline period could dare to omit the works of a man regarded by some as "the greatest of all English moral theologians."¹⁷⁵ Pastor, preacher, spiritual director, teacher, moral theologian, all of these titles may safely be claimed by Taylor.¹⁷⁶ He vigorously opposed Presbyterians and Roman Catholics alike in his lifetime, but his overall heritage to the world appears in a gentle piety and sweetness that are still remembered today. All his writings, but particularly his devotional ones, are shot through with a well-ordered piety which emphasises temperance and moderation.

For Taylor, moral theology reigned as "the collective body of all wisdom."¹⁷⁷ His monumental treatise, Ductor Dubitanitium (DD), finally published in 1657 while he was vice-chancellor of the University of Dublin, was the first comprehensive manual of moral theology produced by an Anglican. It is a massive compendium based on both Roman Catholic and Continental Protestant sources, as well as on Taylor's immediate

predecessor, Hooker, and also such contemporaries of his as Laud and Chillingworth. Strange to say, he had little contact with Sanderson, who was also writing at this time. And in actual fact, Sanderson adhered more closely to the thought of St. Thomas Aquinas and Hooker than did Taylor, who showed a closer affinity to Chillingworth and the Cambridge Platonists.¹⁷⁸ But thanks to his overriding sobriety and general tolerance, it is agreed by all that the total eclipse of his work for over a century and a half has been a sad misfortune for Anglicanism. The revival work of Kirk was long overdue.

The Reformation emphasis on the difference between essentials and non-essentials is a constant theme in Taylor's works. Despite a vehement polemic against Roman Catholicism in one somewhat isolated work in particular,¹⁷⁹ he always aimed at peace and charity in preaching this distinction. His doctrine on authority is definite and detailed,¹⁸⁰ and his defence of the episcopacy is a powerful argument against the Presbyterian trends of the century. He is very traditional and scholastic in his sources for his moral theology. He affirmed nothing

"but on the grounds of Scripture, or universal tradition, or right reason discernible by every disinterested person, where the questions are of great concern, and can admit of these probations: where they cannot, I take the next best: the laws of wise commonwealths and the sayings of wise men, the results of fame and the proverbs of the ancients, the precedents of holy persons and the examples of saints."¹⁸¹

Here we have in a nutshell Taylor's basic approach to moral questions. This key assertion will underlie everything further which can be gleaned from his works regarding consensus fidelium. But our work is far from finished. Taylor was a tutorist and therefore in many ways tended towards rigorism.¹⁸² This stemmed in one way from his demanding dedication to a people who had become lax and confused. In preaching and writing his countless exposés on every aspect of the Christian life, he was not always overly prone to listen to the common layman with all the attention which Kirk would encourage. If we may summarize Taylor's general regard towards a consensus Fidelium in one word, we would say that he was CAUTIOUS. Yet, his theology does have a solid place for some consideration of consensus fidelium as a source

of moral judgment. Always, though, we must keep in mind the spirit of the times: all kinds of heresies, half-truths, popularizations, and half-trained theologians not to mention laymen, were stalking the land. The external unity imposed on the nation was more and more being opposed by internal dissent, particularly from such persecuted groups as the Puritans and the Roman Catholics. And finally, if the ignorance of the populace was as crass as Tvard felt,¹⁸³ then all these factors would make a theologian as lofty and idealistic as Taylor very wary indeed to lean too heavily on a consensus fidelium. All this makes anything he does say in this regard even more significant, and again helps us to understand the paucity of attention he gives to this source in his moral theology.

We will examine Taylor's thinking on the role of consensus fidelium under three headings: 1. Criteria of moral judgments; 2. The testimony of the learned and the vulgar; 3. Custom. It is hoped that we can lay a few more foundation stones both for our general consideration of the historical development of the theme in the "line" of Anglican Moral Theology, as well as for our own understanding of Kirk's own influences.

2. Consensus Fidelium in Taylor's Categories.

a. Criteria for Moral Judgments.

1. Law of Nations. Before discussing the three criteria of Scripture, Tradition and reason as understood by Taylor and cited in the preceding section, we can afford a pause to briefly discuss one aspect of any unanimity of moral judgments arising from the so-called Law of Nations or Ius Gentium. Taylor never wanted this factor to be isolated from sacred Scripture, since "if we enquire after the law of nature by the rules of our reason, we shall be as uncertain as the discourse of the people or the dreams of fancies."¹⁸⁴ This becomes further clarified when Taylor asserts that "the Law of Nature is the Universal Law of the World, and the Law of Mankind, concerning common necessities, to which we are inclined by Nature, invited by consent, prompted by reason, but is bound upon us only by the Command of God."¹⁸⁵ Consent here is understood by Taylor as an "invitation" to common necessities, a stress on the free response which is necessary

when considering any valid and authentic consensus.

When Taylor discusses the consent of Nations, he classifies it as a probable guide to what the Law of Nature may be, but this consent is not a law in itself. He roundly denies that there is any such thing as a Ius Gentium taken collectively but only the laws of individual nations, and he leads up to his chief contention by reiterating his conviction that reason is a relative quantity depending on various circumstances, being, therefore, "an insufficient test by itself of what the law of nature is."¹⁸⁶ Right reason, according to Taylor, enjoys an instrumental role. It uses the law of nature, and is "that by which, together with conscience (which is all reason), we are determined to a choice and a prosecution of it ourselves, or to a willingness of obeying the obliging power."¹⁸⁷ This close interrelation of the laws of nations and the laws of reason with the laws of God and Christ puts a religious significance on any universal consent which may have emerged in Tradition or even at present.¹⁸⁸ And "in those things where Christianity hath not interposed, we are left to our natural liberty, or a 'ius permissivum', a 'permission', except where we have restrained ourselves by contract or deditio."¹⁸⁹

Our only conclusion from Taylor's remarks on the Law of Nations and a consent found therein would lie in the restriction he sets down concerning its universality. That only a "national collectivity" or a "national consensus", if we may so term it, rather than a "universal consensus" be regarded as a significant and sufficient guide to the law of Nature, and thence to a moral practice, is an interesting observation. While Taylor does not elaborate on the implications of this statement here, nevertheless we can file this point for further clarification as we proceed. Perhaps more weight in moral practices should be given to a consensus of a more limited, local scale. This consideration needs a careful balance with teachings that must be universal and those which can be local, a point which will emerge in other ways in Taylor's thinking.

ii. Sacred Scripture, Tradition and Reason. We have already cited the role Taylor attributed to these traditional sources in his moral theology. It would be impossible in this brief study of a man whose output was as vast as Taylor's, to enter into a discussion of any of these sources in any great depth. But this is not really necessary,

since our concern is with the role of consensus fidelium as a source of moral judgment, which is only one source among many.

Taylor "embraced the full extent of the Anglican appeal to Scripture and to antiquity, expressing this with a liberality of view-point and a sensitive understanding of the nature and function of reason. To this he added a wide reading in later writers, poets and philosophers, part of his distinctiveness being the way in which he kept this theological and intellectual element in contact with the emphasis on the development of personality through the means of grace and the experiences of the individual in relation to the corporate."¹⁹⁰ The last phrase of this observation gives us the setting for our next series of observations about Taylor. In all his pastoral and moral criteria, there is an ever-present "tertium quid" which may be termed the "continuing life of the Church."¹⁹¹ It is the understanding of this "life" that enables any consensus to have meaning and relevancy for each succeeding age. But how?

Taylor felt that somewhere between authoritative Scripture and private interpretation is a third line of judgment (our "tertium quid"). He insists that any authority must have the possibility of being freely accepted. Yet everyone cannot be his own authority. His inquiry leads him into the theological maze of the Faith-Reason battles of the scholastics, and he concludes with a three-fold epistemological apprehension of things: (1) a "noesis", or "first notice" of things abstract; (2) then follows a "dianoesis" or "discourse", that is, such consequents and emanations which the understanding draws from her first principles; and finally, (3) a "pistis", that is, such things which the understanding assents to upon the report, testimony, and affirmations of others, viz. by arguments extrinsic to the nature of the thing and by collateral and indirect principles.¹⁹²

From this, we can go on to what Taylor felt about any consensus or agreement of the community regarding a collective "pistis." Taylor is most insistent that there must be a continuity in any teaching

and practice, that is, between what was taught in the Primitive Church and what the contemporary Church teaches. He also holds to the basic delineation as to what is essential and non-essential, ¹⁹³ and adds that in matters that are not necessary and which are "left to our liberty" the best way of discerning them is by "right reason proceeding upon the best grounds it can", viz. of divine revelation, human authority, and probability, and supposing the assistance of God's spirit. He further supports the role of reason by describing it in terms of "the perpetual practice of all men in the world that can give a reasonable account of their faith." ¹⁹⁴ All so far so good, and even very scholastic.

But it is at this juncture that Taylor parts company with scholasticism. It concerns his view of the infallibility of the Church in which he now opposes the Roman Catholic position. Dealing with the Fathers of the Church, he felt that although they were not infallible, nevertheless, "their unanimous consent determines the Catholic faith." ¹⁹⁵ He stressed that any such "universal consent is more negative than positive", since "It does not require an unequivocal statement from every Father of the Church, only 'that there be no dissent from any Father equally Catholic and reputed'." ¹⁹⁶ Here Taylor recognizes that "that consent may gradually become universal that was not so at first", and in this case "the present Church will judge of the Catholicity of a doctrine: 'Unless the whole present do agree, that is, unless of all that are esteemed orthodox there by present consent, this broken consent is not an infallible testimony of the Catholicity of a doctrine.'" ¹⁹⁷

This point is interesting. From his development it is clear that Taylor relies on a "present consent" of all that are esteemed orthodox which may correct the fallible testimony of the broken consent of the past. Without stretching the argument too far, we can simply assert that Taylor, is, in fact, using a consensus Ecclesiae as a criteria for judgments of doctrine and practice.

Tavard points out what is a grave inconsistency in Taylor's whole thought here, since Taylor ultimately asserts the "incompetency of the Church, in its diffusive capacity, to judge of controversies"... "No man

may be trusted for all others, unless this person were infallible and authorized so to do, which no man or company of men is." ¹⁹⁸ He falls back on the right of each individual to serve as a sole judge of the faith. But Tavard objects to Taylor, wondering why he denies to others the validity of a judgment that is valid for oneself. "In the final analysis", summarizes Tavard, "all that may be hoped for is a list of Christians' agreements and disagreements." ¹⁹⁹

Yet Taylor's tremendous respect for "right reason discernible by every disinterested person", his stress on the importance of the individual conscience, his reliance on "probability" and even any possible consent of "testimonies" and any other witnesses, is really nothing new. Of course, it had to be reaffirmed because of the Puritan antitheses which existed in his time. Biblically, he even reinforced this emphasis by referring to Luke 12:57: "Why not judge for yourselves what is right?" ²⁰⁰ His emphasis on a "present consent" stands out as a valid criteria even prescinding from the problem of a final, infallible authority for which Tavard faulted him. It interestingly enough links up the consensus Patrum, which we mentioned earlier in outlining the various types of consensus referred to in theology, with a consensus Ecclesiae of today. That this consensus is a consensus fidelium is not self-evident from Taylor's remarks here, and must be left for further explicitation. All we have are the seeds of consensus fidelium in this discussion of Taylor's use of the traditional sources of moral judgments.

Before leaving this division, we might refer to another significant observation made by Taylor, which is more useful for the practical application it has with respect to specific controversies and their attenuating problems rather than for the nature of consensus fidelium in itself. Taylor puts it thus :

"When an action or opinion is commenced with zeale and piety against a known vice or a vitious person, commonly all the mistakes of its proceedings are made sacred by the holiness of the principle, and so abuses the persuasions of good people, that they make it as a Characteristick note to distinguish good persons from bad; and then whenever error is consecrated by this means, is therefore made the more lasting, because it is associated holy, and the persons are not easily accounted hereticks, because they erred upon a pious principle." ²⁰¹

Taylor instances Philippicus, a monothelyte, and condemned by the sixth synod of his diocese, who proceeded to pull down the images of all the Synods in front of the Church because of the sixth Synod which condemned him. When the Catholics had the images replaced, the whole question of images sprang up among the heretics and there was a great confusion between the serious heresy of the Monothelytes and the lesser problem of the Iconoclasts. Taylor, in his pastoral concern, has struck a good point in our day to day discussion of difficult problems : when we are seeking to determine a consensus fidelium, we must be very careful to single out the precise point (the principle we are defending or determining) from any attendant mistakes or practices surrounding the pious principle we are struggling to clarify. This is not altogether easy, but it is worth noting with Taylor's example in mind and can perhaps help to avoid the recurrence of the same thing.

But returning to the problem of consensus fidelium, to what extent is Taylor's "common consent" a source of moral judgment when found among the laity themselves? The plot is by no means resolved.

iii. The Learned and the Vulgar.

In dealing with the common opinions of men, we enter into Taylor's "cautious" approach. He was wary of extremes, claiming to be free "from the impositions and lasting errors of a tyrannical spirit, and yet from the extravagances of a popular spirit too." ²⁰² Still, "public experience ever remained at the service of reason" ²⁰³ and it is Taylor's views regarding the use of public experience among different strata of the faithful to which we now turn our attention.

In his "chef d'oeuvre", Ductor Dubitantium, Taylor treats of the problem "Of the Probable" at great lengths. This source of judgment, the element of "probability", has already been alluded to. We find several interesting comments under Rule IX where he deals with the questions of a multitude of Authors not being always the most probable inducement to a safe and probable conscience. Much of what he says could be found in many of the standard 19th and 20th Century moral theology manuals under "Probabilism." We shall only select what we feel will advance our understanding of our theme concerning the role of the laity

in moral judgments (here "learned individuals", since his authors would have included both clerics and laymen).

We can begin with the following observation of Taylor's: "The sentence of one, and of a meaner man, may sometimes outweigh the sayings of a multitude of greater persons." ²⁰⁴ Yet, even when against the common opinion there is a strong, or a very probable reason, then the common opinion is not the more probable", since "Truth is to be weighed by argument not by testimony, and it is never otherwise but when men are ruled by prejudice, or want reason to rule them in particular." ²⁰⁵ Agreement of a multitude of authors gives a "presumptive authority": we can presume their teaching "good and innocent", thus giving us a "probable" but not a "sure" conscience. "He that relies on authority alone is governed by chance. Because, if the more be against him, he is prejudic'd by multitude; if the fewer be against him, yet they may be the wisest." ²⁰⁶ Taylor then cites two good examples which show how a local community may be quite wrong in their consensus as to what kind of moral actions may be lawful or not. ²⁰⁷ He then exemplifies how, what may have been a common opinion an age ago, is now rarely maintained but by a few persons. Even the place sometimes diversifies the opinion, and he goes on to say that unless men are determined by reason, they might draw lots for their opinion, and "since the better part is not always the greater, it is left to me to choose which I will." ²⁰⁸ He then concludes the section by wagering that it would be a ten to one odds that the person will choose the local view of an action, regardless of whether it is truly the best or not.

We are now given several guidelines which can be used by the ignorant and the vulgar people whenever there is a confusion of opinions. The tutorist leanings of Taylor definitely appear here when he will only allow what is safest, most pious, most charitable or most useful in his rules. What especially interests us, among these "collateral considerations" considering determining moral judgments as he calls them, are the third and fourth ones (following the first two which deal with what is more agreeable to the letter, purpose and design of Scripture): "3. That which Saints have practised; 4. That which whole Nations have approved." ²⁰⁹ Taylor then gets more explicit: where "it can be told that it is most common, there the community of the opinion hath the advantage, and is

in the same circumstance still to be preferred, because where reason is not clear and manifest, there we are to go after it, where it is more justly to be presumed,"²¹⁰ He cites Euripedes' dictum "It is good when good things are attested by many witnesses", and Aristotle's "That which seems so to all men, this we say, is as it seems; and so it is in proportion from some to many, from many to all."²¹¹

Orders of preference are now listed :

1. God is to be preferred before men ;
2. Our own reason before the sayings of others ;
3. Many before few ;
4. A few before one ;
5. Our superiors or persons in just authority over us, before private persons, caeteris paribus ;
6. Our own before strangers ;
7. Wise men before the ignorant ;
8. The godly and well meaning and well-reputed, before Men of indifferent or worldly lives.

Several observations are then added by Taylor which are useful for our inquiry. He wisely confesses that truth perhaps cannot be "hit", but it must be aimed at. "There must be heresies, that is sects and differing opinions, that they who are faithful may be approved."²¹² It is also the interest of everyone to prefer the interest of peace and obedience in all his choices, and he needs a very great cause to dissent from authority which is appointed over him. "Such causes may be, but the unskilled multitude (of whom we now treat) seldom find these causes, and seldom are able to judge of them..."²¹³ Taylor's inherent wariness of the multitude emerges once more. He rigidly adheres to a stiff concept of authority when he bluntly states : "For though great reason may be stronger than authority, yet no private authority is greater than the publick."²¹⁴ His tremendous regard for reason still remains present, however, and comes to the surface again when he generalizes that "every authority hath its degree of probability according as it can be presumed or known to rely upon reason."²¹⁵ The value of the most primitive sources in Christianity are praised because of their proximity to the Source, their firmer traditions, and their purer doctrine with fewer heresies.

It is strange that Taylor should place such emphasis on authority here when he denied it so categorically with regard to an

authoritative teaching of the Church. Just how is the "present consent" to be determined if not in collusion with the witness of the multitudes, all of whom could not be morally depraved? Taylor's cautiousness with regard to the opinions of the many, while accepted in theory by him, are often rejected when it comes to a concrete application of them in practice.

iv. Custom.

Anglicanism has always employed custom as a great source in determining both its doctrine and practice. It is for this reason that Taylor's use of custom with regard to consensus fidelium is important for us. Since much of Taylor's use of custom is to be easily found in both the traditional Anglican and Roman Catholic manuals on moral theology, all we will do here is to extract the salient points for the furthering of our investigation.

Taylor was always careful to assert the supremacy of Truth, the Divine Commandments, and the Laws of Christ over customs. Custom could, however, be very useful in interpreting the sense of the law, "because we have all the wise and good men of so many Ages concurring in the interpretation of the law."²¹⁵ Custom becomes "the best argument when we have no better, but it is the most artificial of all arguments, and a competent reason to the contrary is much to be preferred before a great and long prescribing Custom."²¹⁷ Here he quotes St. Augustine's classic reference concerning the attention to be given to the views of the People of God when we have nothing certain in Revelation concerning a particular doctrine or practice.²¹⁸ The guidance of "the Spirit of God" in "the holy Catholic Church" is frankly claimed, "for it is to be presumed (where the contrary is not proven) that the piously endeavors... (are) graciously assisted in the understanding of the will and Commandments of her Lord: and in this sense, Custom is the best interpreter, because there is no better, and no clearer light shining from any angel."²¹⁹ Taylor makes his own the words of S. Cyprian, "In vain is custom opposed to reason, as if it were greater than truth? Not custom, but that which is best, is to be followed by Spiritual persons, if anything better than Custom be revealed by the Spirit of God."²²⁰

There is little here which is not commonly held by all Christians in both the Roman and Anglican schools of theology.

But it is Taylor's inherent caution which is worth noting at this point. He is quite right when he warns us of "the evil that has crept into most of the manners of men; and then a custom is most likely to transmit her authority to that which ought to be destroyed It is one great cause of our mischiefs, that we are not led by truth, but led away by custom; as if a thing were the honestest because it is frequent; and error becomes truth when it is common and publick." ²²¹ His conclusion is right on target: "If right and Religion be on our side, the smallness of our company is nothing: but a multitude cannot justify impiety." ²²²

We now come to his explicit treatment of certain customs and moral practices. He begins by broadly asserting that "Custom in moral practices becomes law to Men by pressing upon their modesty, and by out-facing truth and piety; so that unless custom have warranty from the law, it hath the same effect against a law as for it; and therefore in such cases is at no hand to be trusted, but at every hand to be suspected, lest it make it necessary that Men become vicious." ²²³ Taylor's rigorism is again influential, and his conclusion to this paragraph once more bears out how chary he is of trying to understand the Gospels via customs which impart a "sense of ease and gentleness" because "I did as all the World almost besides me" rather than what the "severity of a few morale Preachers" bid me to do. ²²⁴ His examples of prevalent customs in Italy, which permitted the robbing and killing of foreign travellers, seem far fetched, but they do drive home his point that customs can be evil as well as good. He concludes by saying that "Custom ought not to prevail against any truth; but Truth which is eternal will live and prevail for ever and ever. Custom without truth is but a prescription of falsehood and irregularity." ²²⁵

One final note regarding Taylor's treatment of custom. He wonders whether "upon occasion of this argument it is seasonable, and of itself a very useful inquiry, Whether the customs of Jews and Gentiles, or indefinitely of many Nations, be a just presumption that the thing to be practised is agreeable to the Law of Nature, or is any ways to be

supposed to be consonant to the will of God." ²²⁶ The whole question centres around the absorption and Christianizing of certain pagan ceremonies and practises. Taylor, true to form, is on his guard, and alludes not only to the Roman Church's practice and the Fathers' teachings on this, but also to Richard Hooker, who devoted a long section of his Ecclesiastical Polity to the problem. ²²⁷ Only his broad conclusions are relevant here: "From these premises it will appear to be but a weak pretence to say, that if many Nations and Religions agree in such a ceremony, or such an opinion, it will be supposed to come from the light of Nature. For there are not many propositions in which Nature can teach; and we should know but a very few things, if we did not go to School to God, to Tutors, to experience and to necessity." ²²⁸ This argument of Nations is a "good corroborative, (sic) a good second to our persuasions, but not a principal; it gives advantage, but not establishment, ornaments but not foundation to a truth." Taylor concludes: "No custom is a warranty for any evil." ²²⁹

Thomas Wood, one of the more recent students of Taylor, adequately summarizes Taylor's qualifications as to judging the usefulness of customs. These points give us a good ending to this section as well as a few more clues as to how consensus fidelium is to be used in the formulation of moral judgments : ²³⁰

1. The custom must be laudable and "reasonable and fit for wise and sober persons" ;
2. When different Churches have different customs concerning the same thing, "every church is to follow her own custom and every of her subjects to obey it" ;
3. Nevertheless, when communicating with a Church which has a different set of customs, we must not give offense by adhering to customs of our own ;
4. A custom does not command respect because of its age but because of its "present observation" ;
5. If there should have grown up an ecclesiastical custom that is contrary to an ecclesiastical law, then the custom does not oblige conscience unless common practice makes it quite evident that the competent authority is willing that the law should become obsolete ;
6. Before it can oblige, a custom must be reasonable or useful.

While it is true that most of these observations concerning custom apply more to liturgical practices and particular manifestations of devotion, yet the significance of Taylor's stress on customs being in line with reason, and having a command on our respect because of their "present observation" is a healthy attitude quite in consonance with the whole English mentality towards customs in general. Indeed, the traditional English common law is a good parallel to this outlook.²³¹ It does serve to further stress a more dynamic approach to customs as evolving and developing, and a respect for local evolutions and practices. If consensus fidelium is manifested in one way by the customs prevalent in a particular nation or locality, and if moral practices are parallel to liturgical and devotional practices in their use of custom, then these guidelines make good starting points for the overall evaluation of the role of custom when considering consensus fidelium as a source of moral judgment. We say "starting points", because, as we will shortly point out again, many moral practices are to be seen within a much broader spectrum and importance than a local devotion or rubric. It is for this reason that Taylor's warnings about placing too much importance on custom in MORAL judgments are eminently ad rem.

b. Final Conclusions.

Our treatment of Taylor has contained within it several evaluations as we passed from section to section. All that remains for us to do here is to stand back from the individual categories under which we have discussed our theme, and to try to give an overall assessment of Taylor's contribution.

Our principle commentator on Jeremy Taylor has chosen to sum up his writings thusly: "With all his contradictions and the lavish variety of his subject matter and the richness of his style, his thought moves outward from a steady centre. His devoutness and practicality, his liturgical feeling and his sense of the continuity of the Church, his concern for the truth of things and his desire for a relevant theology, all combine with that theological method which is woven into the substance of all his writings, a three-fold cord not easily broken."²³² This is so true. Even in our very treatment of only one moral source, consensus fidelium, there are several points which almost seem to contradict one

another. In one instance we almost feel we have Taylor ready to give full weight to a "common consent" which carries some degree of universality to it, and in the next he is warning us of the dangers of following the multitude which so easily errs. On the one hand he extolls reason and the authority of the individual reason and conscience and on the other he hoists a red flag warning against any great reliance on reason and experience which can be blinded by evil practices. Where does this leave us then ?

Actually, there are both negative and positive values to what Taylor has offered us. He has warned us not to be too quick in following every popular and passing wind of opinion. This is a good antidote to remember whenever the "majority rule" cryptogram is appended to consensus fidelium. His assertion that faith has degrees of apprehension is true and it is good to keep this in mind when considering the subjects of the consensus. It is not to deny that the Spirit can speak in any man, but the fact remains that the deeper the faith is, normally the more likely it is we are hearing the authentic "groanings" of the Spirit. Again, Taylor is only echoing Hooker and Sanderson.

We have already hinted at the validity of Taylor's remarks about custom when applied to moral practices. Again, his caution as well as his continual hearkening back to Scripture, the Fathers, and the "continuing experience of the Church as manifest in reason and experience of mankind give a good backdrop with which to view a consensus fidelium appearing in the form of a custom. His wariness is also a good tonic against expediency here, and what we said concerning Sanderson's views of reason, conscience, prudence and expediency are supported by Taylor's caution and care. This is further nuanced by Taylor's observation that truth cannot always be "hit" but must be aimed at. Every consensus fidelium, no matter how it is expressed, becomes a projection or a direction towards the truth. This would be true of both a valid consensus, i.e. one that has been received into the authoritative teaching of the Church, as well as an invalid one, i.e., one that has been condemned by the teaching office of the Church. The dialectic process is constantly surfacing in our treatment, but always under the traditional forms of manifestation, such as custom, sources, etc.

Taylor's inclusion of the Ius Gentium in his sources is also noteworthy. While our terminological survey tended to exclude this from consensus fidelium as such, yet Taylor has in actual fact closely linked it to consensus fidelium. The immediate application of Taylor's inclusion is the value to be given to what blossoms as a particular national consensus of a moral practice. This becomes especially important in matters that are non-essential and which the Church has no universal tradition since it is not contained in Revelation or has not been clearly clarified. The various roles of national Churches in moral developments may need a re-evaluation now that the dust of the Reformation has settled. This will come up again in Kirk's theology.

Taylor's separation of the point of contention and all the sublinear arguments leading up to it simply emphasizes the necessity of clear-thinking and careful evaluation of any consensus fidelium. All too often we do find that the consensus fidelium may be a consensus concerning only one small aspect of a practice rather than all aspects of the practice. Taylor's explicit reliance on reports, testimonies and affirmations of others as corroborative support for teachings and practices, an evidence he speaks of in terms of "pistis", gives us an obvious clue as to how the precise point of the consensus may be searched out.

An inner dynamism is patently implied in Taylor's writings on our theme. What we have termed as a "tertium Quid" between the authority of revelation and the individual conscience presents itself under the heading of the "continuing life of the Church" being continually updated and assessed by an actual or virtual consensus found both in past ages of the Church and in an operational "present consent." 233 With due respect to Tavard's criticism of Taylor, we still feel that Taylor has supported, even though very meagrely, our thesis that consensus fidelium is a source of moral judgment. But this "tertium quid" is much too close to Koster's "middle way" in describing consensus fidelium. Koster was criticized for this and rightly so. The consensus fidelium as a source of moral judgment is to be understood as being within the Church, and not between the Church's magisterium and the rest of the Church. The consensus fidelium is an organic source of moral judgment penetrating all of the faithful. Taylor's ever-present

tendency to separate the sources of authority in the church does lead him to a position wherein the spiritual insights and penetrations of the laity are very much suspect for the most part. It is for this reason that Taylor has an implicit holding back in his writings for any great stress on consensus fidelium as a source of moral judgment. But we must be quick to add that the current moral abuses and ignorance of the laity along with the prevailing structures both ecclesiastical and civil, were definitely not conducive to this wider and deeper understanding of consensus fidelium. As we have already remarked, ANY allusions of Taylor to the use of consensus fidelium have a greater significance for these precise reasons.

D. THE PURITAN VEIN: RICHARD BAXTER (1615 - 1691)

Our last theologian under explicit discussion, Richard Baxter, will focus on another element in the evaluation of consensus fidelium, namely the ascetical criteria. This is perhaps the greatest contribution Puritanism has made to the world, and, despite its rigorism, it still needs careful evaluation if the true Spirit behind any authentic consensus fidelium is to be fully appreciated.

1. Baxter and Puritanism.

Any consideration of a theme in the "line" of Anglican moral theology which we are attempting would remain unbalanced without some reference to the Puritan doctrine and its principle exponent, Richard Baxter.²³⁴ He is considered as representing English Puritanism at its best and his "deep unaffected piety" and "love of moderation"²³⁵ consistently appear in his biographers' accolades. What has later been seen as a desire to avoid extremes has given him the posthumous award of "the first propagator of ecumenism in England,"²³⁶ a title which makes him all the more fitting for our present study. During his lifetime he had become disillusioned with the Anglican episcopacy and became a firmly entrenched non-conformist. But basically he disapproved of separatism and deeply believed in a national church which would have some form of a moderate episcopacy.

Theologically, Baxter was well versed in the writings of the schoolmen. He strongly opposed a literal interpretation of Scripture, preferring a more general one. Also, there is a strong flavor of "liberal Calvinism"

which appears in his doctrine of election. His sermons are noted for their stress on the drawing power of fear in bringing people to God, but we must also note, a fact many tend to forget today, that there is present in them a powerful undercurrent of love and compassion.

Kirk has numerous references to Baxter in his works on moral theology. Baxter is cited no less than 15 times in Conscience and its Problems alone. Kirk calls Baxter's Christian Directory "practical, clear and to the point", ²³⁷ but criticizes the kind of Reformed casuistry that Baxter frequently employs in the following terms :

"...it may be said that the lack of a continuous and authoritative tradition, the pressure of other interests, the growth of philosophic individualism, with the consequent decline of the sense of loyalty as distinct from the habits of passive obedience or of open non-conformity, and the rarity of that wide experience of human nature which only the most sympathetic and highly gifted can have where the confession is not a regular institution, all combined to sterilise the Reformed casuistry."²³⁸

This is but a peep-hole glimpse of Baxter and Puritanism, but it does reveal a few of the positive and negative aspects of his work as well as the particular strain of English Christianity that he was endeavoring to proclaim in the 17th Century.

2. Baxter's Concept of the Church.

The latter part of Vol. V of Orme's collection of Baxter's works is devoted to Baxter's explanation of what the Church is and exactly who may be members of it. Baxter's views were greatly influential in the field of political philosophy, but they can in no way be seen as completely original since he merely echoed the mediaeval view which saw the Church and State as two facets of the same community. ²³⁹ He specifies that the word "Church" sometimes signifies "the universal Church called Catholic; which consisteth of Christ and his body politic, or mystical; and sometimes some part only of the universal Church. And so it is taken either for a subordinate, political part, or for a community, or a part considered as consociate, but not political; or as many particular, political churches agreeing and holding concord and communion without any common head, save the universal head." ²⁴⁰ Baxter then spends many pages delineating which Churches are of divine or human constitution or policy, which ones profess the essentials of Christianity, and who are members. Running through his ecclesiology

is the Reformers' distinction of the 'visible' and 'invisible' Church, which we referred to earlier when speaking of the XXXIX Articles. Significant for our research is the distinction between "pars imperans" and the "pars subdita" that Baxter makes. Clearly, he viewed the laity as a kind of "learner"²⁴¹ and the distinction "Ecclesia docens" and "ecclesia discens" is explicitly more in evidence in his ecclesiology than in some of the men we have already studied in the paper.

Baxter, as we have mentioned, espoused the Calvinistic doctrine concerning the elect, although he was not as rigid in his restrictions of the elect as was Calvin. In a discourse entitled "The Everlasting Rest", he speaks eloquently of "The People of God" within the Church in a two-fold sense:²⁴² (1) those who are members only in an external profession of the covenant, and no further; these are sinners and men who offend; and (2) there are the sincere covenanters who accept Christ internally and bear fruit. This latter group enjoys Christ's election and union with Him, and he concentrates his attention on the peculiar properties of those that shall have this kind of rest. This distinction is of interest to us as we shall see, for it was this segment of the Church, the elect living in union with Christ, whom he generally considered when seeking any consensus regarding faith or practice.

In general, we must also note that Baxter disapproved of democracy. "His ideal was a Christian commonwealth or theocracy, the State existing for the glory of God and the welfare of souls."²⁴³ Another point to be kept in mind as we proceed, is his regard for the average layman. We are told that he considered "the majority of people vicious and stupid",²⁴⁴ a view that is bound to color his views on consensus fidelium. We also find a similarity between Taylor's understanding of the Church and Baxter's with regard to a suspicion of the episcopacy of that time.²⁴⁵ It was perhaps for this reason that Baxter espoused Hooker's opinion that the "best limited power" was in the king, since "in dealing (it) is tied to the soundest, most perfect and indifferent rule, which rule is the law; I mean not only the law of nature and of God, but the national law consonant thereunto; happier the people whose law is their king in the greatest things, than that whose king is himself their law."²⁴⁶

Baxter would not hear of a total liberty "to sin, and abuse one another, and hinder the Gospel, and contemn our governors. Some mistake¹ for government itself; and think it is the people's liberty to be governors: and some mistake liberty for exemption from government, and think they are most free, when they are most un-governed, and may do what they list: but this is a misery, and not a mercy, and therefore was never purchased for us by Christ." ²⁴⁷ He concludes in a vein very reminiscent of Sanderson: "Yet no doubt, that the lawgivers are as such, above the law as an authoritative instrument of government, but under it, as a man is under the obligation of his own consent and word; it ruleth subjects in the former sense; it bindeth the "summan potestatem" in the latter." ²⁴⁸

3. Consensus Fidelium as a Source of Moral Judgment.

Viewing Baxter's concept of the Church and the elect along with his non-Conformist leanings, and yet mindful of the respect and position for authority which he maintains, we are now in a position to examine further the role he would ascribe to the laity with regard to moral judgments. Consensus fidelium appears in his works in several ways, as for instance the consent of the people with regard to the choice of a minister for a parish. ²⁴⁹ This aspect reveals nothing of use for our particular query, however. It is obvious by now, that Baxter will also be very cautious of placing too much stock in any consensus fidelium regarding specifically moral questions. This again is probably why it is so difficult to find any allusions to the use of consensus fidelium at all in his works. But what he does say, while not directly with reference to consensus fidelium, nevertheless is of much use to a closely related aspect of consensus fidelium which our preliminary theological survey pointed out. This is in the area of "piety", to use the general term. Of this we shall speak very shortly through the writings of Baxter.

We will concern ourselves with four approaches to the use of a consensus fidelium which strike us in the works of Baxter.

a. Human Experience and Common Sense.

This is that peculiarly English or Anglo-Saxon quality which we spent some time describing in Chapter one. It shows up quite clearly in Baxter but in a very cautious handling when it comes to being used in theological discussions. Baxter maintained that it was very difficult to gather "doctrinal certainties from godly men's experience alone." ²⁵⁰ His support for this, while it may seem to touch on questions of faith only, has a wider ambit, both for the reasons we have already given which showed that it is impossible to separate the doctrinal and the moral interminglings in this theme, and also because Baxter himself frequently uses examples which are drawn from the sphere of moral practice. This is how Baxter feels about human experience and consensus fidelium :

"Even our experimental philosophers and physicians find, that an experiment that hits oftentimes, quite misseth afterwards on other subjects, and they know not why. A course of effects may often come from unknown causes. And it is no rare thing for the common prejudices, self-conceitedness, or corruption of the weaker and greater number of good people, which needeth great repentance and a cure, to be mistaken, for the 'communis sensus fidelium', the inclination and experience of the godly; especially when consent or the honour of their leaders or themselves hath engaged them in it. In my time, the common sense of the strictest sort was against long hair, and taking tobacco, and other such things, which now their common practice is for. In one country the common consent of the strictest party is for Arminianism: (251) in another they are strictly against it. In Poland, where the Socinians (252) are for sitting at the sacrament, the godly are generally against it; in other places they are for it. In Poland and Bohemia, where they had holy, humble persuading bishops, the generality of the godly were for that Episcopacy, as were all the ancient Churches, even the Novatians; but in other places otherwise. So that it is hard to be certain of truth or error, good or evil, by the mere consent, opinion, or experience of the day." ²⁵³

We find a similar wariness to the common opinions of men in Baxter's work on conversion. He is especially cautious of men who merely change their opinions from unorthodox ones, but who refuse the co-extensive renewal of the heart and of true faith along with such a change. He correctly attributes the difficulty to sin, and then asserts that the true change of heart cannot be savingly received "without the special illumination of the Spirit", nor can such men "opinatively receive them without a common

illumination of the Spirit", and yet they "may have this opiniative conviction and an unanswerable reformation, by the common grace of the Spirit, without the special grace." ²⁵⁴ The language he uses in describing the actions of the Holy Spirit in affecting a radical change in men's opinions does emerge clearly from his writings, although not without some confusion. We must be careful not to put too much emphasis on what Baxter calls the "common grace of the Spirit", since this might only mean the grace God gives to all men who are endeavoring to follow their own particular inspirations and lights. This would be given to all those in the Church "invisible" to use Baxter's terms of reference, and would be different from the grace given to the Elect. But the hint that the Spirit can work through "opiniative convictions" still remains, a point we merely point out and pass on.

We turn now to several admonitions Baxter gives concerning Christian worship which give a little more positive evaluation of the common sense of the faithful Christian. He warns his listeners not to differ "in God's worship from the common sense of the most faithful godly Christians, without great suspicion of your own understandings, and a most diligent trial of the case. For if in such practical cases the common sense of the faithful be against you, it is to be suspected that the teaching of God's Spirit is against you. For the spirit of God doth principally teach his servants in the matters of worship and obedience." ²⁵⁵ Baxter now gives us several errors to avoid :

1. He advises us to beware following the judgment of the ungodly multitude, who judge without the teaching of the Spirit, by whom things spiritual are discerned, and refers his readers to ICor.2:13-15; ²⁵⁶
2. He explicitates this further by saying that these types of men must judge quite contrary to their natures and inclinations, or against the diseased habits of their wills. He questions the impartiality of a drunkard judging the evils of drunkenness, or the whoremonger judging the evils of fornication, or the covetous, or proud, or passionate man judging of their several sins. He vehemently denies the ability of an ungodly man to judge the duties of godliness since he is judging that which he hates; and that with which he is quite unacquainted. "it's like he never thoroughly studied it: but it's certain he never seriously tried it, nor hath not, the experience of those, that have long made it a great part of the business of their lives.

And would you not sooner take a man's judgment in Physik, that has made it the study and practice of his life, than a sick man that speaketh against that which he never studied or practised, merely because his own stomach is against it? Or would you not sooner take the judgment of an ancient Pilot about navigation, than one that never was at sea? The difference is as great in the present case." 257

3. He drives home his point : "Prefer not the judgment of a sect or party, of some few people, against the common sense of the generality of the faithful : For the Spirit of God is likelier to have forsaken a small part of the godly people, than the generality in such particular opinions, which even good men may be forsaken in : Or if it be in greater things, it is more unreasonable and more uncharitable for me to suspect that most that seem godly are hypocrites and forsaken of God, than that a party, or some few are so." 258
4. Always, Baxter sermonizes, "...use the advice of men in due subordination to the Will of God, and the teaching of Jesus Christ." 259

Again, we find that peculiar Anglo-Saxon penchant to give weight to what the majority of people feel or think, but here, especially the majority of people living good lives. Also, these dicta, even though said with worship in mind, still contain several wider applications (eg. No. 3) which are very useful for moral judgments, our particular concern.

But unfortunately for us, Baxter never embarked on any discussion of just what this "common sense" consisted, nor did he elaborate on the term "communis sensus fidelium". Following the English approach, he presumes that we all know what the terms mean and passes on. This is undoubtedly due to the "occasional nature" of the Carolines' writings. They were usually evolving their theology through the pulpit or the disputers' table and so we end up with a very existential and practical approach to such concepts rather than carefully worked out syntheses and analyses of them.

b. Controversies : Criteria for Judging

As Kirk rightly observed, Baxter was at his best in offering guidelines to be used by his readers, or listeners to help them decide just what direction the Spirit was leading the community of the faithful in theological controversies. ²⁶⁰ We will attempt to synthesize the kernel

of each of the directives which may give us specific relevant points for our consideration of consensus fidelium. As usual, Baxter proceeds "very wisely and cautiously" because "Multitudes of men have tormented or murdered others as heretics, who themselves must be tormented in hell for not being Christians." ²⁶¹ A good point for any era. He now presents the following directives : ²⁶²

1. "Take heed lest there be any carnal interest or lust which maketh you unwilling to receive the truth, or inclineth you to error, that it may serve that interest or lust." He explains that many men of great learning and natural parts are frequently thus deceived because of a naughty, carnal, or biased heart, "because that error is the vulgar opinion, and necessary to maintain their popular reputation and avoid reproach." "An honest, sanctified heart is fittest to entertain the truth."
2. "Seek after the truth, for the love of truth, and love it especially for its special use, as it formeth the heart and life to the image and will of God; and not for the fanciful delight of knowing; much less for carnal, worldly ends."
3. "Seek after truth without too great or too small regard to the judgment of others: neither contemn them nor be captivated to them." He cautions against being loyal to a party only to please them or your own interests, and perhaps betraying the truth to be accounted orthodox by those you value.
4. "Take heed of pride, which will make you dote upon your own conceits, and cause you to slight the weightiest reasons that are brought by others, for your conviction."
5. "Take heed of slothfulness and impatience in searching after truth, and think not to find it in difficult cases, without both hard and patient studies, and ripeness of understanding to enable you therein: and suspect all opinions which are the offspring of idleness and ease, whatever Divine illumination they may pretend." This is an important point to bear in mind since all too often a particular practice is too quickly or rashly embraced without the "pains and patience" required to "learn the truth in the school of Christ."
6. "Keep out passion from your disputes and in the management of all your controversies in religion."
7. "Keep up a sense of evil and danger of both extremes; and be not so wholly intent upon the avoidance of one extreme, as to be fearless of the other." He remarks that "usually the sin or error which we observe not, is more dangerous to us than that which we do observe, (if the wind of temptation is set in that way)."

8. "When you detect any ancient error or corruption, inquire into its original; and see whether reformation consist not rather in a restitution of the primitive state, than in an extirpation of the whole."
9. "Pretend not to truth and orthodoxness against Christian love and peace: and so follow truth, as that you lose not love and peace by it; (as much as in you lieth live peaceably with all men.)"
10. "Pretend no truth against the power and practice of godliness."

The lofty Christian idealism of Baxter's Puritanism coupled with his tendency to rigorism is quite evident in these directives, but it in no way detracts from the validity or pertinence of them. What he has given here may well be described as the ascetical underpinnings or prolegomena which should be proclaimed as well as pondered and prayed over before every gathering of Christians seeking to determine a consensus concerning any Christian way of acting. Baxter now becomes more precise in his directives, and if we cite them at great length, it is because we feel they give us a succinct and clear approach to any controversial issue in the Christian life. Surprisingly enough, these directives of Baxter will be seen to be borne out in more ways than one in both the explicit and implicit tenets of Kirk's moral theology. Also, they have much relevance for us today when viewed in the light of an open and humble faith seeking guidance from the Spirit, which is what should underlie every ecumenical gathering or indeed any gathering of a specific group of Christians endeavoring to determine a consensus on a question of doctrine or practice. Baxter's very guarded approach, based on his spiritual tendencies, is a good balance to the opposite pole in which any popular wind is seen as the "modern spirit". With these comments in mind, we now proceed to summarize Baxter's "More near and particular Directions against Error" : 263

1. 'Begin at the greatest, most evident, certain and necessary truths, and so proceed orderly to the knowledge of the less, by the help of these.' 264
2. 'The two first things which you are to learn are, what man is, and what God is: the nature and relation of the two parties, is the first thing to be known in order to the knowledge of the covenant itself, and all following transactions between God and man.' 265

3. 'Having soundly understood both these and other principles of religion, try all the subsequent truths thereby, and receive nothing as truth that is certainly inconsistent with any of these principles.' 266
4. 'Believe nothing which certainly contradicteth the end of all religion.' 267
5. 'Be sure to distinguish well betwixt revealed and unrevealed things.' He is very careful here, advising us to "Reverently withdraw from things that are unrevealed, and dispute them not." 268

In the next seven Directives Baxter lists general maxims which would be stock in any course in logic. Thus, he elaborates on the necessity of careful and accurate distinctions, the care to be taken over metaphors, the distinction to be always held in mind between 'moral acts' and 'mere physical acts', the order of being and of knowing, whether a thing be commanded or lawful or not, how much of the controversy is verbal 'de nomine' or material 'de re', the dangers of rambling minds and rambling talkers, the traps of sophistry, the necessity of being cautelous in admitting false suppositions or inferences from them, or finally the risk of pleading uncertainties against uncertainties. These are points which may seem obvious or even superfluous, but the all-too frequent occurrences of them in discussions and controversies make them worth noting.

The following Directives are worth citing verbatim since they further specify how we should go about handling discussion of thorny problems : 269

14. 'Plead not the darker texts of Scripture against those that are more plain and clear, nor a few texts against many that are plain; for that which is interpreted against the most plain and frequent expressions of the same Scripture is certainly misinterpreted.' 270
15. 'Take not obscure prophecies for precepts.'
16. 'Be very cautious in what cases you take men's practice or example to be instead of precept, in the Sacred Scriptures.' Here, he argues in favor of men with a commission from God, and reinforced by the guidance of the Spirit, "to establish the form or orders of his church and worship" and to lead men into all truth." Yet, he advises that we distinguish "both the words and practice of the apostles which were upon a particular and temporary occasion (and obligation) from those that were upon an universal or permanent ground."

17. 'Be very cautelous what conclusions you raise from any mere works of Providence,' for "Providence changeth the matter of our duty, and so occasioneth the change of our obligations."
18. 'In controversiaes which much depend on the sincerety and experience of godly men, take heed that you affect not singularity, and depart not from the common sense of the godly.' "For the workings of God's Spirit are better judged of, by the ordinary tenor of them, than by some (real or supposed) case that is extraordinary."
19. 'In controversiaes which most depend on the testimony of antiquity, depart not from the judgments of the ancients.' Thus their proximity to Christ and the Apostles, particularly in points of history, is to be preferred.
20. 'In controversiaes which depend on the experience of particular Christians or of the Church, regard most the judgment of the most experienced, and prefer the judgment of the later ages of the church before the judgment of the less experienced ages:' (except the apostolic age that had the greater help of the Spirit). He rightly points out the advantage each successive age has over the prior one as to an increase in experience and wisdom, and refers to this in terms of even "greater talents." He feels that it is "inexcusable for the present age of the Church to be no wiser than these former ages."
21. 'In controversiaes which depend most upon skill in the languages, philosophy, or other parts of common learning, prefer the judgment of the most ancient, or the most godly, or of the greatest number, even whole churches, that are unlearned.' Here he firmly assures us that one clear eye such as a Jerome or an Origen will be a surer guide than ten thousand that are purblind. "Every man is most to be regarded in the matters which he is best acquainted with." Again, Baxter has struck home with a marvellous thrust.
22. 'In controversiaes of great difficulty where divines themselves are disagreed, and a clear and piercing wit is necessary, regard more the judgment of a few judicious, well-studied divines that are well-versed in those controversiaes, than of a multitude of dull and common wits that think to carry it by the reputation of their number.' Baxter notes how very often a few men who are wiser than the multitude, "are fain to stand by, and compassionate not only the world but the Church, and see the disease, and the easy remedy, but all in vain; while they are but neglected or despised by the rest, that will be made wiser by them.'
23. 'In all contentions hold close to that which all sides are agreed in.'

24. 'Take nothing as necessary to salvation in point of faith, nor as universally necessary in point of practice, which the universal church in every age since Christ did not receive.'
25. 'Be not borne down by the censoriousness of any, to overrun your own understanding and the truth, and to comply with them in their errors and extremes, (271) but hold to the truth and keep your station.' He is hard on the young here, especially those who bitterly censure anyone differing with them. He will not brook mere compliance with them under the guise of keeping an interest in them to do them good. He maintains that "truth which is the means of the good of souls, must not be betrayed as for the good of souls."
26. 'Doubt not well-proved truths, for every difficulty that appeareth against them.'
27. 'Abuse not your own knowledge by subjecting it to your carnal interest or sensuality.'

The nature of the directives, while still being general and not solving exactly what constitutes a consensus fidelium in any point, still give good insights into various pitfalls that can loom in one's path. It is significant that Baxter begins by stressing the necessity of a theological anthropology. (Directive 2, Page 132, infra.)

This point continues to run through all considerations of consensus fidelium. He is a bit over-cautious in telling us to avoid disputing things that are unrevealed, but this advice must be situated in his day when so many uneducated laymen and clerics were being wrought up in discussions which were only undermining their faith. Baxter still supports his "common sense of the godly", a vague term but nevertheless significant since it pays allegiance to the workings of the Spirit in the average Christian. In speaking of "Christian Economics" in his Christian Directory, he explicitly states that differences of religion are to be attacked by taking God for the judge and referring the matter to his Word, and aiming at his glory and the pleasing of his will by using "his means for the concord of your judgments; which is, to search the Scriptures, and consult with the faithful able pastors of the Church, and soberly and patiently to debate the case, and pray together for the illumination of the Spirit." ²⁷² It is also refreshing to hear Baxter come out with such praise for present-day judgments in

controversies depending on the experiences of particular Christians or of the Church. We can almost feel a wind of Christian secularism blowing in the directive where he extolls the advantages of each successive age over prior ones in this regard. This is worth remembering, since so many of the problems involving consensus fidelium circle around a healthy respect for the whole background and ethos of the people whom we are working with in determining the consensus. It also augurs well for a "division of functions and responsibilities" within the Church and even in the formulation of its moral guidance. This means that greater weight will be given to the Spirit speaking through men who possess dual professions, if we may so term them, i.e. men who possess a specialized knowledge in a particular field and whose opinions thus become potent due to the fusion of their faith with the actual living of it in this specialized area. Baxter has the germs of a theology of the secular in some of these directives, and this cannot be passed over lightly. Gabriel Moran puts it forcefully when he issues his proclamation that "Christianity, for its part, is to be an idol smasher that keeps the future open to all the human possibilities."²⁷³ Directive 20 has said as much, and its importance for consensus fidelium with regard to moral judgments becomes more and more applicable.

But unfortunately there is a strong note of anti-emotionalism as well as a black-and-white concept of people that runs through Baxter's directives. The work of the Spirit must not be confined to a wholly rational and coldly unemotional and completely dispassionate assessment of the Christian moral life. True, there is an ever-present danger in considering opinions which are voiced in the heat of debate, anger, sentiment, etc. But the out-pourings of the Spirit can be manifested through the joyful acclamations or outraged faith-instincts, for example, of the faithful, concerning a particular practice or habit. This possibility needs noting. And we must not be overhard on men leading immoral lives and yet offering us fresh insights concerning our moral practices. It is God who can decide who are to be his instruments, and who are we to question him? These comments are made not to deny the validity of Baxter's directives, but simply to keep them within a proper perspective. Kirk wrote a huge volume called The Vision of God in which he warned against viewing men as either totally good or evil.²⁷⁴ It is becoming more and more clear just how much we need a dialogal interplay between

consensus fidelium and the teaching office of the church, since too much emphasis on either aspect without the corrective influence of the other only results in these dichotomous concepts rather than in complimentary ones.

c. The Role of the Spirit.

Baxter has several interesting points to make in speaking about the actual working of the Spirit in us when we are trying to discern our way in the midst of controversy. Adhering to the directives we have just cited, he begins by reminding us to distinguish between what is essential to Christianity or of necessity to salvation, and what is useful and not absolutely necessary, the "niceties of smaller use." 275 He also distinguishes between the spirit of holiness in general and some special gift of the Spirit in particular. The following points are then presented :

1. Whenever it is an essential point of Christianity, or of absolute necessity to salvation, "the witness within them will keep right the elect, who are true believers, when more learned, subtle men may be deceived." 276
2. In points of very great use to salvation, though not of absolute necessity, Baxter holds that a godly man is more likely to be in the right than an ungodly one : "but yet sometimes an ungodly man is more likely to be right here than he." 277. This is a balancing point for a Puritan like Baxter to make, but we can still see the black-and-white view of men emerging in his rules.
3. In the knowing of natural things, and in understanding and maintaining the truth in many particular, lower controversies, even though the Spirit of holiness is of great advantage to men, yet weight is given to the "particular and more common gifts of the Spirit, which accompanieth natural wit and diligent study" and are even granted "greater advantage." This is because "in these things, and in natural knowledge, God is pleased to work by natural means, and by men's industrious studies." 278
4. Far from being a Fideist in outlook, Baxter favors employing the acquired gift of knowledge along with the Spirit of sanctification. "where nature, grace, industry, and outward helps all meet together, they make the most accomplished men." 279

d. Entrance into the Church and Orthodoxy.

The Role of the Spirit is also shown when Baxter concerns himself

with the judging of members of the Church concerning their orthodoxy of beliefs and practices. While not denying that the people are "learners" as we have pointed out earlier, he still holds that "all the people as reasonable creatures, have a judgment of private discerning to judge what they must receive as truth, and to discern their own duty by the help of the Word of God and of their teachers." ²⁸⁰ When it comes to the power of judgment "in many consociate churches" as to who is to be taken into communion as orthodox, and who are to be refused as heretics, the "iudicium discernendi" is seen by Baxter to belong "to every one of the council singly: as it is a judgment obliging themselves by contract, (and not of governing each other) it is in the contracters and consenters: and for peace and order usually in the major vote; but with the limitations expressed." ²⁸¹

What are these "limitations"? One of these concerns entrance into the Church. As we have seen, Baxter did not hold for a form of non-ministerial or non-hierarchical form of Church government. He explicitly denies to the laity "en masse" the power to judge who shall be received into the universal Church, since it is the office of the pastor "to judge and bear the keys." ²⁸² He distinguishes between the liberty of the church or people and their governing power, from their executing duty and their power of judging. He then applies this to a judgment of pastors themselves by stating that the people are to be guided by the pastors as volunteers, and not by violence. In all doubtful cases, therefore the pastor is to give the people all the necessary satisfaction by giving them reasons for their actions, that the people may understand and quietly obey and submit. It is only when there is an appearance of danger of a heretic or a grossly impious pastor being allowed to corrupt the church that the people may go to him to seek satisfaction for the case. If the pastor continues thusly, other pastors and magistrates may be called upon to protest the dissent of the people. Baxter concludes: "And in case of extremity (the people) may cast off heretical, and impious, and intolerable pastors, and commit their souls to the conduct of fitter men; as the Churches did against the Arian bishops and as Cyprian declareth it his people's duty to do." ²⁸³

This is but a small point in Baxter's consideration of the role of a consensus fidelium, but it is an interesting parallel to the much

touted historical situations where we find the laity taking an active part in the preservation of the true faith against either doctrinal errors or loose moral practices on the part of the clergy. Baxter sums up the relationship of the people to their pastor when there is a question of orthodoxy, either in another Christian in the community or in the pastor himself, when he affirms that the execution of the sentence belongs to the people as well as to the pastor: "It is they that either hold communion with the person or avoid him." 284

4. Final Conclusions to Baxter.

It is not difficult to ascertain the general trend of Baxter's thinking on the role of consensus fidelium as a source of moral judgment. His general cautiousness regarding the opinions of the multitude caused him to produce a very carefully worded set of directives which may well be cited today for their general tone and sensible spirit. His stress on the Spirit, and the action of the Spirit in each individual's particular capacity is also valuable.

Another point of great significance is Baxter's stress on the inner conversion which must accompany any external change of views or opinions. All of his ascetical approach to controversies, which indeed are the sparks that often kindle the fires of any consensus fidelium, indicate the necessity for a continual striving for deep holiness, but in many different degrees, that must be manifest in the lives of the faithful being considered in their consensus. We can also pay tribute to Baxter's intermingling of dogma, moral, and ascetical principles in his approaches to the theological issues we have discussed. Consensus fidelium regarding any moral practice will always have these three traditional divisions of theology closely intertwined. Baxter's stress on the Spirit of God emerging especially in matters of worship and obedience is striking, since it verifies the liturgical and existential aspect of consensus fidelium that we have established in the working definition of consensus fidelium drawn from Anglican sources in Chapter one.

The actual teaching role of the Church, particularly through an authoritative magisterium still seems unclear with respect to our theme.

Just what weight is to be given to a consensus fidelium on a specific moral issue which has a certain teaching on it or a certain tradition within the Church still remains somewhat vague. Baxter has given us a good ascetical approach to controversies within the Church; he has warned us of the ever-present dangers in accepting too readily a popular morality" based on the practices of the multitudes, he has indicated several very positive aspects about the workings of the Spirit within both individual Christians and groups of Christians which leave us with no doubts that consensus fidelium was a source of moral judgment in his theology. But the questions we have raised in Chapter one still remain as prickly as ever, especially when one is faced with new and growing consensus within the world which run counter to long established teachings in the Church, and are not explicitly dealt with in terms of the twentieth century. We are still in need of much clarification of the nature and role of consensus fidelium, both past and present, before closing the issue.

III : FROM THE CAROLINES TO KENNETH KIRK.

A : The Transition Period and Implications for Consensus Fidelium in Kirk.

The death of Richard Baxter in 1691 begins a "dry and barren period of one hundred and fifty years or more when Methodism was almost the only spiritual force in the land."²⁸⁵ Anglican moral theology and its development, which had produced such a flourish of writing in the 17th century, suddenly went into hibernation and it was not until the Oxford Movement took its rise that attention was once more focused on moral theology.²⁸⁶ Even this movement did not receive widespread support which is perhaps due to the aura of controversy surrounding its central figures. Kirk himself often alludes to this 150 year vacuum and it was the main reason why he embarked on his personal revival of Anglican Moral Theology. The problem was particularly acute with regard to the ministry of confession since the only manuals available were mostly Roman ones.²⁸⁷ The Oxford Movement had begun to re-introduce confession and the lacuna in Anglican Moral Theology became all the more glaring.

Thus one perceives a gap in the "line" of Anglican moral theology which we have been following in the development of our theme. Kirk did

draw on writers from this period, certainly, but they were usually writers who were engaged in the areas of doctrinal, scriptural, or rationalistic discussions which characterized this century and a half between the Carolines and Kirk himself. The few Anglican manuals which appeared at the end of the 19th Century were only rehashes of the more traditional Roman ones, and thus, even with their vast coverages of source material, there was no significant development in a specifically Anglican way in the field of moral theology. ²⁸⁸

The use of consensus fidelium as a source of moral judgment does appear in this period, but in a more "en passant" fashion than with any specific reference to moral theology. It is our intention here to only touch on a few of the key names and movements of this period in order to fill in our survey of the "line" of Anglican Moral theology as it led up to Kirk, and to further glean, if possible, any more insights in the theology underlying consensus fidelium as a source of moral judgment. This will help us to more fully appreciate a few of the sources Kirk did use from this period, such as John Henry Newman.

1. The Eighteenth Century.

The battles between the King, Parliament and Convocation, and the actual role of the layman prior to the 18th Century are well described in Canon Kemp's book Counsel and Consent. ²⁸⁹ Canon Waddams has pointed out the implications of this conflict :

"The struggle between Crown and Commonwealth, which erupted into civil war and eventually ended in the restoration of the monarchy, had rent the people in two: ...the struggle was semi-religious in character, involving deep emotional and psychic forces. When its end came with the restoration of Charles II in 1660 — or perhaps its true end should be identified with the abdication of James II in 1688 — men were mortally tired of internal strife, both political and religious. Religion ceased to be the subject of public debate and discussion in the same way, and moral theology gave way in religious interest to other subjects, some of them more fundamental." ²⁹⁰

However, a deep piety remained in many segments of the Christian population. Yet, a certain decline set in as well which may be evidenced

by the bitter complaints of certain contemporaries along with the growth of the Evangelical reaction of the Methodists in the second half of the 18th Century.²⁹¹ In many ways, then, it is not surprising that we find even less concern with consensus fidelium than we were able to uncover in the men studied from the 16th and 17th Centuries. The main lines of development centred around either philosophy or natural theology, and in many cases occasioned by a reaction to the Deist theories rampant at this time. It is in this century that we get writers whose "confidence in human reason was greater than their confidence in the direct word of God."²⁹²

The brightest English theologian, by far, of the 18th century, was Joseph Butler (1692-1752), the Bishop of Durham. His most important work, The Analogy of Religion, is directed against the deterministic theories of Thomas Hobbes (1588-1679), which had risen to popularity in this period.²⁹³ England was now experiencing the emergence of naturalism under the aegis of Hobbes, which culminated "in the simple philosophy of deism, and monopolized the attention of theologians and at the same time infected their theology; nothing else can account for the fact that the ingenious mind of Bishop Butler so completely ignored the complexities of the moral problem."²⁹⁴ Thus speaks Kirk of this great mind.

We might only note in passing the broad assertion of Butler's that a proof of God's moral government is to be found in our "moral nature", and approbation or disapprobation of virtue and vice by the course of the world,²⁹⁵ and says that public determinations are the result of "the united wisdom of the community."²⁹⁶ He allows theological speculation and reason a competence to judge not only the meaning but also the morality and evidence of Revelation.²⁹⁷ Moral certainty for Butler consists in a "certainty sufficient for a man to act decisively and responsibly", and his maxim "Probability is the guide of life"²⁹⁸ has been often echoed by later writers including Kirk. This "probability" should produce an assurance in moral and religious matters "sufficient to produce obedience to the conditions of the New Covenant."²⁹⁹

It is this final allusion to "Probability" that we feel Butler should be noted for before moving on. It will appear again when we study

its role in Kirk's thinking, but it had a far greater influence on the mind of another great theologian of the nineteenth century: John Henry Newman. Kirk himself alludes to Newman's heavy reliance on Butler's "common voice of mankind",³⁰⁰ for example, and it has been for this reason that we have singled out Bishop Butler with reference to our theme.³⁰¹

Thus, "What happened in the eighteenth century was not that reason finally began to have some authority but rather that reason, for centuries the principal champion of the Christian faith, now began to turn against that same faith it had previously defended."³⁰² It is for this fact that a strongly anti-intellectual reaction invaded practically all of Protestantism ever since the 18th Century and still remains today in many ways. It also produced the powerful evangelic and Methodist revivals we have mentioned, and injected a new stress on a personal faith accompanied with a deep conversion to the service of God. The practice of the faith became anthropocentric, as a result, and forced the rationalistic thinking to look at itself in a different light. This was not without its effect even in the thinking of Kirk, as we shall see. And it was bound to influence any role consensus fidelium would play in the formation of moral judgments. The existential and pragmatic approach of Anglicanism was appearing in a new dress.

2. The Nineteenth Century.

1. Utilitarianism and the Morality of Common Sense.

We find in this century several philosophical refinements and a theological explosion in Anglicanism which gave Kirk other sources for his revival in moral theology. It also gave him a few new categories to consider consensus fidelium. The schools of Intuitionism and Utilitarianism as expounded by J. Bentham, J.S. Mill and the Philosophical Radicals took up the ideas of Hobbes and David Hume and flung them to the world. Contemporaneous to the Industrial Revolution in England lived axioms such as "It's good if it makes me happy",³⁰³ and Mill's sanction of utility in the "conscientious feelings of mankind."³⁰⁴ This bubbling over of a certain innate sense of goodness and evil in man further revealed itself in what became known as the "Morality of Common Sense." Sidgwick approaches it thus :

"Since it is implied in the very notion of Truth that it is essentially the same for all minds, the denial by another of a proposition that I have affirmed has a tendency to impair my confidence in its validity. And in fact 'universal' or 'general' consent has often been held to constitute by itself a sufficient evidence of the truth of the most important beliefs; and is practically the only evidence upon which the greater part of mankind can rely. A proposition accepted on this ground alone, has, of course, neither self-evidence nor demonstrative evidence for the mind that accepts it." 305

He then presents several interesting statements about the "Morality of Common Sense" which apply more to moral philosophy than moral theology. It is sufficient for our outline at this point if we give his assessment of this approach to ethics and morality and leave any further evaluation to Kirk's own treatment of it. Thus Sidgwick judges: "The morality of Common Sense may still be perfectly adequate to give practical guidance to common people in common circumstances ; but the attempt to elevate it into a system of Intuitional Ethics brings its inevitable imperfections into prominence without helping us to remove them." 306

ii. Newman and the Oxford Movement.

The importance of John Henry Newman must be mentioned explicitly for two reasons: (1) Newman's work Grammar of Assent had a profound influence on Kirk's personal struggle with Christianity; and (2) Newman's article "On Consulting the Faithful in matters of Doctrine"³⁰⁷ has become a landmark in all theological considerations dealing with sensus and consensus fidelium. 308

Canon Kemp mentions in his biography of Kirk how the bishop had been greatly aided by Newman when, in his early youth, he was worried about Christian belief.³⁰⁹ This influence shows itself in Kirk's use of Newman in Some Principles of Moral Theology as well as in Conscience and its Problems. But, surprisingly enough, Kirk nowhere alludes to Newman's notorious little article, although Kirk must have been aware of it because of the great row it caused in Roman Catholic circles, and also due to the fact that it was being referred to on questions concerning the laity with respect to their role in both formulating Church doctrine and the problems of authority, by Anglican

writers who were contemporary to Kirk. ³¹⁰

But that does not affect our work. Since an intensive study has already been made of Newman's thought on the role of the laity in formulating a consensus with particular reference to moral theology, ³¹¹ we will merely pause to highlight a few more points made by Newman in his famous article which we feel will be of particular value to our own survey and approach to both consensus fidelium and Kirk himself.

1. Newman made a linguistic distinction in the word "consult" : He cites the Latin meaning as "to consult with" or "to take counsel" whereas the English meaning connotes "enquiring into a matter of fact", or "asking a judgment." Thus, the English sense implies "to observe" or "to look at" the belief of the Christian. ³¹² This does not imply, according to Newman, seeking the laity's advice or opinion or judgment on a question to be defined by the Church. "Consult" is paralleled with "regard", "appeal", "inquiry" or "reference", terms which reflect the "echo" concept of sensus fidelium which Scheeben described.

2. Newman strongly defends the sensus fidelium and the consensus fidelium (he never makes any explicit distinction between the two in the course of the article) as a branch of evidence which is natural and necessary for the Church to regard and consult before proceeding to any definition. He quotes Regnier, the same source used by Kirk, as a support to his argument. ³¹³

3. The idea that a consensus of Christians in the past or the present is the voice of the infallible Church is defended by Newman. Doctors, rites, ceremonies, and disputes are listed as means of ascertaining the consensus, but the gift of defining, discerning, etc. resides solely with the Ecclesia docens. ³¹⁴ Newman's ecclesiology is evident here, as it is in his departure from Anglicanism with all the arguments behind it, a fact that has been discoursed on often enough in the past.

4. A consensus fidelium was regarded by Newman as a kind of compensation for a deficiency in certain portions of defined doctrine

of the Church in ecclesiastical writers; ³¹⁵ as an "inclination" of the Church via liturgies, feasts, prayers, controversies of the faith, etc.; ³¹⁶ as "indicia" or "instrumenta traditionis" ; as the "judgment" or "sentiment" of the infallible Church; ³¹⁷ as a "seal"; ³¹⁸ as a "faithful reflection" of the pastoral teaching; ³¹⁹ as a sort of "instinct" or "phronema" deep in the bosom of the mystical body of Christ; ³²⁰ and, finally, citing Möhler, as "un instinct, un tact éminemment chrétien, qui le conduit à toute vraie doctrine" which is "le tradition dans le sens subjectif du mot." ³²¹ Newman further spoke of it as a direction of the Holy Spirit operating via customs imperceptibly gaining a position in a people ruled by that same Spirit. He also saw it in terms of an answer to prayer and revealed to the minds of believers in ordinary ways. ³²² It can even emerge as a jealousy of error, in which the consensus will react at once by way of a scandal, for example, much as a foreign body is rejected from any living organism. Here is where Newman leans heavily on the role the laity played in the Arian heresy, a role which seems to have involved as many theologians as simple ordinary laymen, as well as all kinds of strong political influences from the reigning emperors. ³²³

5. Newman felt that the concept of *sensus fidelium* may have been with us all along, but we have not noticed it until we have needed it. This idea is consonant with his notions on the development of dogma in which he sees all dogmas present in the primitive Church at least in implicit seminal form. ³²⁴

6. Finally, Newman made another distinction in which he used "Body" of bishops not in the strict theological-treatise sense of "corpus", but in a more vague, and genuine sense of "cumulus" of individuals. ³²⁵

Thus we find Newman crystallizing many of the modes of expression of *sensus fidelium* which our authors had been implicitly employing in their writings. His sharp analysis along with a plethora of analogues gave the whole subject a new impetus, but it was an impetus that has been almost ignored until only very recently. Yet, as Hamman has noted, no study of *sensus fidelium* can be undertaken without explicit reference to the invaluable contribution of Newman. ³²⁶ Newman elevated what the

laity had to say in questions of doctrine, and even related this to questions in the moral sphere. ³²⁷ His descriptions of *sensus fidelium* closely parallel those given by other Roman Catholic theologians such as Dillenschneider, Franzelin and Perrone, whom we have treated in our First Chapter. These descriptive phrases will appear again in Kirk's writings. Also, the distinction between *sensus* and *consensus fidelium* which we have stressed, is implicitly present in Newman's writings, since there appears in his concept both the historical (past and present) "mirror-ability" or "echo" quality of *consensus fidelium* as well as an ongoing and dynamic aspect which makes it more than a kind of "fourth proof" along with Scripture, Tradition and reason. ³²⁸ Newman's examples of How *consensus fidelium* is manifest should also be kept in mind, since these will be some of the categories we will use when we probe Kirk's mind on the subject. (We have already discussed several of them as seen by the Carolines : e.g. "custom"; "human experience", etc.) We will also be in Newman's vein when considering Kirk's notion of "Intuition" since this is a close parallel to Newman's "Illative Sense". Finally, Newman's viewing the body of bishops in a "cumulative" sense is of interest, since, in many ways this is the sense that the *fidelium* should also be viewed. The overlapping nature of all the members of the Church becomes clearer, as well as an avoidance of an over-legalistic and head-counting approach to *consensus fidelium*.

Newman was at the heart and soul of the Oxford Movement, which ceased to be centred in Oxford when he entered the Church of Rome in 1845. Yet, it is the spirit of this Movement that was intimately shared even by Kirk and it adds another smaller dimension to his thinking on *consensus fidelium*. The Tractarians had reopened the lines of connection between the Church of England in the 19th Century and the Church of the Apostles. Scripture was no longer a "storehouse of proof-texts" but "an expression of the living mind of the society, which persisted and acted throughout the centuries." ³²⁹ The Tractarians felt that the Anglican Church should "realize its identity as part of the Catholic Church, yet at the same time to remain a reformed and a nationally distinctive Church." ³³⁰ The Movement further stressed

"the grand idea of the universality of the Church Catholic in its two sections, the Church triumphant and the Church militant, the intimate union between Christ and his people,

and our incorporation by the sacraments into this eternal and indestructible society ... The revived catholicism of the nineteenth century has its point of departure in the Christian society. Its criterion is citizenship or incorporation, which ipso facto conveys all spiritual privileges." 331

This emphasis on the "Christian society" as a "point of departure" is important for an understanding of Kirk, as he too leaned very heavily on the mind of the faithful in his formation of moral judgment. He too stressed the benefits that arise from being a citizen of this society. The Oxford Movement did have a great influence on Anglicanism, and Newman's contribution regarding the role of the layman, even though written as a Roman Catholic, is set within some of the most basic tenets of the Movement. Together, they can be seen as one more factor in the formation of the mind of Kirk in his thinking on consensus fidelium.

iii. Charles Gore, Lux Mundi and its Repercussions.

Kirk's writings appear within an era of Anglican thought that began with the publication of Lux Mundi (1889),³³² a set of essays by a group of Oxford scholars, and ended with World War II. "The era as a whole was marked by the philosophical background of British Idealism, the stimulus of historical and biblical criticism, a passion for social justice stemming from F.D. Maurice, and the legacy of the Catholic revival in the English Church associated with J.H. Newman, E.B. Pusey, and their disciples. These elements were in varying proportions in the work of the chief figures of the period."³³³ It is from influences like these as well as those in another composite volume, Essays Catholic and Critical (1926), that the name "Liberal Catholicism" emerged. We have already shown that Kirk did not explicitly share all the tenets of this movement, but he definitely shared Gore's vision of a new Catholicity, "embracing the awakening scientific, intellectual and social consequences of modern man, a Catholicity developing not only out of its inner implications by drawing on its own resources, but rather out of its commitment to the forward march of mankind by incorporating all the discoveries of the modern age."³³⁴ There was a healthy respect for the historical church and the historical Christian creed, but a new awareness of the need of development and re-statement of these terms was needed in keeping

with the new requirements of the times. It went further than Newman's concept of development as a movement from within, which external events and pressures do no more than occasion, to a development coming upon us "as the unexpected, free gift of the Spirit who expresses himself inside and outside the Church in sundry manners." ³³⁵ Thus, Catholicity understood in these terms, implied prophecy which would produce a Church system and a Catholic theology "together capable of laying hold upon the future, its movements, questions, temptations, advantages, discoveries." ³³⁶

With this terrific impulse in the air, it is not surprising that these writers created such strong reactions. Concerning our study, we should note Gore's own essay "The Holy Spirit and Inspiration" in Lux Mundi. While mainly dogmatic in emphasis, its implications for the role of the laity in Church government and authority were taken up by a later group of writers who continued to unearth interesting historical precedents in Church history to support their claim for a more substantial and authoritative role for the layman in Church affairs. ³³⁷ These theological and historical inquiries were often met by very polemically-orientated rebuttals ³³⁸ which at least helped to bring out several interesting distinctions regarding the role of the laity. The adversaries of Lux Mundi followed a rigid line regarding authority, claiming quite blandly that "the Church is not a society which governs: it is a kingdom which is governed by a divinely appointed hierarchy ... The Church is a monarchy, not a democracy." ³³⁹ The essayists flayed Gore's understanding of the priesthood of the laity, and declared that the function "of the lay priesthood is absolutely differentiated from that of the hierarchy." ³⁴⁰ Proofs were adduced to show that St. Paul did NOT exercise Church discipline in conjunction with the laity, and the writer even goes so far as to deny ANY authority to the laity in matters of church discipline. Another essayist, R.B. Rackham, who wrote in a series published in 1915 is attacked for holding that Cyprian ever used the laity in a "constituent and authoritative" manner. ³⁴¹ The whole problem of the voice of the laity at Church synods was considered, but it is interesting how their conclusions amounted to a more or less "listening" and "passive" role for the laity.

Another interesting point is made in their lengthy discussions when they argue that a doctrine once agreed upon by a synod might be appealed by laymen over and over again until, either by sheer dint of continual effort and surety, or aided by the deaths of the die-hard bishops; the consensus fidelium would prevail, since, as in the early days of the Church especially, it would only be a question of gradually electing the right bishops who favored the blocked position. It is an interesting case of "passive resistance" in one sense, although in another sense, it does seem to allow room, if the procedure is valid and the matter reformable, for a post-factum consensus fidelium influencing doctrine and morals even after promulgation.

B. Summary :

All of this is by way of giving the immediate setting to Kirk's own thought on consensus fidelium. The division of sides at the turn of the 20th Century is fairly clear. The forward-looking writers of the Lux Mundi school are crying out for renewals on all lines of church doctrine, practice, and administration. They are confronted, quite naturally, by a powerful conservative element in the Anglican Communion. The issues at hand, which we have considered in the light of our theme, show the cleavage that exists. ³⁴²

But where do Anglican moral theologians fit in during this conflict? As Kirk knew all too well, Anglican moral theology was still in the doldrums. James Skinner had prepared his massive synopsis, ³⁴³ but had not lived to see it through, and most of the copies were lost in a warehouse fire. One looks in vain in its contents for even a hint of consensus fidelium used in any way. Skinner's ecclesiology seems utterly opposed to the thrusts of Lux Mundi with regard to the laity and their possible involvement in moral questions. We also find no reference to consensus fidelium in W.W. Webb's The Cure of Souls, ³⁴⁴ a practical manual used by many Anglicans and often referred to by Kirk, or in F.J. Hall and F.H. Hallock's Moral Theology. ³⁴⁵ A scant reference appears in the latter's Theological Outlines where they state that the creeds do not explicitly contain all that the Church teaches, nor all that her members are under obligation to believe. "She utters her 'voice' in various ways — in the decrees of her undisputed General Councils, and at all times in her unformulated common consent." ³⁴⁶

What does it all add up to? It means that the stage was indeed ripe for a new synthesis and further projection of Anglican Moral Theology. It means that the massive writings of the Carolines were ready to be exhumed and revitalized for a new relevance to a branch of Anglican Theology that had developed dry-rot. It means that the impetus of the Oxford Movement and of Lux Mundi had to be aimed at Anglican Moral Theology and force it to take another step forward. It means that the developing sense of involving all the faithful, along with the "knowledge explosion", the Industrial Revolution, the scientific boom, the rise of 20th century democracy and independence, and the crisis of Modernism, all had to be integrated into the theological presentation of what should be the Anglican practice of the Christian life. And the underlying theme of consensus fidelium as a source of moral judgment, a theme which was always present in seminal form at the very least, and often used in actual practice or referred to explicitly as a source for a Christian moral judgment at most, would be an essential factor in the moral theology of a Church always claiming to espouse the rights of the individual and his society. It would take a man with a sense of the past and the present, one who understood the English mind as it had grown up and developed, one who was well versed in both his own theological tradition as well as other Christian traditions, one who could read the signs of the modern times in which he lived, to perform the task. It is all these elements that go into any melting pot of any consensus fidelium— especially in questions of morality. It is to such a man, Kenneth Kirk, that we now turn our sights.

FOOTNOTES TO CHAPTER TWO

1. Cf. SPMTh. p. xi; also CAIP, p. xi.
2. Cf. infra, Footnotes to the Introduction, no. 20.
3. Cf. The Church and State Report, London, 1935, p. 113. This report, commissioned by the Archbishop of Canterbury followed a similar report presented in 1916. The first report was criticized by the second one with regard to certain historical inaccuracies. The role of the laity in England prior to the Reformation as indicated in both reports, is still informative, although some of the leanings of the Report must be carefully weighed in the light of new developments within Anglicanism today.
4. Canon E. Kemp of Oxford University has successfully traced the role of the laity in English Synods and Convocations. Cf. Counsel and Consent, London, 1961.
5. Cf. Church and State Report, 1935, p. 9.
6. Cf. Van de Pol, op. cit., p. 225.
7. "The distinguishing mark of the Church of England has always been its close connection with the territorial state. This is a fact that dates not from the Reformation so much as the Middle Ages, when Church (sacerdotium) and State (regnum) were thought to represent two sets of complementary authorities in the single universitas or community of Christendom. But while political thinkers might identify sacerdotium (the state ecclesiastical and spiritual) with the Church universal, personified by the Roman Pontiff, and regnum (the state civil) with the Roman Empire, Englishmen tended to regard them as the local branch of the Church and the local nation." Church and State Report, 1935, p.9.
8. E. Kemp, Counsel and Consent, p. 194.
9. Church and State Report, 1935, p. 121.
10. LOYALTY, p. 80.
11. Cf. Leonard Prestige, "An Independent View of Authority", Theology, XVIII, June, 1929, p. 338. Other interesting aspects of the layman in English history are to be found in Stephen Neill and Hans-Ruedi Weber, The Layman in Christian History, London, 1963, pp. 191-216. Also, cf. Y. Congar, "La Fonction Prophétique de L'Eglise", Irenikon, 24 (1951), pp. 295ff.
12. Cf. Subscription and Assent to the Thirty-Nine Articles, London, SPCK, 1968. (This was a report to the Lambeth Conference, 1968.)
13. Cf. H. Villain, Unity, London, 1963, p. 133.
14. Cf. W.H. Griffith Thomas, The Principles of Theology, An Introduction to the Thirty-Nine Articles, London, 1945, p. xlii and lvii; also, E.J. Bicknell, A Theological Introduction to the Thirty-Nine Articles rev. by H.J. Carpenter, London, 1955.

15. Cf. L. Hodgson, "The Doctrines of the Church as held and taught in England", in The Nature of the Church, ed. by R. Newton Flew, London, 1952, p. 133.
16. It might be noted that the particular articles we are citing would still be regarded by Anglicans as being of significant value. The biblical importance, for example, given in many of the articles, remains of lasting value not only to Anglicanism but to all of Christendom. Cf. "Lambeth in Retrospect", Herder Correspondence, vol. 6, No. 1, Jan. 1968, p. 26.
17. Cited from W.H. Griffith Thomas, op. cit., p. 281.
18. Cf. Griffith Thomas, op. cit., pp. 283-284; cf. also Bicknell, op. cit., p. 249, footnote 1, and pp. 250ff. A good introductory bibliography for the Anglican view on the Church and authority is given on pp. 453-4.
19. Griffith Thomas, op. cit., p. 284. All of our comments on the Thirty-Nine Articles are from these two commentators, i.e. Griffith Thomas and Bicknell.
20. Griffith Thomas, op. cit., p. 284.
21. Ibid., p. 287.
22. "Scripture shows that the Church, "the blessed company of all faithful people", is itself taught by Christ, and being taught it believes and obeys the truth. The words "hear the Church" (Matt. 18:17) refer to disciplines, not to doctrine, and when we speak of ecclesia docens, we really mean testimony rather than instruction. The Church as a whole has exercised its function in regard to faith by means of (1) Creeds; (2) Liturgies; (3) Councils; (4) ordinary ministerial and other teachings; (5) ordinary individual testimony. It is striking how little the Church has done in the way of interpretation of the Creeds. In all Councils there was some judgment of the laity, and although the clergy no doubt had a large amount of power it is a question whether it was given to them by reason of their position as such, or because they were leaders or experts. Certainly at the Council of Nicaea the moving spirits were not Bishops, but Arius and Athanasius, a priest and a deacon." Ibid., pp. 287-288.
23. Cf. Bicknell, op. cit., p. 255.
24. Quoted by Griffith Thomas, op. cit., p. 288.
25. Ibid., p. 290. Bicknell, op. cit., p. 254 cites the Canon of S. Vincent of Lerins ("ubique, semper, ab omnibus") as one of the standards to judge the "universality, antiquity and consent" of the Church regarding an authentic teaching. He further denies any kind of development of dogma in the sense of a new revelation, but maintains that there can be a progressive understanding of the faith: "The truth does not grow, but we grow into it." (p. 255) He also firmly defends a "development of expression" as life continues to change. He mentions "morally", which indicates the broad interpretation that "controversies of faith" can include. (p. 256) Finally, Bicknell gives a good critique of the Modernist "religious sentiment" (pp. 250ff), a factor perhaps worth further study regarding consensus fidelium.

26. Quoted, Griffith Thomas, op. cit., p. 439.
27. Op. cit., p. 300.
28. Cf. Ibid., pp. 304-307.
29. Op. cit., p. 445.
30. Cf. Griffith Thomas op. cit., p 445, for a further treatment of T.P. Boulton's understanding of tradition as well as other Anglican theologians. St. Augustine's understanding of customs will be referred to several times in our text, particularly in the section on Hooker.
31. P. More and F. Cross, Anglicanism, p. xix.
32. Ibid., p. xx.
33. Cf. Ibid., p. v. Pope Clement VIII said that Hooker's Ecclesiastical Polity "had in it such seeds of eternity that it would abide till the last fire shall consume all learning". F. Ollard, Dictionary of English Church History, London, 1948, p. 292.
34. F.J. Shirley, Richard Hooker and Contemporary Political Ideas, London, 1949 pp. 35-6.
35. Cf. H.R. McAdee, The Structure of Caroline Moral Theology, London, 1949, pp. 5-6. Y. Congar favorably notes Hooker's balanced via media approach towards these extremes: Tradition and Traditions, pp. 516-17.
36. Cf. H.R. McAdee, The Spirit of Anglicanism, pp. 5-6.
37. Ibid., p. 26. This opposes Calvin's system which was constructed in terms of the transcendent, of which Scripture was the sole authoritative declaration. Cf. Ibid.
38. McAdee, op. cit., p. 9.
39. Ibid., p. 6.
40. Hooker defines "Ecclesiastical Polity" as "... the religious duties of the Church, the administration of the Word and Sacraments, prayers, spiritual censures, etc." (EP, III, II, 20) While at first sight, this may seem far removed from questions of moral judgment, only when a closer study of Hooker's work is undertaken do we find deep moral implications interwoven in what appears to be only a question of mere ritual or organization not affecting one's conscience or moral life.
41. Ibid., p. 5. Thus another implication is borne out by the following analysis; "Hooker semble avoir quelque idée du développement dogmatique". D.H. Marot, "Aux Origines de la théologie anglicane", Irénikon, 33, (1960), p. 325.
42. H.R. McAdee, The Structure of Caroline Moral Theology, p. 26.

43. Cf. F.L. Cross, op. cit., p. 654.
- 43a EP, VIII, 1, 2; Cf. III, 1, 1ff, for Hooker's explicit teaching on the church visible and invisible. Also, it should be noted that Hooker developed an essentially contractual theory of political government, which influenced future political writers, especially J. Locke, Cf. F. Cross, ibid.
44. EP, VIII, 1, 6. (Note: We will refer to EP by the generally accepted enumerative, thereby making pagination unnecessary.) (Cf. Bibliography for the edition used.)
45. Ibid.
46. Cf. EP, VIII, 6, 11; and 7, 1-8.
47. EP, 1, 8, 2.
48. Cf. H.R. McAdoo, The Structure of Caroline Moral Theology, p. 22.
49. EP, 1, 8, 3.
50. EP, 1, 8, 4.
51. S.G. "Parents are to be honored." EP, 1, 8, 5.
52. EP, 1, 8, 8.
53. EP, 1, 8, 9.
54. EP, 1, 8, 11.
55. Ibid.
56. EP, II, 1, 4.
57. Cf. EP, II, 7, 2.
58. Ibid.
59. Ibid.: Deut. 19:15; Matt. 18:16.
60. Ibid.
61. EP, II, 7, 3.
62. EP, II, 7, 6.
63. EP, III, 3, 3.
64. Rom. 1:21; 32; Acts 25:19; Acts 26:24; I Cor. 2:14.

65. EP, III, 8, 8.
66. EP, III, 8, 9.
67. Ibid.
68. EP, III, 8, 15.
69. Ibid.
70. "To refuse the conduct of the light of nature, is not fully alone, but accompanied with impiety." S. Augustine, de Trin., IV, cap. 6.
71. ST, I, II, q. 91, art. 3.
72. EP, III, IO, 4; "Yet many things he hath that have been changed, and that for the better....In this case therefore men do not presume to change God's ordinance, but they yield thereunto requiring itself to be changed." EP, III, IO, 5.
73. EP, III, IO, 6.
74. EP, III, 11, 15, citing S. Augustine, EP, 36. t. ii, 68(=J.P. Migne, Patrologie Latine, XXXIII, Ep. 36, 1, 1.)
75. EP, III, 11, 15.
76. EP, III, 11, 16.
77. EP, III, 11, 19.
78. Ibid.
79. EP, III, 11, 20.
80. Ibid.
81. Ibid.
82. EP, VIII, 6, 8.
83. Ibid. Hooker's footnote (no. 40) here quotes from the Decretals of Gregory, V, 31, 14, along with an admonition of Pope Honorius III to the clergy of Jouars, in the diocese of Meaux, forbidding them to make or use a common seal without the consent of the abbess of Jouars, who was "ipsorum caput et patrona."
84. EP, VIII, 6, 8.
85. Ibid.

86. Ibid.
87. EP, VIII, 6, 9.
88. EP, VIII, 6, 11.
89. EP, VIII, 8, 9.
90. "It required deep study and patient honesty on our part to show simply and without artificiality how the moral life of a Christian springs from belief in God revealed in Christ....If we do not succeed in awakening within people what it means to be a Christian, then despite resolutions to the contrary, moral teachings will degenerate into lists of do's and don't's. Dns without a faith context and moral rituals apart from understanding are the most cunning enemies of freedom. "Even the law of the gospel would kill," writes St. Thomas, "if it be separated from the animation of the Holy Spirit". (ST, I, II, q. 106, art. 2, c.)" Gabriel Moran, Vision and Tactics, Towards an Adult Church, London, 1968, p. 124.
91. Cf. EP, VIII, 6, 8, 11.
92. Cf. J. Hastings, Encyclopedia of Religion and Ethics, Edinburgh, 1911, IV, pp. 64-65, where he distinguishes between assenting to statements, doctrines, and creeds, and consenting to proposals.
93. "No one is in a position to pass judgment on the intimate 'conciliarity' of the Church; it is the 'conciliarity' which judges everything, including the ecumenical council itself, since it is, in some sort, superior to the council." M. Villain, "Spiritual Approaches to Orthodoxy," Unity, p. 161.
94. G. Tavad, The Quest for Catholicity, p. 44.
95. Cf. Van de Pol, op. cit., p. 246.
96. CAIP, p. 88.
97. Cf. J. Macquarrie, A Dictionary of Christian Ethics, p. 46. The best works on the subject remain: H.R. McAdoo, The Structure of Caroline Moral Theology, London, 1949; —, The Spirit of Anglicanism, London, 1965; Thomas Wood, English Casuistical Divinity during the Seventeenth Century, London, 1952; — "An Anglican Manual", Church Quarterly Review, cxlvi(1948) pp. 150-78.
98. K. Kelly, Conscience: Dictator or Guide, London, 1967, p. 22. There is a fine historical background to the Caroline Moral Theologians given in Ch. 1, pp. 17-39 along with an extensive bibliography.
99. Cf. F. Cross, The Oxford Dictionary of the Christian Church, p. 1365.

100. Cf. E. Kemp, Counsel and Consent, pp. 165-6.
101. Cf. G. Tavard, op. cit., p. 47.
102. Ibid., p. 49. Kirk remarked: "The catholicism of both St. Thomas and the Caroline divines envisaged a Church clear in definition, authoritative in command, highly organized in administration and strict in discipline". CAIP, p. xii.
103. SPMTh, p. xi; actually Hooker lived in the 16th century (1554-1600) but since the Carolines relied on his spirit so much, he is often classed with them, as Kirk does here.
104. J. Macquarrie, op. cit., p. 46; "Caroline moral theology was forged out as a result of its occasional nature". H. McAdeo, op. cit., p. 15.
105. R. Page, New Directions in Anglican Theology, p. 166.
106. H. McAdeo, op. cit., p. xi.
107. They relied on Mr. Laud especially for his development of the concept of the Divine Right of Kings. Cf. F. Cross, op. cit., p. 789.
108. Chillingworth staunchly "defended the rights of reason and free inquiry into doctrinal matters, and denied that any Church has the gift of infallibility." F. Cross, op. cit., p. 272.
109. This reliance on Scripture, S. Bernard, Cajetan, and Calvin, for example, showed how Anglicanism was determined "to combine its divinity (with the complementary principles of obedience to authority) and of the responsibility of freedom". H. McAdeo, op. cit., p. 2.
110. Cf. J. Macquarrie, op. cit., p. 46. This was partly due to the laxity of some continental Jesuit moral theologians. Cf. T. Wood, English Casuistical Divinity, pp. 57-66.
111. "Moderation is not an halting betwixt two opinions, when the thorough-believing of one of them is necessary to salvation", nor is it mere "lukewarmness" in matters divine, but a law and an ideal whereupon all a man's soul may be set, even to martyrdom". Thomas Fuller (1608-61), a Caroline cited in Paul More and F. Cross, Anglicanism, p. xxiii.
112. Cf. J. Macquarrie, op. cit., p. 46.
113. "The problem was rather that of producing moral or casuistical treatises which, while incorporating all that was valuable in the traditional teaching, would be fitted to the peculiar needs and discipline of a reformed church and also comprehensive enough to terminate that reliance upon Roman books which had perforce grown all too common". Thomas Wood, art. cit., p. 152. "Sanderson, Taylor, Hall (and it may be mentioned Richard Baxter as well) moved so securely among the difficult problems of their time for no other reason than that they were employing the soundest principles of medieval casuistry". CAIP, p. xvi. For the Anglican communion's failure to follow up the Caroline thinking, cf. STUDY, p. 403.

114. Cf. J. Macquarrie, op. cit., p. 46. This could be due to the fact that each worked with "for the most part independently of the rest." T. Wood, art. cit., p. 153.
115. J. Macquarrie, op. cit., p. 47; also, cf. KEMP, p. 52.
116. Cf. L. Dewar, Moral Theology in the Modern World, London, 1964, p. 30.
117. "Secondly, the close connection existing between religion, economics and politics must not be taken as tainting the sincerity of the truly religious men. Loyalty to the king for many of the Anglicans was not merely a matter of politics or personal advancement; it was an obligation in conscience based on the belief that the lawful human authority is a participation on earth in the authority of God himself." K. Kelly, op. cit., p. 34.
118. Cf. E. Kemp, Counsel and Consent.
119. G. Tavard, op. cit., p. 45.
120. A Theology of the Laity, p. 67. Kraemer makes an interesting observation about the laity in the Middle Ages: "Looking back on these struggles, one is again and again struck by the daring and the independence of mind shown in the Middle Ages, a time which is always considered to be marked by submissiveness, especially to authority claimed on religious grounds as necessary to salvation. This amazement increases when one takes into consideration our own time, which regards itself by definition as the time of non-submissiveness." Ibid., p. 61.
121. Cf. The Bibliography listed under "Morality Play", F. Cross, The Oxford Dictionary of the Christian Church, p. 923. Also, cf. Stephen Neill and Hans Ruedi-Weber, The Layman in Christian History, Ch. 8.
122. H. McAdoe, op. cit., p. 15.
123. "...while Sanderson is nearer to Hooker and the Summa, Taylor, is closer to the ideas of Chillingworth and of the Cambridge Platonists." H. McAdoe, The Spirit of Anglicanism, p. 51.
124. H. McAdoe, The Structure of Caroline Moral Theology, p. 26.
125. Thomas Barlow, 'The Case of the Jews', in Several Miscellaneous and Weighty Cases of Conscience, London, 1692, p. 35.
126. E.g. "We must suffer rather than sin in any degree." Cited in H. McAdoe, The Spirit of Anglicanism, p. 32. Kirk frequently refers to Sanderson's rigorism: cf. CAIP, p. 171; IFC, p. 147. Kelly takes exception to this, feeling that "this hardly does justice to Sanderson", (op. cit., p. 62, footnote 37), and cites one of Sanderson's sermons to show a more moderate approach towards rigidity in guiding men's consciences.
127. L. Dewar, Moral Theology in the Modern World, p. 22.
128. Ibid., p. 22.
129. We will use the basic reference work: W. Jacobson, The Works of Robert Sanderson (=WORKS), 6 Vols., Oxford, 1854, along with a more recent translation of Vol. VI entitled Bishop Sanderson's Lectures on Conscience

and Human Law (= LECTURES), translated by Christopher Wordsworth, London, 1877.

130. Cf. T. Wood, op. cit., pp. 33-45.
131. T. Wood, ibid, p.41.
132. WORKS, I, p. 102
133. "You are to observe further, that the axiom of which we are speaking has been delivered to us from the Roman nation and was in common use with them when they flourished under a popular state; therefore it is no wonder that the safety of the people was the supreme law (= the "axiom" just mentioned) in a government where the people themselves were the supreme power; the laws were the people's, the courts of judicature were the people's and in short, the sovereignty and the majesty were the people's, and hence it is that all historians, and Cicero, and other writers of that age, so frequently speak of the majesty of the Roman people, because they were under a republic. But in a monarchy the people have not a right to those prerogatives, but they belong to the sovereign."
- LECTURES, p. 283.
134. WORKS, IV, p. 203.
135. WORKS, IV, p. 216.
136. These are summarized from K. Kelly, op. cit., pp. 63ff
137. Cf. K. Kelly, op. cit., pp. 65-7.
138. Cf. WORKS, I, p. 243; II, p. 166; IV, p. 394.
139. Cf. G. Tavard, The Quest for Catholicity, pp. 50-1.
140. Cf. WORKS, IV, pp. 209ff for his treatment of the axiom "Salus populi supremus lex".
141. Cited in G. Tavard, op. cit., p. 51.
142. WORKS, IV, pp. 88-9.
143. WORKS, I, p. 325.
144. WORKS, I. p. 325.
145. Cf. LECTURES, 'The seventh Prelection', pp. 196-226, which we are considering in detail here. Kirk explicitly mentions Sanderson's treatment of consent: "It need hardly be added that even just laws are only binding when framed by a competent authority — 'either the whole people or some official who is vice-gerent of the whole people' (Summa, 1, 2, q, 90 art. 3) — and when duly promulgated; and to this Bishop Sanderson adds that the consent of the people to the law is required, though it is enough if this consent is tacit or implicit." SPMTh, pp. 186-7; Kirk also cites Hooker: "Laws they are not therefore which public approbation hath not made so. "EP, I, 10. This shows the consistent line of thought from Hooker to Sanderson to Kirk.

146. Cf. LECTURES, p. 196.
147. Cf. LECTURES, p. 200f.
148. LECTURES, p. 200, n. 4.
149. LECTURES, p. 204, n. 8.
150. LECTURES, p. 208, n. 13.
151. Cf. Footnote in Jacobson's WORKS, IV, p. 156, n. 13 : "The Bull In Coena Domini, so called from the day appointed for its annual publication, Maundy Thursday, by which all heretics and Schismatics are anathematized and excommunicated; a practice spoken of as ancient by Paul III in 1536. The Bull was issued again by Paul V, April 8, 1610, and also by Urban VIII, April, 1, 1627. The Council of Tours had pronounced the Bull void in respect of France as early as 1510. The Queen's College M.S. has this reference in the margin: 'Becenus, tom. 1, pt. 2. Tract. 3.c.6.q.8.' viz. Summa Theologiae Scholasticae, p. 62. Paris, 1620. 'Hinc sequitur multos subditos in Germania optime excusari quando non servant Leges Councili Tridentini aut Bullae Coenae Domini, quia scilicet illae Leges in multis locis usu receptae non sunt....Hinc patet Episcopos et Principes qui hoc tempore vivunt et quorum antecessores non receperunt Council. Trident. etc. liberos esse in Conscientia, et multo magis eorum subditos.'" That these princes and bishops were still under Rome may be inferred from Sanderson's allusion to the Jesuit defence they received for their rejection. Ibid.
152. LECTURES, p. 208, n. 13.
153. He quotes from Aristotle, Demosth. adv. Aristog., 1, p. 774.
154. Digest, lib. 1, tit. iii.
155. LECTURES, pp. 208-9 n. 13.
156. LECTURES, p. 210, n. 14.
157. LECTURES, p. 215, n. 18.
158. LECTURES, p. 218, n. 22.
159. Ibid.
160. Ibid.
161. Ibid., pp. 219-220, n. 23.
162. Ibid., pp. 220-221, n. 24. Sanderson gives the example of the Presbyterians who have given over the right of a parish to elect the Parochial Pastor to a private person, or college, under the name of a patron. He reminds his objectors ("The Opinionists")

of this point "that the rights of Patronage, and the Advowsons of Churches were long ago confirmed by Parliament, that is, by the common and full consent of the whole people; and therefore what is a lawful Patron does in this case has been allowed by the consent of the people.

163. LECTURES, p. 221, n. 25.
164. Ibid., p. 222, n. 26.
165. Ibid., p. 222, n. 27.
166. Ibid., p. 222-3, n. 27.
167. Kirk has an interesting footnote on this: "The words 'ecclesiastical law' are here used, in the strict sense, of law duly enacted and promulgated by the competent legislative authority of the Church, as distinct from statute law dealing with ecclesiastical matters, which is of course purely civil law. Of such statute law it seems true to say T.A. Lacey, Handbook of Church Law, p. 47) that 'secular legislation affects Church law just so far as it is incorporated by custom into the working system. We must therefore enquire, in the case of each several statute, whether it has in fact been so incorporated, or whether, on the other hand, there has been sufficient resistance, active or passive, on the part of Christian Society to prevent the growth of a custom." IPC, p. 148, footnote 4. This will help us to understand the interplay between secular and ecclesiastical law in the Anglican system both in Sanderson's day and today.
168. LECTURES, p. 224, n. 29.
169. "The disciples of Erastus, I say, would rob the spirituality of all ecclesiastical jurisdiction, and give up the outward government of the Church absolutely into the hands of the civil magistrate." Ibid.
170. Ibid., pp. 225-6, n. 30.
171. Cf. K. Kelly, op. cit., pp. 65-7.
172. Kelly deals with this aspect of Sanderson under the heading "expediency", and cites one of his sermons: "The difference that is between lawfulness and expediency consisteth in this, that lawfulness looketh but at the nature and quality of the thing in itself considered in the kind, and abstractedly both from the end and circumstances; but expediency taketh in the end also, and such other circumstances as attend particular actions." (Kelly op. cit., p. 72.) Kelly then goes on to show that Sanderson's "elucidation of the nature of expediency is very reminiscent of St. Thomas' view of prudence." (p. 72).
173. LECTURES, p. 210, n. 14, and p. 215, n. 18.
174. I.e. avoid laws made from passion, or laws too burdensome to keep, or contrary to a custom, or finally, to keep peace and justice in the kingdom.

175. L. Dewar, Moral Theology in the Modern World, p. 22.
176. For an introduction to his life and works, cf. F. Cross, The Oxford Dictionary of the Christian Church, p. 1525-6, with excellent bibliography; J. Macquarrie, SA Dictionary of Christian Ethics, p. 338, with several more recent studies on Taylor indicated; K. Kelly, op. cit., pp. 95ff has a good preface to Taylor, and a fine treatment of Taylor's understanding of conscience; also H.A. McAdoo, The Spirit of Anglicanism, pp. 49-80, regarding Taylor's theological methodology.
177. Cited by T. Wood, "An Anglican Manual," Church Quarterly Review, cxlvi (1948), p. 151.
178. Cf. H.A. McAdoo, op. cit., p. 51. Indeed, one recent exponent of Taylor has taken sharp issue with Taylor's understanding of St. Thomas Aquinas: "And when he (Taylor) goes on to say that 'All the laws of Christ concerning moral actions are the laws of nature' he makes a serious confusion between nature and supernature." L. Dewar, op. cit., p. 24.
179. Dissuasive from Popery, 1664; elsewhere however (and this is his more predominant tone), Taylor asserts that "men must be permitted in their opinions, and that Christians must not persecute Christians." (Liberty of Prophecyng, p. 34.). Further, he warns against growing "proud in our opinions, and cool in our piety and practical duties" (p. 37), and asks "why are we so fain to reject heretics and we are such friends with drunkards, fornicators, swearers, etc.," (p. 38) Interesting query.
180. "'If our bishop', he says in one of his examples, 'in his precepts and sermons of chastity, commands that the women go not to the public spectacles where are represented such things as would make Cato blush, and Tuccia have looser thoughts, they are bound, in conscience, to abstain from those impure societies.' There is here no essential difference of attitude towards duly promulgated law (whether imposed by canon or by the ordinary) from that of the schoolmen." Kirk, IPC, pp. 142-3.
181. Cited by L. Dewar, op. cit., p. 23. (= WORKS, XI, p. 356).
182. Cf. L. Dewar, op. cit., p. 24. Kirk also discusses Taylor's tutiorism regarding extrinsic probability in SINTH, pp. 197-8.
183. Cf. G. Tavard, op. cit., p. 45.
184. Cited by H.A. McAdoo, The Structure of Caroline Moral Theology, p. 37.
185. Ibid., p. 37.
186. Ibid., p. 39.
187. Ibid., p. 42.

188. "All laws of Christ regarding moral actions are laws of nature, and all the laws of nature, which any wise nation ever reckoned, either are taken away by God, or else are commanded by Christ. So that Christianity is a perfect system of all the laws of nature, and of all the will of God, i.e. of all the obligatory will, of all the commandments". Cited H. McAdoo, op. cit., p. 40. I-DD, I, 59) (This was criticized by L. Dewar. Cf. Footnote 178, infra.)
189. McAdoo, op. cit., p. 41.
190. H. McAdoo, The Spirit of Anglicanism, p. 55.
191. Ibid., p. 55.
192. Ibid., pp. 57-58.
193. Taylor always held for the undifferentiated position that what cannot be reconciled to Sacred Scripture, antiquity and reason cannot be imposed or treated as essential. cf. McAdoo, ibid., p. 77.
194. J. Taylor, The Liberty of Prophecyng, p. 168.
195. G. Tavard, op. cit., p. 52.
196. Ibid., p. 52.
197. Ibid.,
198. "For the church either speaks by tradition, or by a representative body in a Council, by Popes, or by the Fathers: for the Church is not a Chimera, not a shadow, but a company of men believing in Jesus Christ which men either speak by themselves immediately, or by their Rulers, or by their proxies and representatives; now I have considered it in all senses but in its diffusive capacity: in which capacity she can not be supposed to be a Judge of Controversies, both because in that all the Church diffused in all its parts and members, so there can be controversy, for if all men be of that opinion, then there is no question contested; if they be not all of a mind, how can the whole diffusive Catholic Church be pretended in defiance of any one article, where the diffuse church being divided, part goes this way, and part another? But if it be said, the greatest part must carry it; Besides that it is impossible for us to know which way the greatest part goes in many questions, it is not always true that the greater part is the best, sometimes the contrary is most certain, and it is often very probable, but it is always possible". J. Taylor, The Liberty of Prophecyng, p. 161. Chillingworth, on whom Taylor leaned quite heavily, says the same: "There are Popes against peoples, councils against councils, some fathers of one age against a consent of fathers of another age, the Church of one age against the Church of another age". (Cited by J.H. Newman, The Development of Dogma, London, 1960, p. 5.)
199. G. Tavard, op. cit., p. 53.

200. DD, I, Ch. 2, 52. The citations here are from an original edition of Doctor Dubitantium (DD), or the Rule of Conscience, London, 1696, Vol. I. The enumeration is the same as in standard editions of Taylor's works such as the Whole Works of the Right Rev. Jeremy Taylor, D.D., ed. by Heber, and revised by Eden, 10 vols., London, 1847-82; Cf. K. Kelly, op. cit., p. 25, footnote 25.
201. J. Taylor, The Liberty of Prophecyng, p. 173.
202. Cited by H. McAdee, The Structure of Caroline Moral Theology, p. 3.
203. J. Taylor, The Liberty of Prophecyng, p. 169.
204. DD, I, Ch. 4, IX, 1.
205. DD, I, Ch. 4, IX, 2.
206. DD, I, Ch. 4, IX, 5.
207. "In Venice there is a Law that any man may kill his Father if he be banished". "It is very commonly taught, that it is lawful by fraud by surprise, by treason, to slay the Banditi". DD, I, Ch. 4, IX, 5.
208. Ibid.
209. DD, I, Ch. 4, IX, 10; The rest of the "collateral considerations" are: "(5) That which is agreeable to common life; (6) That which is best for the public; (7) That which is most for the glory of God, for the reputation of His Name, and agreeing with his attributes; (8) That which is more holy; (9) That which gives least confidence to sin and sinners; (10) That which is most charitable to others; (11) That which will give least offence; (12) That which is most useful to ourselves".
210. DD, I, Ch. 4, IX, 13.
211. DD, I, Ch. 4, IX, 13
212. Ibid., 14.
213. Ibid., 15.
214. Ibid., 16.
215. DD, I, Ch. 4, rule, X, 2.
216. Cf. DD, II, Ch. 3, rule XIX, 2.
217. Ibid., 3.
218. Cf. Infra, p. 70.
219. DD, II, Ch. 3, rule XIX, 3.
220. Ibid., 4.

221. Ibid., 8.
222. Ibid.,
223. Ibid., 9.
224. Ibid., Taylor shared this notion with Calvin concerning sin, and was quite ready to link it up to customs in the world: "For men indeed, sometimes by evil habits, and by choosing vile things for a long time together, make it morally impossible to choose and to love that good in particular which is contrary to evil customs.... Custom is the devil that brings in new natures upon us; for nature is innocent in this particular ...! 'Nature does not engage us upon vice. She made us entire, she left us free.' (Seneca) But we do make ourselves prisoners and slaves by vicious habits". Cited by F. Cross and F. More, Anglicanism, p. 651.
225. DD, II, Ch. 3, Rule XIX, 10.
226. Ibid., 11.
227. Cf. DD, II, Ch. 3, rule XIX, 12-14.
228. Ibid., 15.
229. Ibid.,
230. Cf. T. Wood, English Casuistical Divinity, pp. 89-90.
231. It is surprising how often a parallel arises between the Anglican approach to moral questions and custom, and the English approach to law, called Common Law. The latter was recently summarized in terms of a "warp and woof which ought to be the key to a new approach to moral theology: one that is based, not on abstract generalities which can rarely, if ever, be stated in absolute terms, but on precedents reflecting that interplay of principle and situation which is the hallmark of English Common Law". Editorial, The Catholic Herald, March 21, 1969, p. 4. Taylor's use of custom verifies this, and it will become even more evident when we arrive at Kirk. The role of consensus fidelium becomes even more important in this ambit.
232. H. McAdoo, The Spirit of Anglicanism p. 80. Taylor's "three-fold gord" consisted of "scriptures, ... reasons and the best authority". Ibid.,
233. As Taylor has indicated, the role of the community and reasons offered by the community emerge "where it is most justly to be presumed", namely in the community itself. Cf. DD, I, Ch. 4, IX, 13.
234. We will cite from William Orme's collection: The Practical Work of Richard Baxter, 23 Vols., London, 1830. Baxter's greatest moral work, A Christian Directory, or Practical Cases of Conscience, (orig. version: London, 1673), is contained in Vol. 2/3, 4/5, and 6 in Orme's works. (Abbreviated from now on as ORME.)

235. F. Cross, The Oxford Dictionary of the Christian Church, p. 143. A good bibliography of further studies of Baxter is appended to this article.
236. J. Macquarrie, A Dictionary of Christian Ethics, p. 28.
237. CAIP, p. 206.
238. Ibid.
239. "By a church is meant, a society of Christians as such. And it is sometimes taken narrowly, for the body or members as distinct from the head, as the word kingdom is taken for the subjects only as distinct from the King; and sometimes more fully and properly for the whole political society, as constituted of its head and body, or the 'Pars imperans and pars subdita'. ORME, V, Q.1, pp. 248-9.
240. Ibid.
241. "True bishops or pastors in their own particular churches are authorized teachers and guides, in expounding the laws and Word of Christ; and the people are bound as learners to reverence their teaching, and not contradict it without true cause; yea, and to believe them 'fide humana', in things pertinent to their office: for 'opportet discentem credere'." ORME, V, Part III, Q. XXVIII, 4, p. 312.
242. Baxter saw all people as God's but by a "forced subjection, i.e. under his dominion." This "is common to all persons, even open enemies; yea devils: this yields us no comfort." ORME, XXII, Ch. 1, Sect. 2. p. 28.
243. J. Macquarrie, op. cit., p. 28.
244. Ibid.
245. Baxter refused the offer of a bishopric himself.
246. ORME, VI, Part IV, Ch. III, Direct. XL, p. 95, citing Hooker, EP, VIII.
247. Ibid.
248. Ibid.
249. Cf. ORME, V, Part III, Q. XVIII, pp. 289-92. "The people's call or consent is not necessary to a minister's reception of his office in general, nor for this part of his work in special, but only to his pastoral relation to themselves." Ibid., p. 290.
250. ORME, XV, Part I, Ch. 6, XV, p. 58.
251. Arminianism was a system of faith propounded by Jacobus Arminius, a Dutchman (1560-1609), which was a theological reaction against the deterministic logic of Calvinism. They insisted that the Divine Sovereignty was compatible with free will in man and that Christ died for all men and not only for the elect. In England, the 17th Century reaction against Calvinism was termed "Arminian" by its opponents, though the direct influence in England of Dutch Arminianism is doubtful.

Arminius also held views on the absolute authority of the State. He was also accused of Pelagianism and Socinianism but successfully defended himself in 1603. Cf. F. Cross, op. cit., p. 88.

252. Socinianism is a doctrine propounded by two Italians, Lelio Sozini (1525-62) and Fausto Sozzini (1539-1604). It is mainly an anti-Trinitarian formulation which also denies the essential divinity of Christ and the natural immortality of man. It became associated with Arminianism in England in the 18th Century and for that reason both were under suspicion and lost influence. Cf. F. Cross, op. cit., p. 1266.
253. ORME, XV, Part I, Ch. 6, XV, p. 58.
254. ORME, VIII, Direct. VIII, pp. 156-7.
255. ORME, V, Part III, Ch. II, Direct. III, p. 20.
256. Baxter paraphrases the text as follows: "He that is blind in sin must judge of the mysteries of godliness", a difficult rendering of it to bring out his meaning. Ibid.
257. Ibid., p. 21.
258. Ibid.
259. Ibid.
260. Cf. CAIP, p. 206.
261. ORME, V, Part III, Ch. VII, Introd., p. 134. (This is from A Christian Directory.)
262. ORME, V, Part II, Ch. VII, Directives 1-10, pp. 134-140. (The numeration of the directives is the same in our text as they are in ORME, so we will not give specific footnote references to each of them).
263. These will be cited directly from the text of A Christian Directory, as found in ORME, V, Part III, Ch. VII, pp. 139-151.
264. Ibid., p. 139.
265. Ibid.,
266. Ibid., p. 140.
267. Ibid.,
268. Ibid., p. 141.
269. Ibid., p. 145.
270. Cf. ORME, V, Part III, Ch. VII, pp. 146-150. We are following Orme's enumeration, so there will be no further footnotes given for the rest of these directives.

271. "Thus Peter and Barnabus erred; Gal. ii" Ibid., p. 149.
272. ORME, IV, Part II, Ch. VII, Direct. XI, p. 134.
273. Vision and Tactics, Towards an Adult Church, p. 27.
274. Cf. VG, p. 3, passim.
275. ORME, XX, Sect. XXI, pp. 178-9.
276. Ibid., p. 179.
277. Ibid.,
278. Ibid.,
279. Ibid.,
280. ORME, V, Part III, Q. XXVIII, 6, p. 312.
281. Ibid., pp. 312-13.
282. Ibid., Part III, Q. LXII p. 403.
283. Ibid., p. 404.
284. Ibid.,
285. L. Dewar, op. cit., p. 28.
286. Dewar attributes this lack of follow-up of the Carolines to the fact that either their works were in Latin (e.g. Sanderson) which made it difficult for the average clergyman, or because their works were often so diffuse and dull that they were simply allowed to remain unread on the dusty shelves of libraries. Kirk feels that "It is one of the curiosities of history... that with the dawn of the 18th century not Anglicanism alone, but all the Reformed Churches, lost their grasp upon these time-honoured rules of procedure" of the Carolines. (CAIP, p. xvi.) Kirk makes the same point when he drew up a bibliography for moral theology after his article published in 1939: "Moral Theology and casuistry also occupied both Anglican and Reformed theologies up to about the end of the seventeenth century; but they cannot be said to have left any trace upon the thought of their several communions, and remain in effect (though often well worth reading for their wisdom) no more than historical curiosities". STUDY, pp. 403-404.
287. Kirk alludes to the paucity of Anglican manuals along with the "tentative character" one of those that did emerge from 1850 to 1920. Cf. STUDY, p. 404. One such manual frequently used by the Anglican clergy was that of F.G. Belton, Manual for Confessors, 1916, London.

288. Cf. SMTh, pp. viiff for Kirk's more detailed description of the sources he used. Canon H. Waddams gives a good summary of the whole thread of Anglican Moral theology from the Carolines to Kirk: A New Introduction to Moral Theology, pp. 34-36. Cf. also T. Wood, art. cit., pp. 150-7.
289. Cf. Op. cit., pp. 172ff.
290. H. Waddams, op. cit., p. 35.
291. Cf. G. Favard, op. cit., pp. 95ff.
292. Van de Pol, op. cit., p. 247. These writers are called "The Cambridge Platonists" or "Latitudinarians" and included such writers as R. Whichcote (1609-83), R. Cudworth (1617-88) and H. More (1614-87). They held that reason "could judge the data of revelation by virtue of the indwelling of God in the mind, since 'the spirit of man is the candle of the Lord.'" (F. Cross, op. cit., p. 222). A study of the writings of these men could be useful, but they seem to have exerted little influence in the "line" of Anglican Moral Theology that we have traced out, and for that reason have been omitted in our historical approach to consensus fidelium.
293. "Hobbes expounded a doctrine of psychological determinism in opposition to Bp. J. Bramhall's defense of free will Hobbes was perhaps the first philosopher to attempt seriously to base a theory of human conduct upon natural science; he was a pioneer in psychology.... His doctrine of political absolutism cut at the roots of ethics, however, as it left no room for any genuine moral distinction between good and bad." F. Cross, op. cit., p. 643.
294. CAIP, p. 204.
295. "Upon the whole, then, besides the good and bad effects of virtue and vice upon men's own minds, the course of the world does in some measure turn upon the approbation and disapprobation of them, as such, in others. The sense of well and ill doing, the presages of conscience, the love of good characters and dislike of bad ones, honour, shame, resentment, gratitude, - all these, considered in themselves and in their effects, do afford manifest real instances of virtue as such naturally favoured and of vice as such discountenanced, more or less, in the daily course of human life - in every age, in every relation, in every general circumstance of it. That God has given us a moral nature, may most justly be urged as a proof of our being under his moral government; " Analogy of Religion, London, 1884, Ch. III, p. 50.
296. Ibid., p. 59.
297. Cf. Ibid., Ch. III.
298. R. Page, New Directions in Anglican Theology, p. 41.

299. Ibid.
300. IFC, p. 113, footnote 1.
301. Cf. K. Dick, "Das Anglogieprinzip bei John Henry Newman und seine Quelle in Joseph Butler's 'Anlogie'", Newman-Studien, V, Nurnburg, 1962, pp. 9-228.
302. Van Pol, op. cit., p. 248.
303. Henry Sidgwick, The Methods of Ethics, London, 1907, p. 85.
304. Th. of E., p. 94. Kirk's evaluation of Utilitarianism will be considered in the last chapter.
305. Op. cit., p. 341. Sidgwick deals extensively with the Morality of Common Sense: cf. pp. 423-459
306. Ibid., p. 361.
307. The Rambler, July, 1859, pp. 198-230; reprinted and edited by J. Coulson, London, 1961. Even the reprint in 1961 evoked a shock in some circles in modern Roman Catholicism, an indication "that the popular idea of the teaching office needs revision." J. McKenzie, Authority in the Church, p. 136. Cf. also, Samuel Femiano, Infallibility of the Laity, The Legacy of Newman, New York, 1967, pp. 20-37.
308. "Was spätere Theologen über den Glaubenssinn sagen, ist ohne den Einfluss Newmans nicht zu denken." H. Hasmans, op. cit., p. 244.
309. Cf. KEMP, p. 15.
310. E.g. cf. W.J. Sparrow Simpson, "Newman's Essay on Consulting the Laity," in The Place of the Laity in the Church, London, 1918, pp. 69-76.
311. Cf. Dennis Read, OCD, Sensus Fidel: A Study of Cardinal Newman's Theological Method as applied to Moral Theology, Roma, Academia Alphoniana, 1968.
312. Cf. Newman, On Consulting the Faithful in Matters of Doctrine, N.Y., 1962, p.54.
313. Ibid. p. 55 (Regnier, De Eccles. Christ., p. i, No. 1, c.i., ed. Migne, col. 234.)
314. Ibid., p. 63.
315. Ibid., p. 64.
316. Ibid., p. 65.
317. Ibid., p. 67.
318. Ibid., p. 68.
319. Ibid., p. 72.

320. Ibid., p. 24
321. Ibid.
322. Ibid.
323. Congar registers this as a bit of a criticism against Newman's accepting the influence of the laity a little too blindly "De fait, la présentation de Newman pourrait tromper: elle pourrait faire prendre pour l'histoire complète de la crise ce qui est simplement le mise en valeur d'une aspect, grâce à une collection de textes relatifs à cet aspect, émanant d'auteurs souvent d'historiens laïcs, favorables aux laïcs, comme Socrate et Sozomène." Jalons pour une Théologie d'w laïcat, p. 395. Here Congar gives several historical references which show from the Fathers, that the cleavage was "non entre les fidèles et la hiérarchie, comme l'a fait excessivement Newman, mais entre la foi du peuple et les spéculations hasardées des théologiens...." Ibid. However, it is to the credit of the laity that they heard and held fast to the correct formulations "sans subtilité et de façon authentique." Ibid., footnote 66.
324. Cf. J. Newman, Development of Dogma, London, 1960.
325. J. Newman, On Consulting the Laity in matters of Doctrine, p. 116.
326. Cf. footnote 308 infra.
327. Cf. J. Newman, The Development of Dogma, Ch. 9, where he considers the influence of the laity on penitential practices in the Church.
328. Hammen notes "das Newman den sensus fidelium nicht nur statisch sieht, die Lehre des Autes widerspiegelnd, sondern auch dynamisch, ihr vorausgehend. Ein Vergleich mit seinen Ausführungen in dem Text, den er Ferrone vorgelegt hat, zeigt, dass der Glaubenssinn der Gesamtkirche nichts anderes ist als der illative sense, er Folgerungssinn der Kirche dessen Methode die intuitive Einsicht und die Zusammenschau einzelner Indizien und Arguments ist." Op. Cit., p. 244.
329. Church and State Report, 1935, p. 21.
330. Ibid.
331. Mark Pattison, University Sermons London, 1885, Sermon VIII, p. 197. This is cited from Favard's chapter dealing with "Anglo-Catholicism", op. cit., pp. 179-200, which is a good picture of this period of Anglican theological development.

332. Lux Mundi, A Series of Studies in the Religion of the Incarnation, ed. by Charles Gore, London, 1904 (15th ed.).
333. R. Page, op. cit., p. 1.
334. G. Tvard, op. cit., pp. 185-6.
335. Ibid., p. 186.
336. Edward Stuart Talbot (1844-1934), cited by Tvard op. cit., p. 187.
337. H.g. R.B. Rackham, "The Position of the Laity in the Early Church" in Reform in the Church of England, ed. by Douglas Eyre, London, 1915.
338. W.J. Sparrow Simpson, (and others), The Place of the Laity in the Church London, 1918. This book has some interesting chapters, such as "The Laity in the Church of Scotland" (Ch. VII), "The Place of the Laity in Church Councils" (Ch. IX), and "The relation between Clergy and Laity." It is marred, however, by a very dated ecclesiology, and a slightly polemical spirit against the Lux Mundi influences which its writers attempt to refute.
339. Ibid., p. 37.
340. Ibid., p. 54.
341. Cf. R.B. Rackham, art. cit., p. 47.
342. A report was prepared in 1902 entitled The Position of the Laity in the Church being a Report of the Joint Committee of the Convocation of the Convocation of Canterbury. It seems to have been the "official" report around which the series of essays we are using centred. Unfortunately, the writer has not been able to read it as it is missing from most of the major libraries in London due to war damage.
343. Synopsis of Moral and Ascetical Theology, London, 1882.
344. First edition, New York, 1892.
345. London, 1924.
346. Op. cit., London, 1935, p. 11. (First published in 3 vols. 1892).

PART TWOCONSENSUS FIDELIUM IN KENNETH KIRKCHAPTER THREE : ANGLICAN MORAL THEOLOGY, KIRK, AND CONSENSUS FIDELIUMI INTRODUCTION : RE-ENTER KENNETH KIRK

We now come to the specific treatment of our "focal figure", Kenneth Kirk. It is important to remember that all of what has been established thus far in our treatment of consensus fidelium be brought to bear and kept in mind when we examine Kirk's use of consensus fidelium. Our introductory remarks concerning the English Temperament and the Anglican approach to theology constitute the basic ground for Kirk's "modus Operandi" in theology. The working definitions of consensus fidelium we set up gave us a basic framework in which we can compare the insights of Kirk with regard to the theological development that has taken place within the Roman and Anglican Traditions. We also must remember the basic "problem areas" which we have described which will assist us in choosing our own methodology in examining Kirk's writings. Our journey through the Carolines has afforded us interesting insights into the relative value and use of consensus fidelium in a more pastoral, and applied setting than the theological investigations of the first chapter. Finally, we have frequently put the spotlight on various phases of the concept of the Church and the role of the layman which Anglicanism has proposed and imposed throughout its four hundred year history.

Our task now is to bring all of this with us as we view our grand synthesizer of the 20th Century. That Kirk made frequent use of consensus fidelium as a source of moral judgment will soon emerge in our analysis. Yet we note at the outset, that it may only be seen as a "leit-motif" running through all his works, much as a particular color of thread may run through a tapestry. It is implicit in his whole concept of theology, of the Church, of sources for Christian judgments, and in his treatment of the Christian life both past and present. It is for this reason that any attempt to isolate consensus fidelium into specific categories must be performed in a rather arbitrary and eclectic fashion. Francis Frost's major synthetic and

analytic treatment of Kirk's moral theology will be used to give summaries, when needed, of the Bishop's thought on specific theological categories. From these various divisions, then, we can try to focus our attention on the specific use of consensus fidelium as a source of moral judgment.

A. KIRK THE THEOLOGIAN

Harkening back to our first glance at Kirk in our first chapter, we established Kirk as a rather unique thinker amidst the winds of "Liberal Catholicism" blowing all around him. While he shared their great emphasis on deep biblical research, the use of new discoveries from modern science, especially psychology, along with a more empirical approach to the problems besetting mankind, and while stressing the validity of the testimony of the Fathers of the Church along with the Church's pronouncements from the Patristic era, nevertheless he cannot be called a "Liberal Catholic" as the term was then applied. His stress on St. Thomas and the Caroline theologians and his extensive references to Roman Catholic moral theologians side by side with Anglican and Protestant sources have left some commentators of his wondering if he had departed at all from the tradition of the Roman Catholic manuals.¹ This is why Joseph Fletcher has been so scathing in his criticisms of Kirk.² But the fact remains, that whether we chose to identify Kirk as, in reality, a "dyed-in-the-wool traditionalist", or a "quasi-liberal", yet his immense studies in the field of moral theology have been a decisive step in its renewal within Anglicanism. Of this, the weight of posterity is in unanimous agreement. But the problem has only begun. Kirk's thought patterns are frequently complex and hard to follow as we observed in our introduction to Kirk. Personal conversations by the writer with those who knew him well (e.g. Prof. Mascall) affirm that Kirk rarely gave a clear-cut answer to anything.³ Even Kirk's attempts at renovating the maze of traditional Roman Catholic categories by attempting newer and fresher approaches was still criticized as not uncluttering the field.⁴ However, these aspects are merely repeated here to show that Kirk has not been the last word by any means, in the "line" of Anglican moral theology. Yet, his greatness does remain in many ways and our study of consensus fidelium bears this out.

1. The Unity Of Dogma And Moral.

The development of our theme thus far has clearly shown that the moral implications of consensus fidelium are deeply rooted in a corresponding understanding of the dogmatic ramifications of sensus fidelium. This is no less true with regard to Kirk's conception of theology as a whole, and it profoundly influences his treatment of consensus fidelium.

Kirk had drawn his sword on the 19th century rationalists who tried to divorce dogma from moral, mystical and ascetical theology.⁵ He devoted a powerful lecture to this theme, vigorously maintaining that Christian attitudes towards doctrines such as the Incarnation and the Atonement profoundly influence contemporary thought in Christian ethics.⁶ Later, he inserted a parenthetical capsule summary in discussing the ministry in the Church: "theology is an organic system, and not a congeries of unrelated dogmas thrown together haphazard."⁷ Added to this was the fact that Kirk, while not unnecessarily depreciating the importance of a rational apologetic, "seems to have been firmly convinced that argument alone would never make a man a Christian, and that equal attention needed to be paid to the provision of guidance in the practical Christian life."⁸ Kirk's own words clearly emphasize the necessary interrelation between belief and morality:⁹

Thus, for Kirk "dogma et morale étaient indissociables".¹⁰ It is a point which influenced his great work, The Vision of God, in which he sought to show how many of the Church's attitudes and approaches to discipline are influenced by the prevailing concept of God. Thus moral and ascetical tendencies such as formalism and rigorism are seen by Kirk as direct manifestations of his concept of God.

"The whole of man's intellectual outlook upon life - his creed, his faith, - is to some extent bound up with his behaviour. If we know how he conceives of God we shall have a clue to his probable conduct; his conduct illumines - to some extent at least - not merely the genuineness but even the type of his creed. Nor can conduct or creed be separated from experience. If there is such a thing as experience of God - and it is difficult to believe that the word 'God' stands throughout history for no more than a form without content... Thought about God must in the end correspond with experience of God; and experience of God will be modified and interpreted in harmony with intellectual presuppositions as to his nature. Even in ordinary life, we often see only what we expect to see." ¹¹

This is a key concept in the thinking of Kirk, and it supports in another way what we have already asserted about the close relationship between the conceptual nature of *consensus fidelium* and its manifestation in a consensus. The idea is present in germ-form in Kirk's understanding of the unity of dogma and moral. Indeed, it is this fusion of dogmatic, moral and ascetical theology which is one of the forward thrusts of Kirk's whole theological approach.¹² In a bibliography of moral theology that Kirk once drew up, he listed Ascetical Theology, Practical Psychology, the Science and Practice of Prayer, Casuistry, Ethics, Penitential Theology and Christian Sociology as all being necessary areas of concern for moral theology.¹³ Our uses of *consensus fidelium* in Kirk will come from a wide ambit of testimonia, all of which are justly contained in the branch of theology known as moral theology.

2. A DYNAMIC DOCTRINE

Kirk's concept of truth was a very open-ended one. He always maintained that an ardent search for truth must characterize every earnest Christian, a tenet he shared with S. Thomas. "The Church has always regarded truth in the light of a present possession as well as that of a future prize."¹⁴ Here we see a dynamic conception of dogma which contains a strong hint in favor of a certain dogmatic development, an area of concern which must also be remembered when considering *consensus fidelium*. Kirk is quick to point out the conflict of opinion existing here, since it is commonly held that beliefs are static, and without influence on conduct. He goes on to reiterate what we have just shown, namely the close relationship between dogma and conduct, and specifically mentions the necessity of accepting certain "doctrines about the nature and self-manifestation of God as true. Such acceptance, in individual cases, may indeed at any given moment be implicit, inarticulate, even unrealised. But even so true Christian beliefs, if they were fully thought out, would be found to involve convictions of this order."¹⁵ These convictions and beliefs are then given "a regulative value for conduct."¹⁶ But what we are really seeking, Kirk adds elsewhere, is a "degree of unanimity on the subordinate requirements of Christian morality akin to that which already exists, at all events informally, on its main principles ...

The cry for more unanimity is, as the name implies, of the spirit, whereas uniformity insists upon the letter as well".¹⁷

Thus, doctrine becomes a living part of the Christian life and exists in the Christian both in actualitate and in potentia, a view similar to Newman's.¹⁸ Kirk also felt that the doctrines of our faith are to be "externally in debate". We should never try to reduce Christian thought to a "hidebound and all-sufficing system". The intellectual approach to Christianity needs a "divine discontent" to keep it true to its historic genius.¹⁹

With these two ideas, namely, the necessary relationship of dogmatic theology and all aspects of theology, and a "divine discontent" with any hidebound, all-sufficing systems, we come to another stage in Kirk's thinking. He describes the regrettable fact that, in the majority of questions in dispute between different religious communities, they seem to have no apparent bearing on matters of conduct. He feels that "the question at issue is not that of the truth, but that of the value, of the Christian doctrines".²⁰ In applying this to moral practice, Kirk would like to have men test the value of the Christian beliefs, which means adopting a life which the creed demands. "Value can only be proved or disproved by experiment".²¹ This may be seen in several dimensions: a call to individual conversion, a deeper faith, or even a type of experimental morality, although the connotations of this last phrase are dangerous, and we will need more careful explanations later. The total impact, though, does point to a concept of doctrine that is developing, dynamic, and meaningful in practice. This definitely accords with Anglican temperament and methodology which we sketched in Chapter one and which Kirk calls the Anglican "genius".²² Going over to the field of moral practice, Kirk states that

"there is no lack of general agreement as to Christian morality which is very near the surface of its public utterances, and is endorsed by the unanimous acceptance of its members The wide tolerance of conscientious divergence of view which is both the peculiar genius and the crowning glory of Anglicanism, enables the Church to endow with some degree of authority - now more, now less - many other principles for the guidance of conduct. Some of them are long standing, others novel and experimental. Some have at least the authority of canonical promulgation in other ages or by other Christian bodies, others are

customary only. Some have the full support and encouragement of individual members of the episcopate or of groups of clergy and laity; others, though they seem to be in private possession of individuals only, are at all events not forbidden by the body. No one can complain of any lack of general principles for his guidance".²⁵

Already, we have a glimpse of how Kirk will use consensus fidelium as a source of moral judgment. But it cannot be considered without at least these passing references to Kirk's understanding of doctrine and its intimate relationship to moral practice. This "organic" image penetrates all. Nor can we omit the stress placed on flexibility, a factor that is quite logically based on the Anglican understanding of the Church and authority. This will be discussed in greater length as we proceed, along with its implications for moral judgments. The stress Kirk places on the "unanimous acceptance of its members" of general practices of Christian morality reminds us of Richard Hooker's treatment of practices which all men considered as good. A study of consensus fidelium in moral questions must obviously begin with what most men are agreed on. Kirk is simply being logical here. His criticism about Anglicanism's difficulties when it comes to specific recommendations in areas of practice is important too since Anglicanism is not without fault. This criticism will recur again.

3. SOURCES OF MORAL THEOLOGY.

What, then, did Kirk regard as his primary sources in moral theology? To answer this, we should define moral theology as Kirk does.

"Moral theology, in the broadest sense, is the study of Christian conduct: the exploration of its principles, and the application of those principles to the problems of duty with which from time to time we are all faced. It is based upon the example and teaching of our Lord and the running commentary upon that teaching contained in the books of the New Testament, and gradually draws a picture of the Christian character, with all its gifts and graces, to which a man may turn for guidance and inspiration wherever he finds himself in need or at fault".²⁷

Kirk then goes on to distinguish moral theology from christian ethics. The latter concerns the highest standards of christian conduct while the former concerns "the minimum standard to which conduct must attain if it is to be adjudged worthy of the name 'Christian' at all".²⁵ This last qualification must be balanced with Kirk's first description of moral theology cited above, or we would accuse him of being even worse off than the manuals which he criticized. Indeed, Kirk's opening chapter in his Some Principles of Moral Theology clearly establishes what constitutes the essentials of fundamental moral theology. These include the ideal of perfection of the Christian, the means of achieving it, and the obstacles in achieving it.²⁶

As Frost notes, "C'est le caractère proprement théologique de cette oeuvre"²⁷ qui fait l'originalité de Kirk. Depuis les carolins, la plupart des moralistes anglicans s'étaient contentés d'une philosophie morale à inspiration chrétienne".²⁸ Kirk is now embarking on a positive and properly theological approach to christian ethics and moral theology. As a result, his basic sources fall under two broad divisions:

- i. The bible and the ensemble of Christian experience throughout the ages;
- ii. The mentality of modern man and the concrete situations in which he finds himself, which Kirk calls "the agreed results of free inquiry into human character".²⁹

Several comments are in order here as they affect our own theme. It is easy to see from the quickest glance at Kirk's major works that his theology is positively Christ-centred. His whole stress on "Worship" and man's quest for God through openness and response emphasizes the centrality of Revelation and the Word.³⁰ The task of religion, Kirk says, is to walk hand in hand with ethics and "to set before the worshipper's mind a God whose character realizes its ethical ideal".³¹ But this gradual realization is not to be achieved by some sort of "Systematic self-culture" which is wholly foreign to the Christian teaching. Rather, the ideal is to be found in "a love for Christ leading to complete self-forgetfulness.... Excellence of character will be attained, not by following rules, but by following Christ".³²

This was the last and greatest assumption of moral theology. This personal union with Christ meant not merely deprecating rules, but aiming at "banishing them from life altogether in favour of a community of experience with Christ which shall guide conduct in its most intimate details from moment to moment."³³ "The Christian life is not so much a life of following rules, as a life of following Christ".³⁴

The whole of Kirk's The Vision of God, for example, adequately bears out his reliance on Revelation and its manifestation through a "community of experience" throughout the ages. It will be our task to search out manifestations of any consensus of these "community - experiences" that are raised in Kirk's historical surveys.

Kirk strongly opposed the a priori approach to moral theology which he felt dominated the manuals. He often accused Roman Catholic moral theology as having lapsed into complete authoritarianism and legalism,³⁵ totally aimed at the confessional,³⁶ tending to make individual effort and "conscientiousness" (a favourite term of Kirk's) something optional,³⁷ and only endeavouring to set out when it is safe to ignore a law,³⁸ He was very severe in his criticisms of the Jesuit moral theologians, calling their textbooks "An Exyclopedia of doubts and difficulties with their solutions".³⁹ He was not blindly prejudiced, though, for he did use some of them quite often for their appeal to common sense and their hearkening back to Christian sources. He also criticized Anglican moral theology as being vague, lacking any absolutes whatsoever, and over indulging in individualism.⁴⁰ "...Criticism by others and correction by the community are alike regarded as, unwarrantable interference with his liberty" (i.e. the Englishman's).⁴¹ Actually, Kirk wanted a fusion of the positive points of both systems in his concept of a truly authentic Christian Moral Theology.⁴²

All this is said to emphasize the stress Kirk felt an a posteriori approach to moral theology needed. His appeal to mystical and ascetical sources, his practical knowledge of human actions and his numerous character assessments are further supports of this methodology.

It is with this in mind that Kirk was forever turning to the modern man's mentality and all the concrete situations in which he found himself. He saw this as especially necessary for casuistry, maintaining that any Anglican text book in moral theology would have to tap all available evidence from psychology, and systems of Church legislation and discipline. This "painstaking collection of evidence" is poignant phrase for Kirk's whole theological methodology, and it is a key for his moral judgments. Kirk also maintained that this would contribute greatly towards a thought-out code of morality which would be adequate both to the Church of England's high ideal and also to her delicate task of finding that adjustment of liberty to authority which would be a fertile source for Christ-like minds.

Kirk's a posteriori approach has implications in the vexing problem of Church authority which we shall discuss later. For the present, we only note the implication along with the rider that the two key factors we already mentioned about Anglicanism earlier i.e. (i) its categorical rejection of infallibility; and(ii) its distinction between essentials and non-essentials be always remembered throughout our discussions.

He was ready to look everywhere for verifications or new insights into the truth: "Nothing needs emphasizing so constantly as the fact that Christianity recognises to the full the ideals and virtues commonly accepted by the social consciousness - honesty, domesticity, manliness, integrity, and the like; and the Church need have no hesitation in joining in any and every contemporary movement for commending them more earnestly to men's consciences .." ⁴³

It was the Christian spirit that transformed the ideals of natural ethics, "seen at last in their true light and made conformable to the mind of Christ". ⁴⁴ There will be a frequent over-lapping in Kirk's use of consensus fidelium, since what we have distinguished in terms of "consensus Gentium" will become a factor in ascertaining a consensus fidelium.

So too with other 20th Century disciplines. Kirk's a posteriori approach made him declare that "it may fairly be said that the Christian Church has no divinely - revealed psychology".⁴⁵ He felt the Bible's only psychology was to stress the freedom of the will, and the innate power of the soul, even though tainted and corrupted by sin, of perceiving what is good and right and aspiring to it. This power he called a conscience. The Bible contains no formal account of the organization or composition of personality except the two points indicated. The scholastic and Roman incorporation of Aristotelian psychology has been too blindly accepted, and so "The English student may therefore believe himself free to employ in his account of the soul and its properties both the terms and the conclusions of modern psychological research, provided always that these do not, either implicitly or explicitly, reign counter to the two fundamental postulates of Scripture and Christian doctrine, without which a Christian science of morality is impossible".⁴⁶ This is significant for us since it will play an important role when we try to understand Kirk's understanding of "intuition" and "sentiment", terms which are intimately bound up with *sensus* and *consensus fidelium*. It is also important for Kirk's thinking on the operation of the Holy Spirit and grace in men's souls, since his concept of grace manifests "beaucoup moins une qualité statique qu'un dynamisme subjectif".⁴⁷ It is this operation which we shall now consider as it follows directly upon Kirk's a posteriori approach.

4. THE HOLY SPIRIT AND GRACE

Kirk's Christ-centred theology maintained a very traditional and orthodox role for the Holy Spirit. True to his scholastic learnings, he attributes the gifts of faith, hope, and charity to the Holy Spirit as well as the other gifts and virtues normally outlined by Catholic Theology.⁴⁸ Equally traditional is the importance Kirk describes to the work of the Holy Spirit in any form of spiritual direction, as well as in guiding Christians in their daily actions.⁴⁹

What interests us here, as we prepare for our subject, is Kirk's stress on the natural tendency of every soul to seek God. As we have seen, Kirk insists on man's basic free will along with a philosophical "good-will" which he defines as "a tendency to reject what is lower for what is higher".⁵⁰ This "philosophy of the Spirit emphasizes that "the Spirit ... desires to do what is right for the sake of doing what is right; to know the truth for the sake of knowing the truth, ... (and) the desire for beauty".⁵¹ Kirk baptizes this philosophical approach by adding that it is "because they are seen to be the only true means of reaching the goal of human life - the knowledge of the glory of God".⁵² Kirk then goes on to declare the necessity of recognizing Original Sin in man and the need of an infusion by a higher and divine power to assist man since he is powerless by his own unaided effort. It is the Holy Spirit Who ultimately motivates our "inward dispositions" which are designated by faith, penitence or hope and the zeal of love. These gifts are present in all men, since "even in his natural state man is not altogether without them It is impossible not to recognise in every man, however little touched by religion, a tendency to progress towards a higher condition".⁵³ Conscience is thus defined as "the general tendency towards self-refinement towards the choice of the higher in place of the lower, which is to be seen, though perhaps faintly only, in every effort of mind, emotion and will".⁵⁴

Kirk strongly maintained that the Holy Spirit "uses the slow processes of natural reason as at least one channel of divine revelation" and despite frequent divergencies between the two, he felt that the theologian should not "falter in his belief that sooner or later the divergent claims of the two will be reconciled".⁵⁵ He then makes an intriguing statement: "Moral theology ... must emphasize the value of revealed truth and of fully substantiated experience without denying the possibility of further revelation or new experience.

It must neither be a slave to precedent, nor yet an opportunist deciding each new question without reference to the dictates of faith and history. Such is its ideal character: the combination of certainty as to some things with an open mind as to others". 56

The Holy Spirit is presented as operating hand in glove with human reason in a progressive, developing manner. Man's guidelines appear under two kinds (i) "fixed" ones: Scripture and manifest Christian experience, and (ii) "developing" ones: agreed results of free inquiry. What remains puzzled is Kirk's assertion concerning further revelation. Does this mean he does not believe that the fundamental deposit of revelation ended with the death of the last apostle, as has been traditionally held by Anglicans and Romans alike? The answer to this question does not explicitly appear, and we must go further before Kirk's mind can be clarified. What is certain, however, is the ongoing process of development that takes place, in Kirk's mind anyway, of God's revelation to man. This is also of key interest to us in our consideration of consensus fidelium, for, if this is valid, then moral teachings may suffer a deeper evolution than has traditionally been attributed to them.

Kirk felt that one of the highest duties of moral theology should be "to trace the methods by which the Holy Spirit normally leads men on from the first glimmers of religious aspiration to the full sense of union with Christ and the full practice of the virtues". 57 He mentions work already done with respect to "sacramental channels" and criticizes these efforts for being too heavily a miori orientated, and with "too little from the empirical point of view; but the laws of His free and uncommanded operation have never been carefully traced out. There is scope here for an inquiry, of the most reverent and humble kind, into one of the mysteries of religion". 58 In a sermon he once preached at Oxford entitled "Magic and Sacraments", he developed a Metaphor in which he likened the mode of operation of grace to a "tonic": "The influence is more direct, impersonal, inexplicable It is the effect of personality impinging directly upon personality: of the mere vital pouring itself out into the less vital; of the completely harmonized giving tone to disharmony The influence of personality upon personality can rarely be controlled, is often altogether uncolored by the agent; it radiates from his as heat from a fire, or light from a lamp". 59

Kirk was determined not to involve himself in any unbalanced presentation of the "ex opere operato" power of the Sacraments and so went on to develop the necessity of the individual's response in each sacramental encounter. Further, he notes that his "tonic" analogy is simply drawn for human intercourse where "Man has a "Tonic" or "quasi-physical" influence upon his fellow-man, which, though enhanced by the willing co-operation of the recipient, is not necessarily dependant thereupon".⁶⁰

We have paused here in order to clarify somewhat Kirk's thinking about the Holy Spirit, another vital aspect in our theme. He is seen as a powerful influencing force underlying all the basic Christian virtues. His action is a very dynamic one, and Kirk's "tonic" analogy implies that it is not only a "vertical action" (i.e. God-man) but also a "horizontal action" (man-man). Linked up with Kirk's very empirical and a posteriori approach to moral questions, we thus have another indication of the multi-dimensional workings of the Spirit in man's reasonings and processes themselves. As a source of moral judgment, then, any consensus fidelium, which Kirk has equivalently termed "the agreed results of free enquiry into human character"⁶¹ will be caused by the "horizontal action of the Holy Spirit". This is nothing really new. What is of interest is Kirk's statement that a "further revelation or new experience"⁶² is possible. No answer to this is possible at this point, as we have just indicated. We should also note the clearly subjective emphasis on this dynamic operation of the Spirit via the general tendencies Kirk ascribed to every conscience. This adds to the suspense regarding just what kind of new experiences may come about as a result of the operations of the Spirit, especially when the results appear in the form of a consensus fidelium.

B: SUMMARY OF KIRK THE TERMOLOGIAN.

It has not been our intention to indicate all the aspects of Kirk's theology that one notices in an intensive study of his works. Our purpose has been to select only those aspects which we felt must be mentioned before any fruitful discussion of our theme in Kirk's writings could follow.

Here, we will link up several threads from our first two chapters before delving into Kirk's ecclesiology.

- i) Kirk's methodology is very definitely that of a true English Anglican. He typifies the Via Media approach. His sources span the whole of Christendom, and there is an honest attempt to strike a balance between the objective sources of Revelation and the Christian experience throughout the ages, and the present agreed results of free inquiry into human character. His stress on being able to adapt Christian teaching and usages to the needs of the moment, as long as fundamental truths of Christianity are not violated, hearkens back to the Reformation distinction between essentials and non-essentials. He even goes so far as to claim it as a "peculiar prerogative of the Church of England" being "not merely legitimate but laudable".⁶³ His a posteriori stress stands right in line with Anglicanism's pragmatic, empirical,⁶⁴ and existential emphasis. And his regard for individuality along with national character-traits will become even more manifest when we consider his moral theology in particular as it grapples with consensus fidelium. All the points we indicated in our introduction, particularly those concerning the "English Temperament" and "Anglicanism" are relevant to Kirk's methodology. Without them, Kirk's handling of consensus fidelium could almost seem presumptuous, especially to those only familiar with the methodology of the manuals he attempted to update.
- ii) The problems of ecclesiology and authority continue to erupt into our theme. Kirk himself admits that the acceptance of his sources for moral judgements necessarily involve these two areas of theology.⁶⁵ We have emphasized Kirk's stress on the union of dogma and moral as further support of our initial presentation of sensus and consensus fidelium and our strong contention that all these aspects must be considered. The difficulties have always existed within Anglicanism (and still do), but we must try to glean what is perhaps valid for all Christianity from the working of the Spirit within this one tradition under study.

Even defined dogmas within Roman Catholicism such as infallibility may possibly be enriched by different insights received from Anglican teaching concerning consensus fidelium.

- iii) Already we have the existence of consensus fidelium as a source of moral judgment confirmed in Kirk's theological sources. It will be our task to amass the various descriptions and uses of consensus fidelium as they spring forth in Kirk's works and try to ascertain any deeper and more basic elements in them. Thus, far, we have mentioned the following: "convictions taken over a length of time, and in a whole society" with discernible results; ⁶⁶ values can only be proved or disproved by experiment; ⁶⁷ general Christian Moral practices enjoying the "unanimous acceptance of its members", or only of "groups of clergy and laity", ⁶⁸ "the agreed results of free enquiry into human character"; ⁶⁹ manifestations of revelation via a "community of experience" ⁷⁰ ideals and virtues commonly accepted by the social consciousness, ⁷¹ community correction, ⁷² tendencies of the Spirit, ⁷³ etc.

The common elements thus far appear to involve moral practices already freely accepted or rejected, and often manifest to groups larger than the ones practicing these actions. There also appears a self-critical and reforming element present, and it has both a human and a divine aspect.

Admittedly, we are analyzing with a very small portion of the data, but this is just a test-run of the type of methodology we will be forced to use on Kirk's writings.

IV A NOTE ON KIRK'S "THE VISION OF GOD"

The Professor of Moral and Pastoral Theology at King's College, London, G.E. Dunstan, has recently editorialized that "Today, we believe, the most influential of Dr. Kirk's monumental works is, paradoxically, the one least concerned with technical moral theology: The Vision of God." ⁷⁴

It is a unique work in the realm of Anglican moral theology, and any theme written around Kirk's works must pay some attention to its immense scope and insights into the development of the Christian spirit throughout the ages.

Unfortunately for us, Kirk never once mentions in a direct way the terms *sensus* or *consensus fidelium* as being sources of moral judgment. This means that *consensus fidelium* as a source of moral judgment can only be viewed in a very "oblique" way in The Vision of God. Also, one ~~can~~ be constantly vacillating as to whether a particular allusion of Kirk's can be taken as applicable to the problem of individual Christian conscience or whether it was a valid historical manifestation of a *consensus fidelium* as a source of moral judgment.

With this dilemma in mind, it will be beneficial only to mention very briefly a few of Kirk's allusions which support some of the seminal insights we have already noted. One development of *consensus fidelium* mentioned by Kirk, however, must be definitely referred to in a treatment such as ours, or we would be unfair to Kirk and to our particular theme. We will come to this in a moment.

A. CONSENSUS FIDELIUM AND CONSENSUS DEI (or) CONSENSUS VERBA DEI.

Kirk's central thesis in the book is stated succinctly three-quarters of the way through: "Every earthly problem, difficulty, circumstance, is to be treated and judged in the light of the Vision of God; that is the whole of the story."⁷⁵ It was with this central idea in mind that Kirk launched into a massive survey of the whole ambit of Christendom to show, by using the touchstone of the various forms of discipline practised in the Church throughout the ages, that all these forms were ultimately rooted in the prevailing conception of God. Whenever the current conception of God, for example, centred around a legalistic or monarchical notion stemming from the current political ethos, then the disciplinary practices of the Church tended to be legalistic and punitively-orientated rather than lovingly and paternally-directed.⁷⁶

Or, whenever the concept of God slanted too much towards being other-worldly, "unnatural", "omni-dimensional" (i.e. stressing "omnipotent", "omniscient", etc.), then the current ascetical practices tended towards rigorism, dualism, Manichaeism, and various other excesses such as those practised by some of the Gnostic cults in the early days of the Church.⁷⁷ This type of dialectic swinging from one extreme to the other is traced by Kirk from apostolic times to the days of the Reformation. This is a fascinating treatment, and while it only indirectly touches on consensus fidelium as a source of moral judgment, still it is a part of Kirk's integral view of theology that must be kept at our side as we move through his more specific references to consensus fidelium.

Kirk also maintained that the "vision of God" was a corporate one. He was especially impressed with the use of "we" in the New Testament, and he deduced that this was an implication that "the experience of the Church makes up for the deficiencies on the part of the individual". He goes on to state that

"even those who have not seen are blessed, the Fourth Gospel asserts, because they share in the Church's belief. (Jn. 20:29) It implies, further, that any alleged experience of the individual must be tested and overruled by this corporate vision of the Church. And it implies, finally, that it is only by holding to the unity of the Church, and cementing it by mutual deference and communal uniformity, that the vision can be secured."⁷⁸

It is easy to compare the "alleged experience of the individual" with the *sensus fidelium* and the "corporate vision of the Church" with *consensus fidelium*, although the latter comparison is not an exact parallel including all of the aspects of *consensus fidelium* which are necessary under a full consideration of it. But what Kirk is maintaining here is very close to the way *sensus fidelium* is tapped and evaluated in an effort to achieve a careful agreement with the beliefs and practices of the wider group, namely the whole church itself. What is being aimed at is a "mutual deference and communal uniformity", terms that certainly ring close to that of *consensus fidelium*.

We can profitably juxtapose this idea of Kirk's with a citation drawn from the article on "Infallibility" in the third volume of Sacramentum Mundi:

"This helps us to understand better that such infallible pronouncements are testimonies to the faith of the Church, and so draw on the sensus Ecclesiae whose norm is Scripture and the tradition which expounds Scripture. They can never be isolated from the Church. This is true not only of the source of these pronouncements, but also of their goal. The end and object of a truth of faith is 'that you may believe' (Jn. 19:35). And thus infallibility does in fact aim at the consensus fidelium and lives by it." 79

What is said with respect to infallibility closely parallels what Kirk has just said about the individual and the Church. Infallible pronouncements in the Roman Catholic Church are to draw on the sensus Ecclesiae (or the sensus fidelium; they can be used equivalently) which has Scripture and Tradition expounding Scripture as a norm. These pronouncements are aimed at a consensus fidelium that is operable and viable.⁸⁰ There is a dialectic and a dynamism between the teaching office in the Church and the faith and practices and the understanding of them operative in the sensus Ecclesiae.

Kirk has set up the dialectic in slightly different terms but the resemblance is remarkable. The sensus ecclesiae or sensus fidelium is "the experience of the individual", although sensus fidelium has a wider connotation than Kirk's designation here. This experience of the individual needs a guide and a stabilizer which appears in the "corporate vision of the Church." This is further explained as the "unity of the Church" cemented "by mutual deference and communal uniformity", a very close parallel to the meaning of consensus fidelium. The "being tested and overruled" clearly implies a need for some kind of deciding authority, and elsewhere Kirk assures us that "If there is no authority anywhere in matters of religion... the external moral life of a man tends to be separated from his religion."⁸¹ The "being tested and overruled" also implies a constant aiming at the expression of the truth for each age. The consensus fidelium is also a goal of the process, as it is for the infallible pronouncements of the Roman Catholic Church.

Finally, Kirk is more explicit in the force that the prevailing concept of God exerts on this developing or prevailing consensus in order that we may believe. For Kirk, God is the over-influencing constant, the North Star, but also the orientating and correcting influence, the dramatist inspiring His actors to creative activity rather than organizing and mechanizing them as a watchmaker sets out the parts for his time-keeping instrument. But it is man's ever-present tendency to exaggerate one extreme or the other of God's various attributes that leads him to adopt moral conduct and the disciplinary measures necessary to cope with this conduct. And it is here that the excesses take place, according to Kirk. Lastly, Kirk clearly maintained that "the vision of God is not for the isolated believer, but for the believer in communion with the whole vast animate universe and all its denizens...the vision is then a corporate one."⁸² It is with this last statement that we allude once more to the implicit connection with the *sensus fidelium*, the resulting *consensus fidelium* and the over-all and penetrating influence that the vision of God plays on BOTH the individual AND the whole People of God. This is why we have paused to elaborate this point to some extent, since it is another interesting approach to the nature of the relationship which exists between God who dwells in His people and their current moral practices. This is what we have termed the consensus Dei, although it could perhaps more correctly be phrased the consensus erga Deum. The whole insight in relation to *sensus fidelium* as a source of moral judgments is an "oblique" one, but well worth mentioning in our own particular "jalon".

D. TRACES OF A "CONSENSUS SANCTORUM"

Another "oblique argument which may be found in Kirk's book occurs when he mentions the growth of laxity in the Church in the 4th Century due to legalistic codification having run rampant in the Church. The tendency towards formalism and universal legislation on all the minutiae of Christian living was countered, judges Kirk, by the growing influence of the martyrs and ascetics against that of the lawyers who were advancing these dangerous tendencies of formalism. And while domestic asceticism was well known in the Church before persecution became widespread, yet "the heroic endurance of the confessor may well have stimulated the more eager among those who had not suffered for the Name to emulate him in mortifying the flesh."⁸³

This allusion to the influence of the saints, while not an explicit reference to any consensus sanctorum, is still a very positive hint of its presence and it emerges under several different guises in other sections of Kirk's work (e.g. the influence of the monks) which is worth noting before passing on.

C. CONSENSUS FIDELIUM AND PENITENTIAL DISCIPLINE:

We will mention one final reference to consensus fidelium which may be inferred from Kirk's work, a reference which is a definite manifestation of the influence of consensus fidelium in a moral practice of the Church. Kirk devoted a great section of The Vision of God, along with some very extended and valuable footnotes, to the great evolution through which the Church's administration of penance and reconciliation underwent.

Kirk explained what happened as a result of the extremely rigid penitential practices imposed by the Church. We are apprised of the practice of putting off repentance until immediately before death so that the rigorous public penances and processes of exomologesis would not have to be endured.⁸⁴ References are made to the practice of allowing only one penance for grave sin after Baptism, as well as various local experiments which were tried, with varying success and failure, to ameliorate the rigid practices. The great publicity and shame attached to formal admission to communion was seen by Kirk as a key factor in forming a consensus fidelium in favour of a mitigation. Examples are listed where local customs grew up in favor of repeating absolution.⁸⁵ The problem of repeated absolutions is closely entwined with a gradual handing over of the power of reconciliation from its exercise by the bishops to that of the priests, a usurpation referred to by Kirk as a "pedagogical penetration".⁸⁶ This is perhaps a fortuitous metaphor describing how the consensus fidelium can gradually become the consensus fidelium.

Finally, we arrive at the next stage of the development of the administration of penance and reconciliation in the Church. Here, Kirk sees a gradual influence and pressure brought to bear on the authorities of the Church by the clergy and laity alike in a reciprocal action.

"... the silent but determined reaction of the Christian conscience against the rigours of the older open penance and absolution had brought to birth, almost by accident, a complete reversal of the relations of clergy and people. It was now the desire of the laity - a desire reinforced by spiritual sanctions in which both they and the clergy placed implicit faith - to obtain the benefit of regular absolution, and they were willing to pay the price of opening their hearts and consciences to the confessor. The clergy no longer had to seek out their flock: their flock came to them proprio natu." 87

What evolved then were the medieval penitentials which consisted in a choice of medicines to fit the disease or punishments to fit the crime. They were rigid, indeed, but there were many lenient exceptions in them. For our purposes, however, we can clearly see that this whole process took place as a result of the massive, often imperceptible, but slowly penetrating influence of the consensus fidelium which preceded the final approbation and authoritative pronouncements made by the hierarchy. Prof. Dunstan has noted that

"In all our traditions ... a consensus fidelium has preceded authoritative pronouncements by the hierarchy. This may sound strange to the ears attuned to Roman obedience - a mark of indiscipline and weakness. But it is a fact about us (Anglicans); it reflects the way in which we make our moral judgments when new situations have to be considered in the light of established principles. (The process is not a new phenomenon: it happened in the Great Church in the early centuries in the matter of penitential discipline - the old system broke down because the faithful, lay and clerical, did not believe in it and would not work it, and a new one had to be established." 88

Kirk too saw the influence of the faithful on the penitential practices as a "process", and it is a word which will occur again in his theology. Kirk's extensive treatment of the mitigation of the rigid penitential practices and his references to the growing tendency of the laity to flock to priests for private absolution is an excellent example of consensus fidelium as an influencing factor in the Church's practice of such a deeply moral issue as penance and reconciliation.

These then are the major contributions Kirk has made to our theme in his book The Vision of God. Several smaller references are also present, but they do not add anything of great significance to what we have already said.⁸⁹ All in all, it is unfortunate that Kirk did not write more explicitly on consensus fidelium as a source of moral judgments in his great work, as it would have made his vast panorama of the Christian experience throughout the ages into a mine of testimony for our theme. As it is, all we can do is to draw out the few "oblique" references we have noticed and pass on to more explicit examples of consensus fidelium in Kirk's other references.

II: CONSENSUS FIDELIUM IN KIRK'S ECCLESIOLOGY.

A: NOTES ON KIRK'S CONCEPT OF THE CHURCH.

Kirk only wrote one explicit treatise on ecclesiology strictly speaking, The Apostolic Ministry. It mainly concerns the necessity of a visible ministry in the Church. It is difficult, however, to gain a clear-cut exposition of the nature of the Church from Kirk's writings,⁹⁰ although this aspect of Kirk has been alluded to by those who have already worked on him in detail.⁹¹ We shall content ourselves with a few of their conclusions along with several points of emphasis we wish to make for the purpose of our own theme. This will constitute the final ecclesiological setting for consensus fidelium as a source of moral judgment.

B.C. Mortimer has surveyed the structure of the Anglican Church quite well in his book The Elements of Moral Theology. He carefully outlines the hierarchical structure that exists within Anglicanism as well as the chief concerns of ecclesiastical law, one of them being "the morals of clergy and laity."⁹² After describing the sources of the law of the Church of England, he traces the transfer of power from Pope to King that resulted after the break with the Church of Rome. The interplay between Parliament, Convocation and King is explained, showing how the laity have always played an integral part in Church government, moral discipline and legislation. The reform of

ecclesiastical organisation that took place in the 19th century was aimed at trying to remedy a situation in which only Parliament had the necessary force to make reforms binding. This presented problems since "It had been ruled by lawyers that canons embodying new legislation, and not merely declaratory of the old canon law, are of no effect as regards the laity, and bind the clergy only in spiritual matters." ⁹³

Also, the twentieth century had belaboured Parliament with so many secular problems that a new structure, the Church Assembly, was set up in 1921, to deal with ecclesiastical affairs by clergy and laity alike. The provinces of Canterbury and York were both included in the three houses within the Assembly, which consisted of Bishops, Clergy and laity. Parliamentary enactment was still necessary for any measure submitted, but the Assembly was a new channel of viewing and assessing the opinions of the faithful with respect to matters of ecclesiastical policy, although any matter affecting doctrine was specifically excluded from the Church Assembly's orbit and reserved for the Convocations. Legislation concerning non-doctrinal matters does go through the Church Assembly, however.

Basically then, the structure of the Anglican Church is very similar to that of the seventeenth Century. In theory, the King is still the head of the Church; the rules of the Church of England are the laws of the realm and enforceable as such; Parliament alone has the power to enact and enforce laws, even ecclesiastical laws, which can bind all citizens of the country; Convocation also has legitimate legislative authority in the Church (but needing Parliamentary enactment) while the role of the Church Assembly is seen as having a "moral authority" ⁹⁴ Minority religious groups enjoy full freedom of conscience and have not been seriously harassed by the Church of England for generations. Such was the structural character of the Anglican Church during the time of Kirk.

Augustin Nitz felt that Kirk's approach towards the general organisation and administration of the Church was largely that of "keeping the house itself in order." ⁹⁵ Nitz ascribes this to Kirk's stalwart defence of the 'apostolic ministry', especially after he

became Bishop of Oxford. Thus Kirk's pastoral thinking and work is characterized as being "inward-directed." The Church is a "family" and its ministers "fathers."⁹⁶ It is seen by Kirk as a "City of Friends,"⁹⁷ "the Communion of Saints - a delightful society of saintly folk, pure and bright and gay and loving -"⁹⁸ "the body of Christ.....the army of the living God" demanding "willing service, loyalty, self-sacrifice -- the virtues of the citizen soldier."⁹⁹ He insisted that the Church be viewed as a "living, growing organism, as distinct from a mechanical organisation," preferring to call it a "society" and not an "institution," a "college," or a "committee."¹⁰⁰ As such, then, he emphasized that it must exist to live a corporate life, and in this light he felt that custom became the community's life-blood, and legislation, "if it is anything more than a record of custom, is designed merely to check the growth of bad customs at the expense of good ones."¹⁰¹ Kirk refused to mechanize the Church into "an emporium to which you may pay occasional visits as and when you need the goods purveyed there." He preferred a crude and simple allegory in which "the Church is a hostel in which only residents find what they need; it does not cater for the passer-by, in search of momentary refreshment only."¹⁰² Already, this "inward-direction" of Kirk's ecclesiology is being borne out, and his later stress on individual responsibility and duty further support this view of Pitz. It also shows itself in Kirk's acceptance of the "Established Church",¹⁰³ where he clearly aligns himself with some of Henry VIII's ideas on it, as well as the general trend of thought we find in Richard Hooker and the Carolines we have treated.¹⁰⁴ Kirk reaffirms the fundamental Anglican rejection of papal infallibility, adding in a parenthesis that this has "vast implications for conduct".¹⁰⁵ This leads him to a consideration of the rights of a national body which can offset the former checks that used to be present in the Church against over-centralization and authoritativeness of a "societas perfecta", an interesting way of describing consensus fidelium in action.¹⁰⁶

Thus Kirk edited his well received group of essays in defence of the episcopacy in the Church.¹⁰⁷ While it dwelled mainly on the historical development of a visible ministry within the Church, it does afford us a good insight into Kirk's ecclesiology. The dangers of an autocratic prelacy are denounced when Kirk refuses to reduce the office of a bishop to that of "rubber stamp".¹⁰⁸ Kirk viewed the episcopate as

"the divinely ordained ministerial instrument for securing to the Church of God its continuous and organic unity, not as a club of like-minded worshippers or aspirants to holiness, but as God-given city of salvation."¹⁰⁹ The functionary aspect of the administrators of the Church in New Testament times is stressed along with a support for a visible Church to ward off the excessive individualism which results from a one-sided emphasis on the invisible Church.¹¹⁰ For Kirk, then, the Church and the ministry are completely intertwined: "It is a fellowship, of which all the members share the same benefits; a company, in which, as the derivation itself shows, bread or some other sustainer of life is divided out among the companions."¹¹¹ A dependence on the ministry is admitted, but more in terms of a visible focal point,¹¹² or a father of a family. Both leaders and led owe their being in the Church to the divine Originator, Christ. A diocese, then, is a Church in miniature consisting of the household of the faith, and with each member of the family playing his part.¹¹³

Before we examine the relationship between the ministry and the laity, it is helpful to sort out a few of Kirk's ideas on the laity themselves. Kirk himself supported the doctrine of the priesthood of the laity, although he insisted in ecumenical discussions that this often-used term be carefully defined, since loose thinking in this area indicated a position that had not been well thought out.¹¹⁴ Thus, Kirk supported the teaching that "the priesthood of all believers be considered corporately" that is, the priesthood of the "Church" or congregation,¹¹⁵ but he refused to allow this to be the basis for a denial of the apostolic commission given by Christ to certain members of the community and handed on^u their successors, the bishops. This commission did not come from the congregation. He also disclaimed that the priesthood of all believers could mean "the priesthood of each believer considered by himself," thereby refusing to have any man standing between the believer and God. What does Kirk mean, then, by this expression?

The priesthood of all believers is described by Kirk in "action-phrases." The clergy and laity alike have as their primary duty the extension of the kingdom, especially in their own neighborhood.¹¹⁶ The clergy is not simply called upon to provide pleasant and comfortable services for the Church-going laity, nor are the laity to be content with

merely cultivating a life of personal but retiring virtues. "Our business, clergy and laity alike, is to win souls for Christ, and having won them, to send them out to win others in the same manner." ¹¹⁷ It is the Holy Spirit that is embodied in the Church, Christ's Body, and through participation in the Eucharist, the whole Church is a Society at once human and superhuman, wherein the Spirit of Christ, the Holy Spirit, freely moves bestowing His gifts upon men." ¹¹⁸ It is in this sense that "Every Christian has "authority" to witness for Christ" and Kirk goes on in this article to encourage the laymen to get involved in politics for example, where he can give expression to his Christian principles. ¹¹⁹ The laity are also allowed the traditional biblical role of brotherly correction. ¹²⁰ Finally, we note that Kirk maintained that the Holy Spirit normally leads men from the first glimmers of religious aspiration to the full sense of union with Christ and the full practice of the virtues. These operations of the Spirit have already been examined by works dealing with the "sacramental channels", though Kirk feels that it has perhaps been done too much from the a priori and too little from the empirical point of view. But he also insisted that the laws of the "free and uncovanted operation" of the Spirit " have never been carefully traced out ... There is scope for an inquiry, of a most reverent and humble kind, into one of the mysteries of religion." ¹²¹ This is exactly our principle concern in this essay, since it is truly the operation of the Holy Spirit that underlines any authentic consensus fidelium. Thus, we see that the priesthood of all believers really boils down to the priesthood that is conferred on every Christian as a result of his Baptism. It is a priesthood of witnessing and bearing testimony, and its motivating source is the Holy Spirit. This theology underlines Kirk's thinking on consensus fidelium. Kirk is not as "inward-directed" as we may have been led to believe at the outset by citing, Pätz's phrase without qualification.

However it is Kirk's allusions to the traditional distinction between ecclesia docens and ecclesia discens that interest us the most. We must always keep in mind Anglicanism's categorical rejection of infallibility when treating of subjects such as this one. Kirk clearly says that "It is a travesty of the truth to think of the ministry as an ecclesia docens perpetually recruiting its members by independent action, and ruling, teaching and feeding a submissive ecclesia discens whose sole function is to manifest the virtue of receptivity." ¹²² ¹²³

Elsewhere, Kirk assures us that the purpose of the Church as a body is to teach, to heal, to strengthen, but these functions are to be performed not through the voice of the hierarchy alone, but through "the witness and behaviour of all her members, regarded not merely as individuals, but as a unity of which each atom supplies and supplements the defects of others...." ¹²⁴ The distinction between ecclesia docens and ecclesia discens is termed "dangerous" if it implies a clear-cut division between a commanding clergy and laity obeying without question, but it is even more dangerous if it takes the form of a disjunction "between a clergy whose duty is to teach and a laity whose privilege it is to disregard and reject as much as they like." ¹²⁵ These two extremes are seen, according to Kirk, to be exemplified by the Roman and the Anglican Church. The dichotomy is resolved by Kirk in terms of loyalty which will make the testimony of the Church impressive and successful: "...The duty of loyalty, showing itself in a subordination of individual conveniences and preferences to the expressed will of the whole, becomes a paramount importance." ¹²⁶

While denouncing the Roman tendency to overstress the "active-passive" nature of the distinction, ¹²⁷ Kirk has put his finger on the equally vexing problem that faces Anglicanism. In opting for a too-loosely defined nature of the teaching roles in the Church, there is the danger that the proclamations of the teaching authority will be completely ignored if they are not in complete accord with the present leanings of the laity. This very problem is admitted by Kirk concerning the lack of influence the Anglican episcopacy enjoys over the English parliament, the mouthpiece of the laity in theory at least, even in matters of religion. ¹²⁸ Ultimately, this ineffectiveness could evolve into a kind of "Church of the New Order", according to Kirk, which would perhaps lead to a total denial of the necessity of any teaching authority whatsoever, a situation Kirk renounces as totally alien to the true spirit of Anglicanism. ¹²⁹

Where do we stand with regard to Kirk's concept of the Church and consensus fidelium as a source of moral judgment? We will be forced to explore further Kirk's understanding of authority in the Church. R. Hanson is cited as feeling that "In type, temper and tendency Bishop Kirk's essay ('The Apostolic Ministry') appears to me essentially Roman, not Anglican. But undoubtedly it expresses the mind and direction of that section of the Anglo-Catholic party which accepts the Bishop as

its trusted leader." ¹³⁰ This is essentially Kirk's position, not only with regard to the apostolic ministry but with regard to the relationship that exists between the clergy and the laity. There was to be no covering up of the essential difference that exists between the two. Indeed, in the first edition of Marriage and Divorce, "Kirk pictured the genuine ecclesia discens as against the genuine ecclesia docens of the two hierarchies, a sentence which was omitted in the second edition." ¹³¹ Kirk's later writings tended to melt some of this hardness which appears from time to time in his works. But he never really explained what the precise relationship was between the ecclesia docens and ecclesia discens or where lies the interdependence between these two aspects of the Church. Recent Roman Catholic theology is stressing that the whole Church constitutes the ecclesia discens, and the magisterium must make it its duty to inform itself in every possible way before making any doctrinal pronouncements. ¹³² Material accuracy is to be supplemented today by the greatest possible efficacy in its declarations, Karl Rahner claims. He goes on to point out that

"...in face of the ecclesia discens, the Church to which instruction and enlightenment is due, the magisterium cannot just appeal to its formal authority. The faithful must also be able to see clearly in any given step taken by the magisterium that the magisterium sees itself as organ and function of the Church as a whole, that it not merely offers man doctrine true in itself but tries to bring them into contact with the very reality of salvation and its salutary force." ¹³³

This idea of the Church apprising herself of every possible source of information before declaring a position on any teaching will be further borne out in Kirk's work. It does show the new stress on a close relationship between all the organs in the Church, a relationship that Kirk frequently hinted at, but never entirely developed.

Whether his solution of "loyalty" adequately satisfies the dilemma remains to be seen. Our only purpose at this juncture has been to try to establish an overall picture of the Church as Kirk saw it. We have not tried to give a total picture as this has already been done by Pütz. Nor have we tried to resolve certain difficulties that have arisen, such as the solution of the ecclesia docens and

ecclesia discens distinction just mentioned, or the concept of authority. We have preferred to expose the aspects of the problems involved and to let the development of our theme shed various rays of light on the problems. Again, it is an oblique approach, admittedly, but it is quite in keeping with the over-all approach, of Anglicanism to moral problems, as well as its approach to authority. In the final analysis, however, this does not affect the treatment of our theme, since, as we have stated over and over again, the theme of consensus fidelium must be seen through these encasing concepts involving other disciplines such as ecclesiology. This is why we are following this particular method of approach.

B. CONSENSUS FIDELIUM AT WORK IN KIRK'S ECCLESIOLOGY.

The greatest difficulty facing us at this juncture is to build some kind of a framework into which we can place Kirk's use of consensus fidelium as a source of moral judgment. Our brief sketch of Kirk's ecclesiology has indicated that the laity enjoy more than a passive role in a Church structure that is familial, functional and organic. Again and again, the problem of authority continues to creep in, and no one can safely say that Kirk has adequately solved it.

How, then, can we observe consensus fidelium at work in Kirk's understanding of the Church? Our approach here will be to set up the two extremes of the problem. We will briefly consider the essential freedom Kirk ascribes to the individual layman (or indeed to any member of the Church) and apply this a fortiori, wherever possible, to the *congregations* fideles in general. We will then approach the other side of the spectrum, namely the community as a whole, in an effort to determine what influence it might have on both other Christians and on the official teaching body within the Church which is generally embodied in a clerical hierarchy, as Kirk felt it did. The problem of infallibility and indefectibility is best left to brief explanatory notes since it does not immediately enter into our scope of study.

1. FREEDOM AND AUTHORITY

At the back of the problem of consensus fidelium lies the thorny issue of freedom and authority. Kirk was eminently aware of this. He even went so far as to tell us that Christian theology, above all

other preoccupations, "is called to the task of solving this problem - the reconciliation of authority with freedom." ¹³⁴ The true freedom of the individual must be adroitly juxtaposed within the legitimate demands of the society in which he lives since no member lives to himself alone. Kirk leaned heavily in much of his work on St. Thomas Aquinas but he felt that on this vital issue, all St. Thomas could do was "hold together" authority and freedom without ever really "reconciling" them. ¹³⁵ It is not surprising that in Kirk's own pastoral and episcopal ministry, he tried to hold down authoritative decisions in the main to a minimum, preferring an influential, persuasive, and advisory capacity to more assertive and strict approach. ¹³⁶

As a result, Kirk had a tremendous respect for the rights and freedom of the individual. While the catholicism both of St. Thomas and the caroline divines "envisaged a Church clear in definition, authoritative in command, highly organized in administration and strict in discipline", yet the Anglican Church on the other hand "reveals a freedom of thought on the part of authority which would have startled both St. Thomas and his Anglican disciples!" ¹³⁷ Kirk powerfully defended this freedom as being the very heritage of Christianity itself, asserting that "within certain limits and on certain conditions, the individual has both the privilege and the duty of criticising the moral system under which he has been brought up and of framing his own moral standards for himself. This phenomenon, it must be repeated, appears to be peculiar to Christian civilization." ¹³⁸ The basic freedom of every Christian was applied to Roosevelt's four freedom's ¹³⁹ in a resounding testimony from Kirk: "You may present a man with the conditions necessary for freedom, but only he can decide whether he will use them to make himself truly free." ¹⁴⁰

With this tremendous emphasis on the freedom of the individual, we must now swing around slowly to the various insights of the individual, an agreed position manifested by a consensus fidelium and the role of some kind of regulating authority to guide all of these manifestations of the Spirit in man.

Kirk assures us that no individual is free from the duty of weighing the intrinsic merits of every case of conscience with which he is faced. He is to seek out and take the advice of experts in the spiritual life and to prefer opinions confirmed by custom or which rest on an invincible argument. ¹⁴¹ Opinions to be followed "must not run counter to any truth universally accepted by the Church; it must be in agreement with common sense...based on reason and supported by good authority," ¹⁴¹ but Kirk always tries to play the via media by immediately adding that there is nothing in these sources of helping us to decide our course of action which would suggest that the "individual Christian is exempt from making searching inquiry, or may act upon obiter dictum which seems to favour his personal feelings." ¹⁴² This must be all seen in the light of Kirk's discussion of Probabilism, where Kirk again echoes the basic English championing of the burden and the privilege of settling his own cases of conscience for himself upon their merits, but after taking the advice of authorities and experts. ¹⁴³

We are now at the heart of the problem of authority. Kirk recognized this when he worried that morality may have developed into a "relative rather than an absolute term" with the conscience of the individual being "regarded more as a form of intuitive sense than as an unwavering grasp upon first principles. Each man is his own judge of right and wrong; criticism by others and correction by the community are alike regarded as unwarrantable interference with his liberty". ¹⁴⁴ What to do? In this article, strange to say, Kirk advocated more authority in the form of more recognition of the unchanging principles of Divine Law, a statement that probably caused Joseph Fletcher to bristle. Actually, Kirk is only echoing his perennial complaint that Anglicanism insists on remaining vague and ineffective when it comes to outlining specific moral practices, a complaint that he does not always do much to alleviate in his own system. ¹⁴⁵

But where else is the individual to look in determining what direction he is to turn his free actions? From whence is authoritative guidance to come? As we have already mentioned, papal supremacy is denied by Kirk as being incompatible with the doctrine of God. ¹⁴⁶ The Church's infallibility in legislating on conduct is a relatively recent development and even then, confined only to 'res gravis et quae ad Christianos mores apprime conducant'. ¹⁴⁷

But Kirk will support a doctrine of general indefectibility and inerrancy of the Church, without any detailed theory as to any actual infallibility on special occasions, calling this "of universal acceptance".¹⁴⁸ Kirk makes his own the summary of William Palmer who claims that "scarcely any Christian writer can be found who has ventured to maintain that the judgment of the universal Church, freely and deliberately given, with the apparent use of all means, might in fact be heretical and contrary to the gospel".¹⁴⁹ (Emphasis Kirk's.) In this last statement we have the immediate setting for consensus fidelium as a source of moral judgment since it is the consensus fidelium that is considered by Kirk as one of the "means" of ascertaining what the conduct of a Christian should be at any particular time and place in history.

2. Loyalty and the Community Conscience.

We have now arrived at some of Kirk's most trenchant statements concerning consensus fidelium. Indeed, it is the role that Kirk gives to the "collective conscience"¹⁵⁰ of the Christian community along with the accompanying loyalty that it should elicit from all its members that more than offsets any individualistic tendencies one might have attributed to Kirk from our treatment thus far. This collective conscience is the true root of all authority given to the Church of God, according to Kirk, and it is why, in questions of moral judgment and spiritual concerns, the authority of the Church is a moral not an official qualification. It is quite distinct from "commission" which is seen in terms of mandate or appointment given to the priest.¹⁵¹ It is with this concept of authority - one we have explicitly mentioned in dealing with the official statements of the Lambeth Conference of 1948 on consensus fidelium in our first chapter- that prompts Kirk to claim that, while the priest has his official commission to deal with souls, yet he must acquire his authority for himself. This will only come from study experience, and personal expertise.¹⁵²

We are clearly within the peculiar genre of Anglo-Catholic thinking when we deal with authority, but we must bring out these aspects lest we end up by ascribing the same weight to a consensus fidelium within Anglicanism as it would receive within Roman Catholicism. This is especially true when it comes to the formulating, promulgating, and binding of moral practices on the Christian community.

Indeed, Kirk felt that there was a more serious problem of conformity for the English Churchman in matters of faith and doubt, because "the dictates of Christianity in the matter of conduct do not, as a rule, meet with such violent opposition as is aroused by some at least of the articles of the creed".¹⁵³ Thus, we have a much wider ambit of flexibility in the Anglican's understanding of moral conduct along with an equally wider point of reference which will guide us in determining what moral practices are in true conformity with the spirit of Christ in this particular society.¹⁵⁴ It is to this "collective conscience" that we now turn our undivided attention. To what extent is it an influencing factor in creating a climate for a moral judgment?

Kirk puts the problem concerning the influential value of Christian community in terms of a question: In what cases must we conform to society or the Church in a matter which, to the mind of the person, does not involve a sin but only inconvenience or discomfort to a greater or lesser degree? He replies by telling us that we do not have to even be a Christian to recognize the virtue of loyalty which has no other meaning than "conforming to the expressed will of society in matters which seem distasteful, harassing, inconvenient, or unreasonable to the individual".¹⁵⁵ A certain Dr. Bevan is cited:

"In the field of spiritual values a man may reasonably respect the authority of a community on a particular point, even where his own judgment does not confirm it, so long as his judgment does confirm on a large number of other points the judgment of the community." ¹⁵⁶

This shows a positive role of the community in being a source of a moral judgment, and it accords with another fundamental Anglican tenet supported by Kirk that, to deny or refuse to obey one belief or practice within the Church, does not, for the Anglican, immediately put him outside the pale of his Church as it would a Roman Catholic.¹⁵⁷ At this point, Kirk is holding fast to practices which only inconvenience or discomfort, and he rails against those who "hold themselves free to adopt an attitude of aloofness on any point which does not appeal to them, or to disregard any principle of Christian life which strikes them as vexatious and harassing."¹⁵⁸ Kirk's lefty idealism appears now when he discourses rather prophetically against lukewarmness and being a casual adherent to the Church. Again, we are to compare our actions with the "corporate life of the community"¹⁵⁹ which must ultimately

(in 5th copy ONLY)

p. 207, last line reads:

"Church. He wonders what kind of attitude the individual needs
in the..."

animate the Church. To be effective, the Church must depend "on this same instinct of loyalty in her members" since the Church must function through the witness and behaviour of all her members regarded not merely as individuals but as complementary units of an organic whole. This is because "conscience and the Church have joint ^{authority over} conduct". 160

Kirk is now moving from the motivating and influencing power of the subjective quality of loyalty in the individual Christian to the more objective influence of the united voice of the Christian community on the individual Christian's moral judgment. We are told that there are two qualities which must go hand in glove here: loyalty on the part of the individual Christian, and tolerance on the part of the Church at large. Kirk plays down the latter since he feels it is the former that needs stressing today.

But loyalty does not solve all the problems of the individual seeking a guide from our source under consideration, namely, consensus fidelium, (along with other sources of a moral judgment too). Kirk tells us that "We have no right to assume without further enquiry the infallibility on each single point of doctrine or morals of the Church of any one epoch or any one nationality, or indeed of many epochs and many nationalities taken together". 161 He bluntly calls this "legalism", since we cannot presume that the Holy Spirit has already guided us into the truth, or that he will protect us at all times from every admixture of error.

"The witness of large bodies of Christians, especially if of many epochs and of many nationalities, is in the highest degree impressive; but it is always possible that its impressiveness is more apparent than real by reason of that natural indolence which often leads men to conform rather than take the trouble of questioning." 162

Kirk instances here the unanimous acceptance of the Papal claims in the Middle Ages which was largely based upon the forged Decretals, and so was more apparent than real. Here Kirk brings us back to the completely unquestioning obedience implied in the one extreme of the ecclesia discens concept, and uses this example to show how it can so easily degenerate into a lazy legalistic conformity. Kirk now lines up a battery of questions all based on his assumption that there is a possibility of error in at least some of the moral judgments of the

face of a law that may be in patent need of re-interpretation but which has not yet been revised by the Church. He also wonders whether acceptance by the East and West alike at any period, or for any length of time, guarantees infallibility. "And how should such acceptance be reckoned — must it be unanimous, or the result of a majority vote; and can it be regarded as valid if it was only attained by the persecution and expulsion of possible or actual dissentients?"¹⁶³

We are immediately plunged into a plethora of issues related directly to our question of consensus fidelium. Yet it is impossible to avoid them. Some of Kirk's solutions will appear when we treat of consensus fidelium as it appears in Kirk's understanding of such headings as Law, Custom, and specific moral problems such as Birth Control or Lying. For now, we will merely point out the importance of one key point that Kirk keeps hammering home: a consensus fidelium concerning a certain moral practice as evidenced by many epochs or nationalities, does not, in itself constitute a universally and perpetually valid moral criteria. His observations concerning the possibly invalidating factors of blind acceptance, indolence, lack of knowledge of all the possible factors involved, and absence or expulsion of dissentients which may have produced quite a different consensus or judgment at the time, were they present at the condemnations, all these are of positive value in our consideration of the theme. And moreover, these factors may be considered valid even in the light of Kirk's categorical denial of infallibility and his insistence on indefectibility.

We can cite Karl Rahner in support of Kirk here. He gives credit to "the dimensions of human statements and the historicity of human knowledge of the truth". As a result "many doctrines which were once universally held have proved to be problematic or erroneous..." Rahner concludes "It follows that though the notion of authentic doctrine as opposed to definitive is not to be rejected or made light of, we may expect a greater "reformability" in Church doctrine than counted on in modern times, before Vatican II."¹⁶⁴ And quite clearly, this could be said of certain moral statements in the Church as well.

3. The Voice of the Civil and the Ecclesiastical Society.

The individual Christian is not an island unto himself. He is born into a particular environment and society. As a result, the

process of thinking of each person is slow, fragmentary and unending. Often it will be the duty of the person, arising from his loyalty, to conform to social principles which his own conscience, though it may not condemn them outright, still does not spontaneously endorse. But the fact that we have nothing which we have not received,¹⁶⁶ points to an underlying doctrine that "The 'tuitions' of society, its unconscious moulding of character, precede all intuitions of the individual....We receive from society not merely the traditions we criticize, but the canons of criticism which we apply to them; and it is ungrateful and unfair to accept the one gift and spurn the other before we have used every effort to find out whether both as they come from the same source—cannot be held together in the same system."¹⁶⁷ As a result, Kirk argues, we cannot subscribe to a scheme of ethics which allows every individual free reign in shaping his own course, irrespective of the will and teachings and requirements of society. This would be utterly untrue to the spirit of a religion which thinks of us primarily as members of a body; and that the Body of Christ."¹⁶⁸ The Christian cannot ignore the voice of society, urges Kirk.

Here we are presented with a sociological argument which puts any consensus fidelium into an existential setting. Thus, we are told, that it is society alone which introduces most of us to the fact that we have duties not merely within the limited scope of our profession, recreations, family and local environment, but also as members of a highly complex and industrialized community in which complicated questions of right and wrong have to be decided by the votes of individuals. Kirk maintains that "Apart from the voice of society, few of us would hear the call of interests such as these, and yet we all agree that no true citizen or Christian can confine his moral code within any narrower bounds."¹⁶⁹ Kirk scores a good point when he says that if the person is left to his own untutored conscience, he might never hear the distant and wider claims through the din of the nearer, more personal and narrower ones. Loyalty to society will mean, then, "a reverent acceptance of current law, in principle if not in detail, as the starting-point for ethical enquiry; and if this is so, then, Christ is the world's outstanding example of true loyalty."¹⁷⁰

He gives us a second positive value for the voice of society. Reminding us that the individual conscience still suffers from the effect of original sin, Kirk feels that the individual may be mistaken either in his original intuitions, or in his deductions from them, or in his estimate of the means necessary to their fulfillment. "In such cases the voice of society, though not necessarily the only nor the final court of appeal, may be able to point the way to the source of the mistake." 171 Thus, we are told that, should conscience and society conflict, conscience need not always be right, a healthy balancing statement in view of the preceding ones in which Kirk so highly extolled the rights of the conscience.

Even in secular society respectful attention is paid to the considered judgments of the majority; in a society claiming the assistance of the Holy Spirit, the utterances of decisions of legitimate authority must be allowed full weight against the variations of the individual member. History is too full of iniquities and follies committed in the name of conscience—even those who slew the apostles 'thought to please God thereby',—to encourage any man light-heartedly to set himself up as an infallible authority and judge his own conduct....no man can safely oppose his own conscience to the considered judgment of the religious body to which he belongs except after long and anxious weighing of all the issues involved." 172

Kirk does not clarify the concept of the "voice of society" too clearly at this point. From our previous historical survey, we can easily see, however, that it is roughly akin to the consensus gentium, the ius gentium, the law of the land of Jeremy Taylor's norms, and the inner instincts which appeared in some of our definitions of sensus fidelium. We do not have a parallel with the "Church-Nation" concept prevailing in Hooker's day, since there has been quite a development since then in the English understanding of the Church. Ever since the Toleration Act, in fact, the Church of England has recognized a multiplicity of voices preaching moral ideals within the land. Officially, of course Anglicanism is the state religion and Parliament has the power to legislate binding in conscience on everyone. But in practice, Kirk was well aware that this overall power and role of the Church of England had certain anomalies about it. Thus, his argument here about the Voice of Society influencing men can be taken as a separate entity from the actual Church of England, but indeed, not without a great over-lapping since the latter is definitely contained in the former.

Thus, the actuality of this voice of society in forming our moral awareness of issues beyond our own limited vision, of helping us to correct our wrong or half-formed judgments, and finally of affording us with a consensus concerning many issues and problems of our time, this is clearly evident in Kirk's thinking AND in our own experience.

4. Loyalty and Experimentation.

But it is not simply a question of the individual looking around himself and blithely accepting all the extant beliefs and practices that he sees before him. True, the individual will generally react in relation to "the moral and spiritual health of the community at large".¹⁷³ But there is an inbuilt dynamism and development that Kirk felt was essential both with respect to the individual's loyalty and with respect to the consensus fidelium concerning any moral practice. This Kirk called experimentation.

Any form of "stagnation of conscience" was eschewed by Kirk.¹⁷⁴ It was with this fear in mind that he openly advocated that the Church of England could with propriety be called an "experimental" Church in the sense that "it is easier to inaugurate experiments in doctrinal and ethical statement, in liturgy, in ceremonial, here than anywhere else".¹⁷⁵ We are informed that in this sense every parish priest is an "experimenter". Kirk then goes on to talk of Anglicanism as being "peculiarly vivacious" because it is always possible for any one of these experiments to spread unhindered throughout the parishes or dioceses if it commends itself to the parochial clergy. Kirk instances the Reformation and the Oxford Movement as being first-class examples of this "spontaneous enthusiasm of the clergy alone in defiance of the bishops and the populace".¹⁷⁶ While this may be interpreted more in the line of a "consensus clericorum" or a "consensus theologorum", yet later on Kirk will refer to just such groups as being an important part of the consensus fidelium in endeavoring to determine moral judgments in particular issues.¹⁷⁷ It is an indication that consensus fidelium is not confined to the laity alone in the mind of Kirk. In the next statements, however, Kirk exemplifies this principle of experimentation with respect to the laity within Anglicanism, the specific concern of our paper.

We are brought back as far as the seventeenth century to learn our lesson here. Loyalty is not servile obedience, we are warned, but rather a "general obedience in matters of principle, combined with experimental variation in matters of application".¹⁷⁸ Servility is said to look wholly at the present, while loyalty looks to the past and future as well. It looks to the past because it realizes that every society is subject to sterilizing influences whose effects can only be observed, gauged, and nullified when they are frequently compared with a former fertility and growth that loyalty may have enjoyed at an even earlier moment in history. It looks to the future because it realizes that the present is always imperfect. This is the dominant principle discovered, according to Kirk, by the seventeenth-Century Carolines:

"Loyalty implies variation, adaptation, progress, dialectic; but through it insists upon all these, and would degenerate into mere servility if it failed to do so, it sees them all as constituent parts of a unity which must never be rent assunder except in circumstances so extreme as to be almost unimaginable." 179

This is a key statement not only for Kirk's views on loyalty, but also for his whole approach to moral theology and its sources and criteria that are to be used in judging moral actions. It underlines all his thinking about consensus fidelium as well, since Kirk would not feel that any consensus should be considered aloof from the existential dialectic present even in the "collective conscience" of the voice of society. The consensus may be assessable at a particular point in history or in a particular region, but its inherent fluidity and tendency to develop makes it very difficult indeed to fix it for all times and for all places. This will become clearer as we proceed.

Kirk emphasized the necessity of experimentation from another angle. He felt that one of the causes for contempt for the intellectual element in religion was religion's apparent remoteness in a great part of Christian doctrine from the affairs of everyday life. He describes, in terms very similar to our previous definition of consensus fidelium, how the majority of questions in dispute between different communions, at least insofar as they have come to the knowledge of the public, have no apparent bearing whatever on matters of conduct. "It is to be noted" he observes, "in both of these objections to the intrusion of anything more than an intellectual minimum into religion, that the question at issue is not that of the truth, but that of the value, of the Christian

doctrine." ¹⁸¹ Kirk says that this distinction is important because "in the common mind" there is rooted a widespread belief that the doctrines of Christianity are untrue. Rather, what is alleged against them is that, even if true, they are valueless. We are then advised that men can only with the greatest difficulty be brought to test the value of the Christian beliefs, "For, as has often been pointed out, to test the value of the Christian creed a man must adopt the form of life which the creed demands. Value can only be proved or disproved by experiment; and the Christian experiment involves, as a preliminary, entrance upon the full Christian life". ¹⁸¹

By referring to the "popular beliefs of the common mind" concerning the irrelevance of Christian doctrine as applied to everyday conduct, Kirk has shown that he is aware of the necessity of evaluating the *sensus fidelium* before attempting to establish what a *consensus fidelium* is. In effect, Kirk's statements show a close resemblance in outlook to the distinction we established in our first chapter between *sensus* and *consensus fidelium*. Then, by adding the existential necessity of testing these truths in practice in order to bring out their value, Kirk has externalized the conceptual content of the *sensus fidelium* into a positive manifestation. But he has not yet explicitly associated this external and verifiable manifestation of the *sensus fidelium* with *consensus fidelium*. It is to this next stage of the operation to which we will now turn.

5. Christian Liberty and the Community Crying Out.

Consensus fidelium in Kirk's thinking now comes into an even more prominent view. Its presentation is encased in the age-old problem of the Church officially demanding one course of action and the individual or groups of individuals feeling that another alternative should be followed. Quoi faire?

As we have already mentioned, Kirk strongly defended the axiom "*Conscientia semper sequenda*", an axiom that is the charter of Christian liberty and the summary of Christian morality. After sizing up the necessary conditions to be observed in judging when a conscience is 'invincible' and therefore may be certainly followed, ¹⁸² we are now presented with the real problem of a minority group of dissentients who are convinced that their position or action is the correct one. They base

their arguments on "the spread of knowledge, the change of thought and the growth of tolerance, which are so marked a feature of modern religion", and they feel that these factors "will within a comparatively short period bring the majority of their fellow Church-men to see eye to eye with them on the matter of dispute".¹⁸³ Kirk cites a local proverb: "What Lancashire says today England will say tomorrow".¹⁸⁴ Thus, the suspected minority may in a few years time be acquitted as completely orthodox. On the other hand, there are other groups who may look on this struggle before them as longer and more difficult, but they feel compelled to stay at their posts either to protest against what appears to them some gross abuse or to supply some urgent need within the Church, no matter what the consequences may be.

What we have here is an explicit reference to a local, and growing consensus concerning a certain practice. It is certainly not universal, but it almost exactly resembles the local consensus which preceded the Church's reform of her penitential system which we discussed earlier. To what extent then does a consensus fidelium become a source of judgment in a case like this?

The problem is first of all handled by Kirk for priests who are in this prickly situation. He warns us that the advice given or the solution of the problem must rest on Christian principles, if any are available, and not on expediency alone. Now Kirk lists the following principle which is presented in most moral theology manuals:

"No one is bound in conscience to put into force penalties against himself which have not been definitely promulgated against him.... Responsibility for the severance of relations or the terminations of the individual's public ministry rests with the Church and with the Church alone." ¹⁸⁵

The consensus fidelium is now brought to bear on the problem. Kirk tells us that

"the authorities of the Church are ultimately influenced to action or inaction by the conscience of the whole body. If, then, such a dissentient finds himself immune, the basic reason must be that the Church as a whole is (rightly or wrongly) sufficiently indifferent to his nonconformity to leave him at peace; and this would imply that the Church itself assents to his retention of his privileges."¹⁸⁶

Kirk has given us an interesting role of consensus fidelium, and indeed one that is much similar to Richard Baxter's where he too felt that ultimately it would be the consensus fidelium which would judge a pastor's or another member of the Church's worthiness or unworthiness. The problem is put in another light when it is a question of "earnest-minded members of the Church who are conscious of being in invincible error." 187 If they are doubtful whether they should remain members of the community, then they are to submit their case to the accredited representatives of the community for decision. Kirk frankly admits that this demand, as far as Anglicanism is concerned, runs counter to the general verdict of the past, but rests his argument on the support it receives from the analogy of secular societies in which members must support the main tenets of their organization or fall out. This suggestion, then, does appear to go far beyond anything which could be required, according to Kirk, on the basis of traditional Anglican principles, and he leaves it there, "at present wholly unsupported by any authoritative utterance of the Church." 188 Kirk is opting for a position which is a little more demanding than he feels his Church generally prefers, and it is for this precise reason that he was accused by many of his contemporaries of being so Rome-orientated.

There is another aspect of the problem of moral practices urged by groups of individuals and the difficulty of using them as a source of moral judgment. In the history of the Church, serious and quite immoral practices have crept in claiming the approval of the collective conscience of the community. Kirk lists the burning of withes, the sale of children into slavery, and the practice of infanticide as examples of actions which had obtained the approval of the "conscience of the community as a whole". 189

The discussion in which Kirk lists these is important for us here because he is arguing that no matter how much these practices "were tolerated by the customary morality of a particular civilization", nevertheless, we must admit that they "were at least 'normally' wrong, excellent though their motive might be on any particular occasion". 190

The point fits in well when we are considering a consensus fidelium which emerges from a particular community. We still need some objective criteria or norms with which we can try to assess particular practices. If the consensus fidelium is left as the only norm of action, and if the particular action condemed or condoned rests only on the current motive, then aberrations such as these can and have occurred. No attempt is made by Kirk to pass subjective judgment on the communities practising these forms of judgment of living. Kirk's judgment is that "In some things at least everyone holds that there is a standard of objective rightness which claims observance, and that he knows what that standard is" (emphasis Kirk's).¹⁹¹ This judgment will be submitted to all kinds of "provisoes" as we proceed with more specific problems which Kirk handled, but the clear-out presentation of the principle is well worth setting out here as we consider consensus fidelium manifesting itself in community moral practices. It is another side of the coin which cannot be left unexamined.¹⁹²

But what happens if a law or principle is alleged to exist, a law that is certain to have been at one time in force, or is still recognized and obeyed in some branches of the Christian community, but it is doubtful whether it has a claim on the members of a particular communion, or in the special circumstances of a given class or individual? What role would a consensus fidelium enjoy in a case such as this? Kirk sees this as a particularly vexing question for Anglicans. He instances the "principle of fasting communion"¹⁹³ as enjoying canonical rule of the Catholic Church from time immemorial and still remaining in effect in the Church of England. Others, he says, maintain that it has no basis either in Scripture or in the Prayer Book, but that it is a survival of primitive and mediaeval times, when both social custom and contemporary ritual made its observance easy, but now loyalty to the Church does not make it obligatory, laudable though it may still be.

Kirk puts the problem into the setting of what authority is behind the law in question. He considers problems of this kind to be between a doubtful duty on the one hand, which conscience has no inclination to recognize unless it prove to be required by loyalty, and the natural but

not necessarily very strong desire for freedom from vexations interference on the other. Anglicanism can base its differences from the law either on an explicit disavowal of certain papal claims, which disavowal would probably go back to the days of the Reformation, or on customary disuse, a factor which we will consider shortly with respect to custom and consensus fidelium. Kirk prefers to lean more on the pragmatic and obvious reason that "where two great branches of organised Christendom disagree there must be cause for doubt",¹⁹⁴ a not too convincing argument in the light of some of the aberrations we have just mentioned. And straightway, we must note that in this treatment by Kirk, we find a frequent overlapping of questions which are closely concerned with the natural law and those which are concerned with purely ecclesiastical legislation. It is difficult to sort out under just which category Kirk would place certain of the practices he mentions, and so we must be wary not to draw out conclusions which may be applicable to a consensus fidelium regarding a practice directly related to the natural law, for example.

But Kirk launches into another approach to the problem which is directly related to our theme. He informs us that frequently certain "groups of Christians, as to whose sincerity we have no doubt, and whose intellectual ability we recognize even where we disagree from them, put forward from time to time demands that the Church should officially condemn some proposition or type of conduct of which they vehemently disapprove".¹⁹⁵ Examples of vivisection, gambling, 'modernist views',¹⁹⁶ and the use of intoxicants for any but purely medicinal purposes, are some to the older moral issues he lists. The list could easily be extended for today's problems. Kirk stresses the strong support these movements receive from the conscience of good Christians, and calls them "customs in the making", asserting that "custom voices the demands of corporate loyalty as surely as does promulgated law".¹⁹⁷ We are then given a viewpoint that is very Anglican in outlook, but which has much good sense for all of Christendom.

"...a moral principle which is strongly urged by a not inconsiderable body of Church people—especially if representative of many different classes and points of view, and not unsupported by some at least of the most intelligent and saintly of contemporary Christians—is in somewhat the same condition as a law whose promulgation, acceptance observance or application is in doubt. It has no direct claim upon any conscience which does not fully respond to it; but has it an indirect claim by virtue of the all-important duty of loyalty?"^{197a}

Kirk introduces a similar query regarding other movements in the Church such as the League of Nations Union or the Foreign Mission Societies. Groups within the Church see these as wholly essential to true churchmanship. But ^{are} they to be considered as only a spiritual élite, the ultrasecular segment of the Church? It is a difficult manifestation of consensus fidelium for the here and now.

The problem of legislating a necessary participation in such groups for all members of the Church is then taken up. Kirk, of course, sidesteps this as an answer, leaning on the "special genius" of the Church of England to allow her members the relatively greater liberty to be found under the régime of free custom. "It is not inconsistent with a desire for fuller authoritative guidance to ask for a little more time in which to experiment with the method of free ethical enquiry in combination with general loyalty to primitive and catholic ~~tradition~~, before we acquiesce in the much more drastic step of codification." ¹⁹⁸ He concludes this small section by simply stating the fact that doubt will assume a larger importance and involve a wider range of subjects in Anglicanism than in other communions.

He continues to assure us that we should not deny the spirit of faith-adventures, heroic risks, and generous though quixotic impulses a place in our lives. Kirk dreads any "dead level of conformity", claiming that "There is a margin of 'allowable actions' in all the contingencies of life". ¹⁹⁹ There then follows a long discussion on the advantages and disadvantages of probabilism in which Kirk often uses arguments drawn from what "common sense" would deem acceptable or not. ²⁰⁰ This is placed side by side with the necessity of exercising a trustful confidence in the judgment of persons of greater insight and maturity than ourselves as well as continually relying on the decisions of experts such as doctors, solicitors, bankers or business men. ²⁰¹ Kirk again reminds us that it is the aim of moral theology to train men to freedom within the sphere of the Christian tradition, but not allowing them to be content with authority in any sphere of religion which means that they remain sheep when they have it in them to become shepherds. Finally, Kirk says that probabilism must never be reduced to "a mere counting of heads on either side of an argument" in order to decide the question of truth and falsehood, a valid point when related to consensus fidelium. ²⁰²

C: DESCRIBITION

It will be helpful if we now pause and attempt to assess some of the broader thrusts that our considerations of consensus fidelium within Kirk's ecclesiology have taken us. At the outset, we must note that frequently a considerable overlapping occurs in our treatment. Much of this is quite unavoidable, especially since consensus fidelium can only be seen through the various divisions which we have been forced to set up as a framework for our theme. Custom, authority, liberty, loyalty, the Church, all are so closely intertwined in Kirk's thinking, indeed in the whole Anglican approach to theology, that it would be foolhardy to attempt an absolutely exclusive set of categories in arranging such a theme as ours.

But the main lines of development concerning both Kirk's understanding of consensus fidelium as well as its actual use in the formation of moral judgments are gradually emerging. As we can see, Kirk does have points that are not wholly reconciled. Some of his thinking as to the explicit source and exercise of authority in a given situation remain nebulous and undefined. This is because Kirk's view of authority is based far more on the "collective community conscience" than on the specific legislations of the official teachings of the Church. It might be helpful here if we cite one of Kirk's most incisive sources (which he made his own) to orientate the remainder of our comments:

"For authority...arises in a more natural and subtle manner (than is usually supposed). It is more often instinctive and inarticulate, what we call tone and atmosphere, than categorical and legislative. It arises from that total complex of influences, personal, historical, spiritual, moral, aesthetic, which are greater than the individual, which mould men's minds and wills even when they are unaware of it--to which even the most rebellious anarchist pays toll, even by talking the same language'--and equally (as we may surely add) the most intransigent conservative by submitting, however grudgingly, to innovations." 203

It is this "tone and atmosphere" that so profoundly influence all of Kirk's allusions to the role of the laity's views in moral judgments. Again and again we are driven back to our introductory remarks concerning the peculiar Anglican ethos, the "genius" of Anglicanism, along with More and Cross's pregnant remark that we must seek direction and not so much finality in Anglicanism.

In looking back on the section we have just finished we can perceive several salient themes which are illuminating for our own discussion. The rights and freedom of the individual and groups of individuals are undeniable. But the individual cannot be his own guide. He is part of the corporate life of the Church. He shares a Christian priesthood with all his fellow members, clergy and laity alike, and this gives him a mission to witness to the world the faith and practices which are vital to himself. He is guided in this function both by his own conscience and by the Church as a whole. This latter guidance can express itself through a ministry which provides an explicit focal point for the transmission of Word and Sacrament as well as by the collective community conscience. The quality of loyalty will bind him in the vast majority of his beliefs and practices to the direction of the Church arising from these sources.

But it is with regard to this quality of loyalty that Kirk can be criticized. It can tend to be somewhat dangerous unless it is fairly clearly restricted. In our introduction we mentioned the English tendency to accept and defend the existing institutions which are a part of its heritage. This conservatism can appear under the guise of loyalty at the risk of any positive re-examination or acceptance of fruitful innovations, whether in politics, ecclesiastical polity, or matters of dogmatic or moral development or explication. It is all too easy for loyalty, especially with an Englishman, to degenerate into a naive kind of school spirit or into an adherence to practices with an intensity that smacks of "my country, right or wrong". Kirk leaned very heavily on loyalty, and at times he tended to obscure the necessity of distinguishing what real essentials loyalty demands adherence to and what remains more a matter of personal choice or pious practice. Again we are reminded of the frequent overlapping and sometimes obscuring manner in which Kirk lumps together matters of Natural, Divine, or Ecclesiastical Law. And this makes it all the more difficult in discussing our theme, since a consensus fidelium dealing with a question related to the Natural Law, for instance, needs far more caution and care than one dealing with a positive law of the Church which can be more readily reviewed and rescinded or re-stated in more relevant terms.

The judgment of the Church, the consensus fidelium, will present itself to the individual in many ways. It will first appear as the voice of society which will awaken the individual to common rights and

duties which he possesses as a member of a community. These will be presented through all kinds of channels including laws, customs, practices, etc., as well as through the more explicit moral demands of his faith. Time and again, the individual will be asked to submit himself to the will of the whole. He will be corrected by the community when his conduct errs and he himself will contribute to a collective judgment of other members of the community who may be straying afield, even if they are his own pastors or spiritual guides. Sometimes the voice of society will coalesce with the voice of the Christian community in presenting the demands of the Spirit to the individual. At other times, the voice of the Christian community will be found within a more limited and restricted consensus, and it will be this local consensus which will become one of the guiding factors in determining the Christian's moral judgment.

The consensus fidelium in itself is not an infallible source of moral judgment. Indeed, there have been historical examples of a consensus fidelium that have been, objectively speaking, quite erroneous from a Christian point of view. Sometimes too, the consensus fidelium becomes over-idealistic and demanding on the rest of the faithful, and must therefore be given more time for further experimentation, dissemination, and prayer-filled practice. It sometimes works as a leaven in the dough, beginning in small groups, and then fanning out (to mix the metaphor) in ever-widening circles.

As a result of this very dialectical procedure between consensus fidelium and the individual conscience, the official teaching of the church, and the many other manifestations of the Spirit within the world, we need a very positive and experimental attitude towards it. It is very difficult to find too many consensus fidelium in moral questions which are drawn from many epochs and nationalities that will give us an infallible, universal rule of conduct. What does emerge is a practice that presents itself through the collective community conscience for this particular time and region. And anything beyond this may be demanding too much for this particular criteria of moral judgment due to such possibly invalidating factors as passive acceptance, indulgence, or exclusion of persons or facts which were not brought to bear on the consensus fidelium either because of inaccessibility or forceful expulsion.

Always, however, the consensus fidelium need be in a constant dialectical tension with all the other constitutive elements within the Church. It can never be a factor all by itself in formulating a Christian moral judgment.

Sometimes a consensus fidelium will assume the form of a "value-practice". Thus we sometimes have a particular sensus fidelium concerning a specified doctrine or practice being explicated by an experimental and existential "putting-into-practice". This makes the sensus fidelium observable, especially in questions of morality. It is now "zugänglich", or "get-at-able". When it is practiced on a larger scale than the individual or a small group of individuals, we now have a consensus fidelium, although this may still be quite local and restricted. As we are viewing it here, the consensus fidelium is showing itself more and more as a past and present, existential, dialectical, and experimental agreement of the Christian worshipping community with respect to both dogmatic beliefs and moral practices. Kirk himself remarked that "With the exception of the devout few, churchmen as a whole have failed to realize that the test of their religion is that it should exhibit fresh graces and achievements year by year."²⁰⁴ This must go hand in hand with all of the advances in knowledge and education that have blossomed within the past century,²⁰⁵ lest a far too static condition pervade the collective Christian conscience. It also adds another small glimmer on the concept of revelation which we mentioned earlier where we hinted that Kirk appeared to manifest ideas concerning a development of doctrine and moral judgments. This point will be held up for specific examination on our last section.

These, then, are the broad conclusions that consensus fidelium at work in Kirk's ecclesiology present to us. We have not mentioned all of the points in this recapitulation which we assembled in the development. Some of them (such as common-sense, expedience) will receive more attention in our last section.

III. CONSENSUS FIDELIUM AT WORK IN KIRK'S MORAL THEOLOGY.

A. BRIEF INTRODUCTION.

In this, our final section, it is our intention to study Kirk's thought on the use of consensus fidelium as a source of moral judgment

under several specific headings which are common ground for all moral theology.

In the main, we will adhere closely to Kirk's own words and references. This is necessary since consensus fidelium can usually be seen best within the continuum of Kirk's thought on each heading. To separate the references unably from their immediate context in a more analytical fashion, in the opinion of the writer, would dangerously distort the spontaneous manner in which consensus fidelium emerges in Kirk's works.

It is not our intention to analyze Kirk's whole conception of such theological concerns as "custom", "intuition", "law" or "in se evil". The headings will be given only what should be sufficient background information necessary to situate Kirk's general bearing in each case.

B. CONSENSUS FIDELIUM WITHIN SOME OF KIRK'S MORAL SOURCES

1. Custom

Custom has always played a major role in English life. A brief glance at the legal history of England will reveal the great emphasis that custom enjoys in what has become universally known as "English Common Law." ²⁰⁶ This source has become equally important in Anglican moral theology, a factor that Kirk never tired of underlining, and which can be fruitfully observed by us in searching out how consensus fidelium works within Anglicanism.

a. Custom and Expediency: Ethical Considerations

In Kirk's little book The Threshold of Ethics we are given a few interesting glimpses into the functioning of custom which he drew from the evolutionary studies of modern anthropology and sociology and their influence on present-day ethical estimates. Here Kirk takes up several of the eighteenth century theories to which we alluded in the last part of Chapter Two of our work. He describes the tremendous optimism which possessed philosophers such as Hobbes and the "morality of common sense" people, an optimism which made them complacently accept "that the eternal and immutable principles of conduct have been revealed to man from the first moment of existence as a moral being -- they were known ubique, et semper et ab omnibus". ²⁰⁷ Kirk is somewhat ironically ascribing

S. Vincent of Lérin's well known rule-of-thumb to their philosophical and moral presumptions. Kirk mentions the "noble savage" theories then making the rounds, and even cites Bishop Butler's optimistic opinion that "almost any fair man in almost any circumstance" would discern without difficulty^t the right course to take. 208

The scientific study during the eighteenth century of customs and ideas among primitive races past and present tried to prove beyond question that there was no principle of conduct, however outrageous, absurd, or repulsive, which had not been held sacred, at some time or other, by some race or another under the sun. 209 We are then taken on a grand tour of the development of the "moral idea" in the thinking of these philosophers which led up to the separation of legal sanctions from moral obligations. This happened whenever society felt that certain practices were no longer sufficiently important to need legal enforcement, leaving only "social expediency" as the sole test which conscience could apply to these surviving habits. Kirk also describes the influence of superstition on moral practices, and the great tendency everyone has to sweep away any moral idea or custom which have been associated in any way in the past with superstition, once that superstition is recognized and abandoned.

We are then given several interesting examples of community consensus such as physical courage in the face of the enemy being at first of utility, the hailed as virtuous, and then sinking in dignity as civilization gradually triumphed. The growth and development of the laws and customs relating to the prohibition of marriage between persons related by blood or affinity "gives an example of a principle which (except in the extreme cases of brother and sister marriages and the like) has been almost entirely rejected by the social conscience." 210 Today, this whole complicated system has disappeared, 211 which is another example of a rule which expediency once upon a time caused men to regard as legal and moral alike, but which has now ceased to be expedient.

Thus it no longer plays a vital part in civilized ethics.

Kirk also briefly explores how some felt monogamy became established on the grounds of expediency. In all of these cases drawn from studies made in social anthropology, Kirk sees an element of hypothesis and of truth. As a result, "it may well be that our moral ideas originated in the dim past in conceptions of expediency, personal or social, natural or theological."²¹² But Kirk very adroitly points out that this "utility" or "social expediency" must always be held in careful abeyance with the primary principle that conscience has rights and spheres of its own, and that even though an ideal may have arisen out of superstition or in utility, still that does not make it unassailable and incapable of being rejected as immoral, or of being retained as moral.

This is an interesting point since it scores the necessity of assessing any consensus fidelium, which may appear concerning a moral practice, with more criteria than mere hedonism, utility, or "expedient for me" evaluations. Elsewhere, Kirk has observed that "It is an obvious truth that neither legislation (whether ecclesiastical or civil), nor custom, nor convention can make one moral" since very often "they have been necessitated by faulty social conditions and the 'hardness of men's hearts.'"²¹³ We are immediately reminded of some of the observations we made in introducing Kirk's whole outlook on theology, and more particularly on man himself. The continuing effects of original sin in man, and the constant tendency there have in dragging him down, equally appear very often in a more general way in any consensus fidelium. What has been observed on a strictly sociological and ethical level has interest for us, especially since consensus fidelium is so often found immediately within these wider encompassing trends in mankind. Kirk's constant yearning for some objectivity in moral norms is clear in his cautionary remarks concerning moral practices and maxims that are expressed by some who may wish to entirely justify these practices from reasons of sheer utility, hedonism, common sense, or "the voice of society." Again we see a need for dialectic between the various sources of morality rather than exclusivity. Kirk's whole point in discussing evolution in ethical practice is to try to meet head-on "the insinuation that the very idea of conscience itself, and with it the whole conception of morality, and the distinction between right and wrong,

are illusions invented by society in the interests of its own expediency - they have no objective validity of their own".²¹⁴ With this definite leaning towards objectivity in mind, Kirk felt quite strongly that "You cannot stigmatize not merely all moral precepts, but even the bare thought of morality itself, as mere convention, without running the risk of serious upheaval".²¹⁵ Kirk was far from being any proponent of either a situation ethic in the strict sense of the term or an advocate of any kind of "it-is-alright-if-everyone-else-is-doing-it" approach. These over-simplifications of some of the trends he is analyzing in this section of his book are helpful in seeing consensus fidelium within a wider ambit of guiding sources.

Another observation made by Kirk is helpful to us. He calls "'Society' with a capital 'S' ... the merest of fictions - a rhetorical personification of an aggregate of individuals who cannot legitimately be regarded as a single mind, will, or soul".²¹⁶ He admits that from time to time crowds and even nations have been welded together by a common cause and acted "as a single individual". This has resulted in a kind of "group soul" and can be viewed as a genuine entity, but no further. But he finds it quite opposed to any credible hypothesis that "the human aggregate, or "group", will, through countless generations, tend towards a single goal often at variance from the goals of a majority of the individuals who compose it. The problem centres around ideals which are specifically opposed to all forms of self-seeking, and Kirk feels that "If it be true in any sense that 'Society' has introduced the moral idea and imposed it upon its members, then the only possible inference is that the majority of the members recognized the moral idea either as expedient for themselves severally, or as true".²¹⁷ Kirk is not happy with groups of men adopting moral ideas solely from their utility or expediency, so he concludes that "they have been fostered for the simple reason that throughout the centuries a majority of men have deemed them to be true, apart from all considerations, conscious or subconscious, of interest or expediency".²¹⁸

Kirk's arguments here are philosophical and not without complexity. The point that is valid for our enquiry centres around the objectivity which he feels must ultimately underlie moral practices. Utility and expediency, while being contributory factors, do not account for their ultimate moral validity and rightness or wrongness.

This can also be applied to consensus fidelium regarding customs and moral practices. It will now be the theological considerations concerning custom which will give us our next set of directives.

b. Custom: Theological Consideration.

Much of Kirk's thinking on the role of custom is very close to that of Roman Catholic theology. This is definitely due to his reliance on the schoolmen as well as on several outstanding Post-Tridentine Roman Catholic theologians such as St. Alphonsus di' Liguori. In this respect we have Kirk clearly stating that "Theologians and canonists unanimously agree that, on certain conditions, established custom has the force and authority of promulgated law",²¹⁹ and the references he cites are references which we have mentioned in our historical development in chapter two: St. Augustine, St. Thomas, Article CCCIV, Jeremy Taylor, Richard Hooker, Robert Anderson, and several other patristic and anglican sources.²²⁰ The church is accorded the power of revising her code by official action, and the influencing role of custom in introducing, interpreting and abrogating law is unambiguously set down by Kirk in the best of scholastic traditions.²²¹ This power of revision extends to every practice except those that are clearly of divine or natural law and to clear first principles, which are very few.²²² Kirk also closely considers what makes a custom legitimate, mentioning that it depends on our definition of a 'legitimate' custom, "for, 'legitimate' custom, by universal consent, obliges in all cases with the same force as promulgated law unless and until the individual conscience proclaims certainly against it".²²³ Kirk goes into careful detail in outlining what makes a custom legitimate, citing Sylvester Briccius, Jeremy Taylor, Suarez and several other schoolmen. These are some of the criteria Kirk lists:²²⁴

- a) It must be reasonable and it must be prescribed; therefore, it must conform to the purpose of the law, and this in the case of canon law, in the felicity of the soul; it must, therefore, be to the advantage of religion, discipline, and salvation; it must not be detrimental to the liberty of the Church, or provide licence or occasion for sin, or be dangerous to the common weal, etc., even though it be not contrary to the divine law. The subject of prescription is only mentioned as it is described in the Roman Code of Canon Law.

- b) It must be introduced by individual acts (which include omissions), since it is by the repetition of visible acts that the interior purpose of the will and the intention of the reason are most clearly exhibited. As a result, there must be evidence of a general intention to introduce the custom on account of its general usefulness or for the honor of religion.
- c) The custom must be general in the 'multitude' for whom it is to have the force of law, or at least general and public enough to make it clear that the community as a whole has taken notice of it and deliberately tolerates it.
- d) It must have the knowledge and at all events the tacit consent of the ultimate legislative authority, whatever that may be.
- e) Positive laws can abrogate existing customs, but this must be explicitly mentioned, and has limitations. Also, the law must be accepted 'moribus utentium', and if it falls into desuetude, the custom can revive, at all events if the legislative authority is aware of the fact and takes no steps.

We are also told that a "custom observed by a part of the community, or by other branches of the Christian Church, does not bind any individual until he is conscientiously convinced that it has obtained the force of law within his own communion", ²²⁵ and there follows several interesting rules to assist the individual in his choice of actions.

Underlying all of Kirk's comments concerning custom is the distinction between customs that have come of their own and are now a part of the Church's practice such as the support of the foreign missions, contributions to diocesan funds or frequent communion, and custom in the making, such as gambling and betting being treated as forbidden. ²²⁶ Thus, Kirk appeals to the loyalty of an Anglican in adhering to customs already in practice and accepted by the community while he prefers to simply keep an open mind with regard to customs that are in the process of development. While new tendencies in Christian moral practices should not be simply condemned as being immoral or too idealistic, yet there must be room for further development arising from within the Church through the emergence of these newer emphases and practices.

Thus a custom that enjoys the "universal consent" of the Church is a definite source of moral judgment. But what about customs in the making? How universal must they be before they become a source of moral judgment? And to what extent may the practices of a particular local community of Christians be allowed by the Church to spread and become a source of judgment for other communities within the Church? Here Kirk has several interesting references for consensus fidelium.

The problem of new customs concerning moral practices is a thorny one for any tradition, but Kirk feels that the Anglican approach to the difficulty has many merits. This is a hard question, however, since it also involves the question of culpability and sin on the part of those inaugurating the new custom. On the one hand he mentions Gratian, Gregory IX, and Aquinas in support of the principle that customs may come in and abrogate a law either because they have not received the approbation of general use, or because of some change in man on whom a law may be pressing with undue severity, thus producing a new urgency in the case. Suarez queries the inculpability of such a community action, but suggests that "a law even of the universal Church may be abrogated by a contrary custom in a particular province, diocese, or 'community'; --for if in one of these "communities" a custom should prevail among the majority contrary to universal law, for that community (the law) is abrogated (derogatur), even though for the rest it remains intact." 227

Here Kirk makes a deliberate attempt to delineate what is a key difference between Rome and Anglicanism in the matter of authority and the individual conscience. Rome is credited for the "genius" of expressing itself mainly through promulgated law, at the expense of custom, while the "genius of Anglicanism" has followed the course of "reducing the domain of law to the barest possible minimum, and leaving all else to the regime of custom". Kirk sees merit in both approaches especially because,

"if the word 'Catholicism' is taken to mean a system of religion in which, among other things, serious and conscientious deference is paid to whatever has commanded the consensus of the main body of Christian thought and practice in the past, then--in this matter at least--Rome and Anglicanism must be both adjudged 'Catholic'. Despite their wide divergencies, they are no more than variations (and variations at all events logically permissible) of one and the same traditional point of view--that namely which codes to law and custom respectively obligations upon the conscience of the individual." 228

The reference, of course, is to a consensus fidelium which has been made manifest. Kirk now applies this great use of custom to the Anglican Church today. He claims that the traditional formulae which Christian experience has discovered, accepted and elaborated must be applied to the Anglican system. There is a new emphasis imported into the old forms by the Post-Reformation Anglican Church which will produce fresh results in their application which will be different from those of other Christian bodies. But "such results, novel though they may appear, will be no less legitimate for all their novelty," ²²⁹ Kirk goes on to point out how the new methods will involve a specific application of the traditional doctrine of invincible ignorance or "conscientious non-conformity" ²³⁰ by the "specifically English variant of Church organisation, in which the authority of the community is expressed mainly through custom and only in a minor degree through law". ²³¹ And this is not a new method, states Kirk, but they are the old methods applied upon the old principles to circumstances which, though new in themselves, are yet conformable to the recognized canons of the Christian organization.

The role of consensus fidelium in introducing new customs receives an extensive treatment in Conscience and Its Problems. First, Kirk takes us through the question of the culpability of people who are in the process of introducing a new custom contrary to the law, and concludes that a new custom may arise with either good or bad faith. We are then given a very dynamic view of how the Church's code of obligations gradually grew up. Some principles were present right at the beginning, and for all practical purposes, it is inconceivable that they should change. But there are others "which have changed with the changing ages, but still in new form command the approval of the communal conscience". ²³² The Church looks back in history to other principles which may have been valid and useful in their day, but now they are "pensioned off in the process of Christian thought, and survive merely as witnesses to the voice and aspirations of earlier days; victims of that 'silent evanescence of obsolete doctrines' which is so healthy and necessary a process." ²³³

However, Kirk maintained that the moral principles possessed by the Church were far richer than this. In the next citation, we have the peculiar Anglican ethos captured in a nutshell, along with a clear indication of how Kirk saw the action of the Spirit at work in the Church:

"Ideas, opinions, customs, principles are to be discerned there in every stage of development. Some are still in the most embryonic form imaginable — mere hints of what the conscience of humanity may proclaim in the future; (in)transitory questions as to the wisdom of enactments at present in full force; intuitive glimpses of obligations yet to be discovered. Others are on the high road to canonical or customary acceptance by the Church. Others, again, after a period of popularity, are declining from their zenith; they have failed of their ambitions and their end is within sight. Everywhere there is life, everywhere change, with a Church holding out her hands both to the past and to the future, and growing and developing with every moment of her existence". 234

This rather rare romantic description of Kirk's points us in the Anglican direction and leaning towards constant internal growth and development. The Church is seen as a society more living and creative because of her divine mission than a college of a civil state. Each group and individual are given new rights and obligations within the limit of their capacities. The pulsating feature of consensus fidelium comes into full view when Kirk tells us that the Church gives to all its members "individually and collectively the right and the duty of reflecting upon all these incipient customs, ideas and opinions ... and of coming to conscientious decisions for or against them" 235. The dialectic quality of the interplay between authority and private judgment, between the faith of the individual and consensus fidelium is excellently described in terms borrowed by Kirk from Cardinal Newman. It is an "ebb and flow of the tide", as "boiling, refining and moulding", as an "incessant noisy process" and it is through this "noisy process" that the moral law of the Church is "boiled, refined and moulded. The issue may be expressed either in canonical enactment or in unofficial custom; but whichever form it takes, it will still be brought about by the voice of individual consciences demanding the abandonment of old principles, or the recognition of new, with a consensus which ultimately proves irrevocable" 236. This is precisely

the position of Kirk on how consensus fidelium works within the Christian community.

c. Community Moral Practices in Dialectic Growth: Custom and Law
in Tension.

How does this work out in actual practice? One way of approaching the actual interrelation between consensus fidelium and the authority of the Church is to examine what has been said by some of the Church's great theologians concerning the dilemma which can arise when there is a conflict between authority and a current disuse on the part of a community which lacks the approval, tacit or otherwise, of authority. Kirk thinks that there has been and still is a point of hesitancy here in western theology as to whether 'acceptance' or 'use' by the people is essential to the validity of a law. Here we can hearken back to the extensive treatment Robert Sanderson gave to this ticklish problem.

Kirk alludes to a text of Gratian which appeared to say that laws were instituted when promulgated and "affirmed when approved by the customary conformity of those who use them", ²³⁷ but Kirk says that there was much ambiguity in this which only led to widely different interpretations. Sylvester is lined up on the side of laws needing acceptance and approval, while Suarez, Jeremy Taylor and Vasquez are in the negative. Vasquez does make a small concession however, based on special conditions in Arragon and Poland where certain conditions of a constitutional monarchy "give acceptance after promulgation some part in the validating of civil law", ²³⁸

St. Alphonsus quotes many authorities who hold that "non-acceptance or long disuse abrogates a law not indeed if the 'Prince objects', but at all events where, out of sheer ignorance of the non-conformity, he fails to interfere". ²³⁹ Kirk traces this principle one step further by going to Lehmkuhl ²⁴⁰ who follows Liguori in holding that

"if the greater part of the community refuse obedience to a law, the remainder are not bound in conscience to observe it; (Lohakuhl) quotes with approval the 'opinion of the Doctor' (Rebellus, +1608) that this holds even with regard to papal enactments—'for although the Pope's legislative power comes from God and not from the people, his clemency is such that he suspends the obligation of a law which is not accepted, to remove occasions of sin.' This, however, he warns us, is true only when there are grave reasons for non-acceptance." 241

The examples chosen by Kirk may well add up to only probable opinions were it not for the heavy backing the Church has always given to St. Alphonsus. We must note that for the application of this viewpoint, however, it needs the "greater part of the community" to refuse to obey the law. We must also note the need of "grave reasons" for non-acceptance. But with these two emphases taken into consideration, we are still left with an intriguing assertion by several first-class Roman theologians concerning the weight that a local consensus fidelium can have on the moral practice of the rest of the community. At the least, it does imply that, short of laws of definite divine origin or absolutely first principles, there is room for a dialectic growth through acceptance or rejection by the community after a law has been promulgated. This insight has best implications for the mode of development of Christian moral practices as well as for the role of any consensus fidelium in moral judgments. 242

Kirk now introduces us to the dialectic growth that has taken place within Anglicanism. Custom once more is seen as influencing Christian principles in both dogmatic statements and moral conduct. Opinion has had much to do with moulding Anglican teaching in doctrine, biblical criticism, ecclesiastical history and philosophy, but Kirk feels that public worship and private devotion have suffered because "In neither of these cases has the liberty of Anglicanism made for vitality, experiment or progress." 243 As far as ethical achievements are concerned, Kirk boasts that Anglicanism has in the main avoided any tendency to regard pietism or docility as the highest virtues of the Christian. Here he delivers a rather scathing criticism of

Anglicanism which can also be taken as a real danger when consensus fidelium becomes too much of a factor in arriving at moral teachings and practices. We end up with a "tendency to vague generalisations, to pious platitudes, to compromise with conventional standards, to the avoidance of pronouncements which may prove unpalatable to public opinion".²⁴⁴ The immediate detailed problems of the moral life are not encountered in a healthy and bracing manner. Kirk's criticism of the Anglican ethical situation is an excellent criticism of consensus fidelium when it is isolated from a well-guided teaching office within the Church. It reminds us also of the fact we have already mentioned several times, that most of the faithful cannot be expected to have a clear understanding and judgment concerning more subtle questions of faith or complex moral issues. It is here that Kirk feels that the revived ethical interest in Anglicanism in the present century can be extremely helpful.

Kirk has no doubts that the "Church as a whole has both the right and the duty of revising her code":²⁴⁵ He goes on to justify the extent to which any 'branch' of the Church may carry out re-interpretation. Has the Church of England overstepped limits that may exist in restricting this re-interpretation?

Of course, we are immediately plunged back into Anglican ecclesiology and all that this implies. We will only extract what points Kirk makes here which either show his connected thinking with some of the influence we described in our historical treatment in Chapter Two, or points that further delineate our discussing of consensus fidelium.

Kirk clearly supports everything we said earlier about the particularly national character of the Church of England. What was claimed too, by Art. XXXIV concerning the right of a particular or national Church to its own specific legislation in matters of purely human ordinance is specified by Kirk to include matters of both human and divine ordinance. It is very difficult to draw any line between what is 'merely human' and "wholly divine", and no principle of conduct is 'purely human', asserts Kirk.²⁴⁶ This means that no principle of conduct has fallen from heaven without some measure of human enunciation, and Kirk argues that this means that "None therefore can be regarded as wholly free from the abstract possibility of error and so of re-interpretation."²⁴⁷

"if, then, the individual Christian has the right to express and act upon a conscientious conviction of his own - even though it be opposed to the judgment of his fellow-Christians past and present - in all but the most fundamental of these matters, the same right must belong with even greater propriety to a group of Christians sufficiently self-conscious to claim for themselves a real measure of autonomy and self-government within the full communion of Catholicity." 248

Because of the intermingling of human and divine elements in all laws, and because of the rights of the collective community conscience (here = the Church of England), Kirk then cites Henry VIII as a source to support his argument that the whole body of Anglicanism may have to interpret the fundamental principles of Christian thought and life in accordance with the changing needs of the day as the demands of conscience are fully and openly asserted. This does not mean that Anglicanism is altering these fundamental principles, however. This is wholly renounced. In all of this, Kirk's primary principle is that "conscience, whether of the individual Christian, of a national and self-conscious group of Christians, must be obeyed." 249 This is definitely one of the far-reaching conclusions that papal rejections has brought into Anglican thinking, and it is wholly approved by Kirk.

Kirk finally mentions criticisms levelled at the extensive use Anglicanism makes of "the corporate religious consciousness of Christendom." 250 Too often it is said to result in policies and practices of compromise with the purely Protestant element of opinion still extant within the English Church and the Anglo-Catholic element. This may be true, and Kirk's criticism of Anglicanism bears this out in one way. But Kirk insists on the position which he has outlined concerning the role of community customs and practices in abolishing and abrogating laws that are not a matter of absolute first principle. The English church is granted full freedom to go forward in its task of re-interpreting the legacy of the past. And Kirk is convinced that there are certain fundamental but "rare" principles of Christian thought and conduct which are held "semper et ubique et ab omnibus" and which "nothing but absolute and conscientious conviction after the most devout, exhaustive and heart-searching enquiry would justify even a momentary wavering of allegiance." 251 But in other cases, Kirk holds that

"the weight and extent of traditional consensus must carry with it the greatest possible hesitation and caution before amendment or restatement be adjudged necessary. Hastiness, impatience, prejudice and opportunism are sins which cannot be too carefully avoided in this task. These, and not the desire to jettison what is corrupt and outworn, are the faults to be deplored in what we often call 'Protestantism;' these, and not the desire to restate the truth in terms congenial to contemporary thought, the faults which vitiate much that goes under the name of 'Modernism.' But, with the due observance of these precautions, the work must go on, excrescences to be cut away, and principles adapted to changing circumstances; and a particular or national Church is wholly free to lead the way." 252

Our last references have been partially concerned with custom and partially concerned with law. The influencing role and authority given to consensus fidelium as found within the Church of England has been forcefully depicted through the operation of custom and law in the English historical setting. We shall move on now to a more detailed assessment of consensus fidelium as it appears in Kirk's treatment of law. Once more, it will emerge as the predominant "leit-motif" beneath innumerable historical and theological argumentations.

2. LAW

a) Notes on Kirk's Thinking on Law.

Our greatest problem at this point in our dissertation is to try to avoid too much redundancy in presenting consensus fidelium as it appears in the various divisions of Kirk's moral theology. Most of the basic thought patterns that mark Kirk's work have appeared by now, either directly or indirectly, in our presentation. For these final divisions, therefore, we will only attempt to bring out those emphases of Kirk that we have not explored thus far.

Kirk devoted much space in his writing to unfolding the basic position of S. Thomas on law in general, and on natural law, divine law, and human law in particular. He thinks that S. Thomas had adopted a "severely a posteriori method which has had the closest affinities with modern thought." ²⁵³ Natural law is set forth as meaning simply the satisfaction, in harmony with one another, of the natural human instincts, as much on their intellectual as on their physical sides. Its content is "the harmonious fulfilment of the human instincts to action." ²⁵⁴ It is recognizable by conscience, a gift of God common to all men. Its principles are 'communissima' and 'omnibus nota' and cannot wholly be obliterated in any conscience, though they may be darkened and corrupted "Sicut apud Germanos olim atrocissima non reputabatur iniquitas." ²⁵⁵ Thus Kirk summarizing S. Thomas.

But Kirk saw difficulties at this point. While accepting S. Thomas' basic position on what natural law was, he still wondered whether there could ever be certain first principles of the natural law of which no man could be invincibly ignorant. There were examples of cases in history where almost every moral law had been ignored not only by individuals but also by whole communities, and with perfectly clear consciences. The example of the Germans just mentioned is in evidence here. Kirk also alludes to the instance we quoted from Jeremy Taylor's Ductor Dubitantium. Duns Scotus was not able to persuade himself that the unity and indissolubility of marriage, or the right of private property, were guaranteed on the authority of the natural law. Occam and Gerson are mentioned as allies of Scotus. But Kirk sides with S. Thomas here. He puts it thus:

"Yet we must admit that in every society there are certain acts for which the excuse 'I did not know that it is wrong' will never be admitted. We may not appeal to the 'Natural law'; but we do appeal to the 'conscience of society'; and expect everyone who is possessed of the use of reason to be aware of the dictates of that conscience." ²⁵⁶

Kirk argues us that no matter what name is used, still every community recognizes natural law in fact. All so far so good. But what bothered Kirk more than anything else was the scholastic view that there were certain first principles of the natural law of which no man could be ignorant. He maintains that no agreement has ever been reached on which ethical principles were of this character. "The truth probably is that everyone has, in some rudimentary form, a sense of the distinction between right and wrong; but that it attaches itself (in different cultures and stages of culture) to such varied matters that it is impossible to speak of any universal principles of the natural law of which no man whatsoever can be ignorant".²⁵⁷

At first this statement may seem to contradict what Kirk has already said about natural law. But it must be seen within a wider context. Kirk was always very chary of admitting too many absolutely unchanging principles concerning moral conduct. True, he does hold for a definite objective norm in moral actions, but he saw this norm as manifested in various principles that were conditioned by the particular circumstances of each community in history. He mentions how there are few communities in which outrageous and inhuman brutality to a child would be condoned on the excuse that no one had told the offender not to do it. But what Kirk objected to was the great tendency to draw up "such erroneous and dogmatic tabulation of the content of the 'natural law,'"²⁵⁸ and so impede the free development of thought and institutions. Ultimately, Kirk would admit to only one really first principle which he summarized as "one which is practically impossible to imagine any instructed Christian denying".²⁵⁹ This first principle is described by Kirk as refusing to do one's duty.²⁶⁰

This concept of Kirk appears under another heading which we must mention. Kirk frequently wrestled with the problems of intrinsic evil. He agreed that there was a long Christian tradition behind this concept, but he had grave misgivings about its universal validity.²⁶¹ He preferred to associate the action with the circumstances, and thereby felt that actions

which we have traditionally called intrinsically evil were actions that were "almost always wrong" or "wrong in all normal cases".³⁶⁰ It was the action done with certain attenuating circumstances which made it wrong, and the Christian tradition had fused these circumstances to the action itself labelling the whole act intrinsically evil. His great maxim was always "Circumstances alter cases", and these circumstances had to be viewed according to the environment.³⁶³ He says he thereby evades the situational ethic Scylla by always referring to various "series of circumstances" that now determine the objective morality of certain actions.³⁶⁴ For Kirk, there was really only one action that could be considered "always wrong", and that was to refuse to do one's duty, which was one of his first principles. It is a good general guideline, but it could easily become vague in any specific instance, however.

Now we can see why Kirk so eschewed listing so many principles which were definitely part of the natural law. His greatest assessor, Francis Frost, finds it difficult to go along with Kirk at this point. He thinks Kirk has become too subjective here and has let himself in for far too many changes with a morality as fluid and open-ended as Kirk has opted for.³⁶⁵ This criticism is valid and Kirk never satisfactorily reconciled his frequent subjective tendencies with the objectivity he felt moral norms required. His efforts contain many valuable insights towards a solution, and it is for this reason that we can profitably examine his endeavors.

Actually, Kirk tended to separate too rigidly the natural order of creation, or the natural moral law, from the one single law for all men, the law of Christ. A more comprehensive view of the natural moral law places it within the Christian moral law. Thus, as Joseph Fuchs notes, "quod as it is not the natural law which is primary, but the Christian moral law which necessarily implies the natural law, which is, in fact, presupposed by the supernatural law in itself". He continues: "quod non however, the primary place will always be held by the law of nature, to which we now added other moral elements, derived from the supernatural order, from the Word incarnate, from the individual call of grace (natura, non re, posteriori). To these elements we have no approach except under the supposition of the natural order of creation."³⁶⁶

Natural law, seen in this way, is an inner inbuilt law which consists not primarily of outward norms, but as an order particular to man himself, towards which man is fundamentally inclined as reasonable. Kirk had glimpses of this more all-inclusive and encompassing understanding of natural law, and moral law, but he confined his remarks in the main to the "Quoad nos" part of Fuchs' distinction, thereby giving a one-sided view of the role natural law plays in determining moral norms.

What interests us, however, is the obvious role that Kirk consistently grants to the consensus fidelium as seen by its manifestation here in the role of the voice of society. Again, we are struck by the inherent dangers to which consensus fidelium can be exposed, especially when the community conscience has become blinded or obfuscated as Kirk often indicated. But also we can argue a fortiori that if circumstances do alter individual courses of action, they can have an equally influential role to play on the collective community conscience and its moral judgments. Perhaps a few more insights from Kirk's thinking on law will help us with this line of thought.

b) The Christian Community formulating laws

One fact that definitely emerges from the discussion on principles deriving from the natural law is the fact that "the Christian consciousness ... could not rest content with this summary of natural law as being all that ... (it) is required to recognize".²⁶⁷ Theoretically, the true Christian should be so imbued with the Spirit that he would not need any further laws delineating the Christian ideal since he would be so possessed by the Spirit that he would not have to call the principles of morality to mind. But recalling Kirk's thinking on the effects of original sin, we can see why he joins hands with S. Thomas in explaining the the necessity of a further delineation of the general principles of the natural law through divine and ecclesiastical law. Moral principles, then, have their origin in the self-revelation of God to man, and their validity is established by apologetics. The moralist's job is to attempt to indicate the scope and application of the principles in question.

Thus we come to the various precisions made by the Christian consciousness existing within the community. These precisions are assisted by the Holy Spirit, Kirk informs us, and they were given to the Church with the conviction that "where the Christian community added to the corpus of natural and revealed law by later enactments as to faith and morals, its definitions must be in line with what had gone before -- they were not additions to, but rather developments and articulations of, the original deposit".²⁶⁸ This was the thinking of the early Church and even of S. Thomas, according to Kirk.

We are now given a good example of how a consensus fidelium can react to a given type of legislation by either an individual or the Christian community. Kirk's old aversion to rigorism emerges again when he informs us that "where a man imposes upon himself, or a society imposes upon its members, principles of too sweeping, too academic a character, and does so moreover with the determination to enforce them on all occasions and at all costs ... a crisis will arise at which the principles involved must either be defied or evaded; and the fewer and wider they are the greater the danger becomes".²⁷⁰ Always, Kirk admonishes, the legislator must carefully distinguish the obligation of the principle with the accidental features which really do not call for its observance. Too often, law is made to bind in whole categories of cases in which it has really only partial relevance, even if it is relevant at all. Kirk's application of this principle to the problem of lying is interesting to us since all his examples of everyday "mental reservations" are drawn quite obviously from the normal exceptions which consensus fidelium has made over the years and have become catalogued in countless moral textbooks under various excusing headings. Kirk concludes that the "only proper procedure is to labour towards the understanding of the law until we are able to state it in a form which will exclude whatever merits exclusion, without employing the device of official exception. Anything else is not an 'adaptation' but only an emasculation of the law".²⁷¹ We conclude also that it is the consensus fidelium that often detects the ultra-idealistic element in an inflexible moral law and instinctively tailors it to a more viable and incarnational relevance. The consensus fidelium here is

a healthy antidote for legalistic moralists who tend to legislate too absolutely and therefore do nothing but spawn "the three dangers of externalism, scrupulosity and passive tractability".²⁷² The dialectic is again at work.

c) The Relativity of Moral Law and consensus fidelium

Having delineated the key ideas that Kirk mentions concerning natural law, first principles, in se evil, and rigidity in formulating laws, we are well prepared for his direct references to the role of consensus fidelium in formulating laws.

Kirk sums up all his ideas which he has previously written concerning S. Thomas' teaching on natural law and divine law in Conscience and Its Problems along with several clarifications which are immediately helpful to us. His direct concern is the possibilities of inadequacy or error (and so of supplement or amendment) in regard to the 'first principles' of the natural and revealed law, and in regard to the 'remoter principles' or detailed application, of that same law.

He grants the existence of some immutable principles of right and wrong which may be called the perfect law of God. We may even be able to tabulate, "with every chance of securing agreement, some of the principles of conduct current among men which seem to partake of just that immutable and unalterable character which we regard as distinctive of the divine law".²⁷³ "For the moment", he will concede a breach of them as possibly being 'wrong in itself'. In some cases he says we can only rest our conviction of their "absolute and compelling character upon an ultimate intuition",²⁷⁴ which is difficult to apprehend and may be no more than a particularly noticeable instance of a general principle only imperfectly apprehended. Kirk instances complete promiscuity in marriage, or thinking that it is God's will that a child be punished by torture. Any justification by argument of such primary principles is generally post factum because we are already convinced, and nothing in the argument adds to the strength of the conviction.

It is interesting to note here how this post factum argument (which is very much akin to a consensus fidelium) does not produce the conviction that already exists in the individual or groups of individuals practising or forbidding the action (the sensus fidelium).

The sensus fidelium precedes the consensus fidelium, while the latter is not the root of the conviction. Kirk then shows how we may not have any clear idea about the intrinsic rightness of a principle, but we may still hold that any infringement, even in a hard case, might be extremely dangerous to the welfare of society as a whole or to the attainment of some other ideal, and therefore feel that no exception should be admitted. ²⁷⁵

We could call this a "sensus fidelium of the sliding ladder". Kirk instances bigamy and suicide here.

Principles enunciated by our Lord are then mentioned, as to whose certainty and eternity there can be no reasonable doubt. ²⁷⁶ Then, Kirk observes that the progress of Christian civilisation has established certain moral positions from which it seems impossible ever to recede. Slavery and wanton cruelty to animals are examples of such actions.

These principles are given solid ground within the realm of human thought, but Kirk admits, too, that the territory which they occupy is only partially reduced to order, while they still remain surrounded by vast and perplexing uncertainties. Kirk notes a saying by Dr. Rashdall which says that there is "a general consensus as to virtues, but none as to duties". ²⁷⁷ But so many of these practises bind "semper sed non adsemper", or only tell us what we ought to do but not what we ought not to do, or are expressions which only give a paradoxical contrast with institutions which no Christian would like to disavow. ²⁷⁸ The problem becomes more difficult as we attempt to legislate for these perplexing gaps and all too often end up with immoral practices and opinions which last for long periods and "with the full consent of the people". ²⁷⁹

Kirk now assembles a fascinating collection of historical examples which were considered at one time or another to be against the natural law. Thus the Eastern Church prohibited third and fourth marriages as against the natural law; killing in self-defense was viewed by many Western writers in the same way; Clement of Alexandria even thought ear-rings to be equally forbidden by the law of nature; even the certainty of damnation of unbaptized infants and the heathen, the verbal infallibility of Holy Scripture, and the crude literalism of much popular eschatology are mentioned by Kirk as being once universally accepted but now so no longer. The conclusion Kirk draws from all

this is that "not every principle of faith or morals which Christian thought has accepted as divine" will survive unchanged through the storm and stress of time. ²⁸⁰ Kirk goes a step further when he claims that just because no reasonable Christian appears to question the validity of such principles may be final evidence for their obligation today, but does it forbid the possibility of reasonable Christians legitimately questioning them tomorrow? "Acceptance over a long period of time does not imply that the mind of the Church, under the guidance of the Spirit, may not at some future date rightly subject them to revision". ²⁸¹

We could enter into a dispute with Kirk at his next observations, because in them he clearly underestimates (in accordance with basic Anglican thinking, we must add) the role of authentic and authoritative teaching by the Church, especially concerning interpreting scripture, in any particular age. However, his conclusion has a direct bearing on assessing consensus fidelium as a source of moral judgment:

"The best we can say is that the more any principle has commanded and still commands this same unqualified and free adhesion from the Church of many different generations and in many different lands, as also from Christians of every variety of temperament, upbringing and intellectual endowment, the more certain we may be that it approximates as closely as any human formulation can approximate to the truth as it exists in the mind of God; the more unhesitatingly can we accept it as part of the immutable divine law; the less right we have to regard it as open to question. Beyond that, however, we may not go". ²⁸²

Kirk immediately cites verbatim the words of a "grave" Roman Catholic author, Opstraet, of the late seventeenth century:

"A long-standing doctrine or practice in the Church cannot be taken per se to be the doctrine or practice of the Church God will never desert His Church, but, as history shows, may for a period, allow the truth to be veiled and discipline to be corrupted. For how long and within what limits such a veiling of truth may continue, neither Scripture nor tradition gives any indication. But the Church will survive, even though for a long period only a few cleave to the true principles - nay, even though in large parts of the Church no one cleaves to them at all". ²⁸³

Kirk now draws his conclusions. First he asserts that this evidence only proves that we can say of the moral sphere what is

commonly admitted in the intellectual, namely, that reason and revelation, or nature and grace are different aspects of the same process since they both come from the hand of God. This is identical to Hooker's understanding of the complementariness of reason and revelation. Kirk maintains that God uses and has always used the human mind, both in the individual and in the Church, as the channel of revelation.²⁸⁴ Kirk side-steps any accusations of pantheism or immanentism by leaving it to apologetics rather than to moral theology to discern between God and the universe, revelation and reason. This is interesting because Kirk only concerns himself with the "practical consequences" of what has been said. It is another example of the a posteriori and empirical approach that Kirk, and Anglican Moral theology, always assume when handling a moral question. In this light, consensus fidelium is observed and assessed rather than conceptualized and defined. This is why Kirk nowhere formulates any ontological description or definition of consensus fidelium. It is assumed to be the working of the Holy Spirit, in a continual and ever-developing way within the concerted and harmonious practices of a specific Christian community.

And here we have another aspect of Kirk's understanding of doctrinal and moral development. The beliefs and practices of the Christian community cannot be simply "frozen" in a clearly-defined deposit of faith. True, there are some first principles of the divine law which are immutable. Kirk concedes this. But it is impossible to draw a clear line of demarcation between these first principles and the secondary or remote principles which may vary with human interpretation. And how can we know what are the first principles? Kirk says that we must limit our category of first principles to those "to which the whole Christian Church has at all times been unanimous, with a unanimity based on freedom and not on constraint, and as to which we ourselves are convinced that it is inconceivable that the Church or any reasonable Christian should ever question or recede from them".²⁸⁵ This reduces our first principles to a relatively small number of obligations which are of a very general application. And they must be regarded as in fact questionable, Kirk interpolates, the moment sane and

mature minded Christians begin to question them. We are left with the widest possible margin of variable precepts which are always apt to amendment or revision.

This is about as close as Kirk will ever come to a definition of consensus fidelium. And it should be carefully noted how much he stresses the rapport that exists between the unanimous and free acceptance of principles and practices of the past with the present Christian awareness. It is a very dynamic and active understanding of Christianity that Kirk envisages. He refuses to encapsulate Christian moral practices into any stereotyped or rigid formulations that refuse to be re-examined, re-interpreted or re-formulated for new situations. It is in this sense that Kirk understands revelation and the development of dogma and moral practices. As to the question of how this happens, i.e. whether all new developments are contained "explicitly" or at least "implicitly" in the original depositum fidei, Kirk does not take a specific stand, although he does repeat what some of the schoolmen and St. Thomas said about it.²⁸⁶ Consensus fidelium then will always be a moral source that is alive, in via, and surrounded by outside pressures and influences that may have to be stripped away from the prevailing consensus before the true kernel of the consensus can be seen in its pure, unimpeded and inspired state. With this in mind, we can approach any consensus fidelium only with the greatest care and reservation, and we must beware any tendency to make it into a universal and perpetually unassailable moral teaching or practice within the Church. The milieu of the Christian community, the circumstances and environment surrounding our moral practices, the social and political pressures weighing down on the members voicing the consensus fidelium make it increasingly vital that great care be taken in being overly-explicit or overly-sure that this is something eternally binding on all members of the community. We have the "cautious" approach of some of the Carolines being flung at us here with a different emphasis.

Kirk also warns us to be careful not to draw too fine a distinction between the secondary principles of the divine law and what we have been calling "purely human law" in the

ecclesiastical sphere. This only supports our selection of references which we drew up from Robert Sanderson's treatment of ecclesiastical law and the role of consensus fidelium therein. Again, the variability is stressed, along with a "divine leading" which is expressed by the lips of men and so is capable of distortion in the very act of expression. Christ himself is called to witness here. He is credited with enunciating the great outlines of the eternal will of God for man, but not laying down a cast-iron code of minutiae.²⁸⁷

We can now see what Kirk means by the relativity of the moral law. It is absolute in ideal character, but often distressingly relative and fallible in its actual promulgation. This lays a grave duty upon the Church of each generation to continually exercise a "constant, painstaking, conservative but brave revision of her moral code".²⁸⁸ Kirk then describes how the Church is to decide which principles are primary and which secondary, which should be revised, and which should not. For our investigation we merely reiterate what we have already discovered, namely, that the consensus fidelium will depend on "the adherence of her members of the moment";²⁸⁹ it will be assessed within an aura of prayer and reasonable enquiry; it will have a healthy respect for time-honored acceptance of practices hallowed as "sacred" and endorsed with the title of "divine"; it will view moral practices also within the demands of contemporaneity and even lead to an abandonment of a practice under the guidance of a Spirit leading the community to a fuller truth. All this may seem to leave one very nervous and unsure, but one cannot help but feel that it is a healthy reliance on the prophetic Spirit within the People of God of which Yves Congar is so fond of speaking. Granted, it is not the whole picture, but it is a vital part of it, and when consensus fidelium is seen within it, it points to an entirely new way of regarding it than some of the more fixed and static ways we talked about in our first chapter. And finally, we must always keep consensus fidelium in touch with the spirit and words of Christ, as Kirk suggests, or we are in grave danger of losing sight of the only true "ground" of all our moral practices.²⁹⁰

c) Discipline in the Church of England

The role of consensus fidelium as a source of disciplinary action in the Church has assumed a major portion of this chapter. It has also appeared in some of the writings of Richard Hooker and Robert Sanderson as well as Richard Baxter, all of whom we have treated earlier. And each time the problem of authority surfaced in our explicit treatment of Kirk's theology, there immediately emerged the ever-present tension between the individual conscience and the collective community conscience. Kirk was always endeavoring to hold these two antipodes of Christian morality in a harmonious and complimentary tension rather than in a conflicting and eternal confrontation.

When it came to a particular discipline needed in the Christian community (he is now speaking of the Church of England), Kirk continued to uphold the status quo which meant supporting the concept of the established Church, the right of Parliament alone to finally legislate on all questions of morality, and the extremely difficult approach Anglicanism has chosen to follow in being very lenient on all its members, even when they denied a dogma or practice which was an important part of Anglican teaching.

Kirk refused to allow the voice of God speaking through the individual conscience to be so final and absolute as to "annul in its entirety the voice of God speaking through the conscience of the community".²⁹¹ He strongly defended the Church's right to decide who should be its members, and how the members should be disciplined the same as any club or society upheld such a right. Kirk prefers a discipline of suasion to one of force. He feels that this generally accords with the way most human societies operate. It "is based upon the consent of all the persons concerned, even though - as in the case of the offender against whom disciplinary machinery is set in force - that consent is of a very unwilling kind".²⁹² The discipline of suasion carried with it the feeling on the part of the recipient that he has forfeited his moral right to membership and therefore has lost his relationship with the other

members of the society or community. But it can "only be effective when it is backed by the consent of the vast majority of the members".²⁹³ Legal sanctions and physical force remain in an alien sphere in ecclesiastical discipline, but even here the "general consent" of the "wider body corporate" can allow it.

Kirk takes up various touchy questions when the rights of the individual apparently clash with those of the community. He continually reverts back to his basic premise, however, that the Church should stick to a discipline of "moral suasion" which will depend "upon the consent of the members", calling it, "in technical language, purely "spiritual". He discusses the right of state intervention as it exists in England and concludes that, generally speaking, general expediency would often be the guiding criteria for State intervention and disciplining of an individual. Indeed, the State has not abrogated its "natural claim to legislate for and about the Church without its consent".²⁹⁴

Kirk was not blind to the great difficulties under which Anglicanism labours. One of these centres around the fact that "Heresy and indiscipline in the conduct of public worship appear - and rightly - to the ordinary mind to be offences of a wholly different kind from violence or open immorality".²⁹⁵ Kirk sees this in the light of the difficulty that would be involved in bringing an erring member of Anglicanism to trial (which would have to be a secular one) for aberrations in faith or worship. Moral failures have a different fibre, according to the consensus fidelium as observed by Kirk here.

It is a small point, but ad rem. It shows the distinction we mentioned earlier between a truth and the value of a truth. The value of the truth seems to emerge, generally speaking in an action or practice. This has effects on the rest of the community, and thus the tribunal of the community has a right to discipline the recalcitrant member. However, Kirk still upholds the Church's own right to discipline her members. The methods of "censure" and "excommunication" are upheld by Kirk and their execution depends solely upon the loyalty of the officers and members of the community.

There can arise a conflict between the individual and the community, or between a majority of the faithful who may refuse to obey the decisions of the authority. Kirk recommends that "to avoid such a situation, which would verge upon schism, it (the authority) must hold itself bound to take careful cognizance of the temper of the whole community".²⁹⁶ It is this continual interaction between the consciences of those in authority and the remainder of the body that pinpoints the essential spark in ecclesiastical discipline. The community conscience will always have something to say, even if the authorities resort to the secular arm, though it may not say it at once: As a result, either appeals of this kind will gradually lapse into complete disuse, or if persisted in, they will shipwreck the community upon the rock of schism. "In either case, the communal conscience will have asserted itself against the individualistic action of a clique or hierarchy".²⁹⁷

The role of consensus fidelium speaks for itself here. One cannot but help feel, however, that Kirk is loathe to assert himself against the collective community conscience in this argument. From all that he has said until now, it is clear that he was not in favor of any "majority rules" precept. But he always seems to draw back just when it becomes a question of a definitive stand being needed by the Church, even for a time, on a particular question. This is his greatest weakness, although it is quite in keeping with his Anglican principles.

3. Intuition, Public Opinion and Consensus Fidelium

Our theme of consensus fidelium as a source of moral judgment has led us into several areas that are very psychological and sociological. This was to be expected since a consensus must manifest itself through the rational processes of the individuals professing any kind of a consensus. It becomes a sociological concern when the consensus affects a proportion of the population larger than, say, the family unit (although anything affecting more than the individual could sagely be called, generally speaking, a sociological question). And our travels thus far have given us several fleeting contacts with the various psychological appellations that have been used by theologians to describe both sensus and consensus fidelium. Cardinal Newman's analogies are perhaps the most significant ones of all.

We are faced with not a few difficulties at this juncture. Kirk gave a fair importance to the role of intuition in both individual as well as community moral judgments. It is very hard to separate them, as we must try to do in our study of consensus fidelium. F. Frost has successfully analyzed and criticised Kirk's concept of intuition²⁹⁸ and we do not feel that it is necessary to repeat this. Thus, our approach will be to situate briefly the concept of intuition within Kirk's moral theology, then to describe it as Kirk does, and finally to collect the various ways that intuitions appear in a consensus fidelium as a source of moral judgment, one of these ways being popular opinion.

a) Faith and Reason and the Illative Sense

Kirk devoted a large section of Some Principles of Moral Theology to the classic Faith - vs - Reason controversy.²⁹⁹ He followed a basically Thomistic approach, but his empirically-orientated outlook led him to lay great stress on the operations of rational discovery and enquiry that so interpenetrate all his writing. He emphasized that faith should not be viewed too exclusively as "habitus formatus - an unchanging state of mind" but rather "as the slow process of growth" that his inquiry had tried to show it to be.³⁰⁰ This entailed a commitment to a practical and experimental acceptance

of many moral directives. The aim was moral progress, but not in any totally self-reliance sense. Kirk stood firm on the principle that "It is impossible to build a full spiritual life on a rationalistic foundation" (emphasis Kirk's), and went on to support the necessity of a "background of the infinite" with God as love, Christ as Redeemer, and the Holy Spirit as guide and support. ³⁰¹ This was absolutely necessary for both the individual and for the Christian Society.

Faith is described as a power by which a man gradually comes to a clearer apprehension of the intellectual implications of the Christian way of life to which he has committed himself. It enables each man to lay hold of these implications with an ever-growing certainty ~~that~~ as to their truth and importance for his life. And throughout this process reason is called into play to collect, classify and weigh the truths already grasped and it is always open to new experiences. Reason, then, both prepares the way for faith, and confirms it when it has taken root in the soul. It also helps a person "to marshal his evidence and to make his intellectual position explicit". ³⁰² This operation is necessary if a man is to carry out his duty of giving a reasonable account of the faith that is in him, and becoming an evangelist to others.

But where does man receive the "data" which enables his reason to perform such a complementary action for his faith? Kirk does not reduce faith to a conclusive proof arising from the variabilia coming to a man through his reason. He does say that man is capable of producing enough "probable evidence" to show how he arrived at his conclusions and indeed no man can do more in religion, logic or science. But "At the core of every belief lies a movement non-intellectual in character" which Kirk calls "a self determination of the whole personality towards the conclusion to be adopted; an act of faith". ³⁰³ We are now informed of all of faith's evidential material which includes history, philosophy, the experience of the saints, one's

own moral and spiritual development, discourse and argument, the line of tradition and the never-failing experience, the Spirit of God, the truth of miracles, the word of prophecy, the blood of martyrs, the excellency of doctrine, the necessities of man, the riches of the promise, the wisdom of revelations, the XXXIX Articles of Faith, the needs of men and their compliance by the government of the commonwealths, all are seen as probable arguments by Kirk as did his mentor Jeremy Taylor three centuries before. ³⁰⁴

Thus reason accepts any truth whatsoever "either by a process of reasoning (from premise to conclusion), or as the result of an intuitive apprehension of its self-evidence, or from a perception of its necessary coherence with the whole of truth as otherwise known to us". ³⁰⁵ Kirk tried to explain the difficulties involved in assessing all of the ways these probable arguments could cause when isolated too much either from one another or from the Trinitarian "Faith-Source" to which he always returned. The ever-present problems of providing a strictly logical proof for one's faith is also considered and here again we have Kirk's reliance on people like Newman and Joseph Butler for insights. Kirk refers to Newman's "illative sense" as being a "non-intellectual factor which leaps beyond the converging streams of evidence and accepts as a working hypothesis a truth to which they all point, but which none of them severally nor all of them together can finally establish". ³⁰⁶ In convictions of the faith "There is no such thing as strictly logical proof". ³⁰⁷ What we have thus far is a parallel approach to the way that people arrive at a *sensus fidei*. All the various influences to which men are subject bombard or interpenetrate the psyche of man and cause him to grow and develop in his moral life (which is the aspect of man under discussion here). To this we can add the ever present accompaniment of the approval or disapproval of society, ³⁰⁸ the emotions of each individual, ³⁰⁹ the "tuitions" of society, ³¹⁰ and all the recent findings of psychology ³¹¹ and sociology which exert an influence on man. A further "probable argument" is listed by Kirk as simply "because a great many other people believe it," ³¹² or also because within a person's own experience it has proved true. Now none of these reasons or influences ultimately prove the

the truth of a person's belief, either separately or in conjunction. "Authority, consensus, personal experience may all be at fault, even when pointing in the same direction." ³¹³ So Kirk takes another step, He feels that when a certain amount of "converging probable proof (to use Butler's phrase) has been accumulated, the mind leaps to its conclusion, accepting it as a working basis for further experiment as well as for life as a whole." ³¹⁴

This is a vital point in assessing how consensus fidelium operates in the field of morality. For Kirk, the dialectic operation or process that is involved in the going from one set of "converging probable proofs" to another is the method obtaining in science, everyday life, and in accepting religious truths. ³¹⁵ Both science and religious dogma do rely to a large extent on authority, and in both, the proof of the position taken up is not final at the outset. Indeed, says Kirk, it is never final, but deepend with experience. In both, there is an act of faith which is accepted as a working hypothesis on a basis of accumulated and corroborative evidence, but of which none can be said to amount to proof.

This "pragmatic" approach as Kirk calls it, is said to lack intellectual certainty and therefore to be not wholly satisfactory. But Kirk sticks to his guns by holding that "there can be no final and evidential proof of any proposition, either in religion or in science, only the accumulation of probable proofs, leading to an ever-widening apprehension of its intelligibility and truth". ³¹⁶ Kirk, however would like to see the "philosophy of pragmatism" undertake two things:

- (1) to convince the popular mind that the distinction between the "demonstrable" truths of science and the "indemonstrable" truths of religion is wholly unreal;
- (2) to elaborate the criteria upon which the "illative sense" is justified, in any given case, in making its venture of faith.

We are now at the heart of our present enquiry. What we have discerned thus far is the "modus operandi" of the sensus fidelium in terms of a supra-intellectual, dialectical, illative sense constantly absorbing and assessing a plethora of converging probable proofs

which in turn lead it to a fresh and often experimental position in everyday life. It is in constant interplay with all other criteria as well, especially those of authority. Faith and reason are partners walking along together. Consensus fidelium is one of the influencing factors of the basic sensus fidelium; ~~And~~ the whole process is very much in flux and development, and a very "noisy process" indeed, to use Newman's metaphor. 317

But we are not finished. Just precisely how are these "Intuitions" or "Tuitiens" that have appeared within the empirical data influencing man's moral decisions? And do the intuitions ever coalesce into a community intuition, a consensus fidelium, which becomes an authentic criteria for judging the illative sense which has been equated by us with sensus fidelium? The plot thickens.

b) Intuitions and Consensus Fidelium

Kirk has no qualms whatsoever in claiming that intuitions are a form of evidence which the mind can consider in arriving at its moral judgments. We are clearly told that "Society presents each one of us from infancy upward with more of this material than we can possible employ" and we are instanced the example of Christ, the writings of philosophers, the advice of friends, the conventions of contemporary life and the consensus of civilised mankind. 318 But what truly bothers Kirk is not so much that we are influenced in our moral judgments by this flood of practices presented to us by "Society", but what tests does the mind apply to this process of comparison, selection and reflection. What interests us however, is whether there are any criteria that are available in judging the moral practices that are presented to us either via society, or via social institutions, or via consensus fidelium. 319

Starting with the individual, Kirk felt that in order to reach judgments of any kind, we need some kind of certainty that a

a fact subsists or that a proposition is true. He calls this "certainty" an "intuition", and says that no more explanation can be given of this intuitive element in knowledge than of the physical vision or perception. Even in moral judgments, then, they are self-evident, speaking for themselves, and forcing themselves upon us. They go side by side with moral judgments presented to us by feeling or by any of the other sources we have mentioned.

Kirk wonders, however, what difference there is between these primary certainties by which we test the evidenced of experience and merely subjective records of feelings. He replies by assuring us that "rational intuitions, like rational inferences - from which they differ principally in the fact that they are not the conscious results of a progressive chain of arguments - are themselves capable of being based on a wide survey of evidence of many different kinds, whilst records of feelings stand upon one piece of evidence alone".³²⁰ This means that intuitions will be far more trustworthy, more likely to be true, than a judgment about someone which in fact is no more than the record of a feeling about that person. Reason is extolled as a more trustworthy arbiter in moral judgments than feeling which is nothing really new or existing for us.

All Kirk is trying to establish here is that moral judgments should not be considered as nothing more than records of feelings, or "wholly subjective", while other judgments are judgments of fact or genuinely "objective".³²¹ Kirk now appeals to "popular usage" to illustrate the importance of this conclusion. Basically, he says, "it remains true that we regard reason as that which will unite people, while taste or feeling is that which diversifies them".³²² Indeed, at times, when our opponent cannot see our side of an argument, we are even prepared to say that he cannot "see the point" because he does not want to see it. At this point, Kirk puts in a strong appeal for objectivity in ethics even though our "intuitions" or "rational certainties" may be in discord concerning this or that certainty. He insists that moral judgments are genuinely rational and not mere records of

feeling. A fortiori, this would also be true of any consensus fidelium but no explicit jump to this is made by Kirk at this point. Also, we must keep Robert's comments in mind or we will find ourselves overstressing the rational element of a moral judgment, whether individually or communally, at the expense of feelings of approval or disapproval. The question comes up as to whether a clear-cut distinction can be made between them.

In buttressing his argument for an objectivity in moral practices, norms are not simply an "invention" nor a "convention" of society. "Invention (in its original sense of discovery) is seen as a fit name for the way in which society first came to think of it as duty, while "convention" may be the mode in which it first was presented to us as individuals. ³²³ Without pushing an exact parallel here, we do have a curious alternative way of expressing the difference between *sensus fidelium* and *consensus fidelium*. In a broad way, Kirk's term "invention" does correspond to the basic *sensus fidelium* that is inherent in the very hearts and souls of the Christian community, while "convention" implies the agreed patterns of acting that will be presented to each individual as he grows up. Even the etymological roots of "convention" (con-venio : to come together) imply some degree of unanimity and harmony. Once more the "get-at-able" nature of *consensus fidelium* appears.

Kirk goes on to describe the possibility of revising our intuitions as a result of newer experiences that must be always borne in mind. It is in this regard that he maintained that we must "learn to think of God's creative activity in terms of the dramatist's creativity, rather than in terms of the watchmaker's". ³²⁴ This means that at each stage of our lives we will find ourselves "equipped with a certain number of primary intuitions as to the claims we ought to recognize, surrounded by a nebula of lesser ones derivative from them, or necessary to their attainment; and while these intuitions must be for the moment final and absolute, it is always possible that new experience will throw further light upon them, and lead to their modification or enrichment". ³²⁵ And Kirk leaves it up to each generation, as indeed to each individual also, to decide whether the intuitions by which it has been accustomed

to test character, motives and actions are the best and highest available, or whether better and higher intuitions can be discovered. Kirk concludes his arguments by an appeal to everyone to seek out good judges and competent guides in assisting them to formulate their judgments. Here is where a healthy casuistry should flourish. 326

What are we left with concerning criteria for assessing consensus fidelium? The strongest "notes" that appear in Kirk's treatment come in under the guise of an ultimate objectivity which lies behind all of our intuitions along with a constant need of adjustment that must be made by each successive generation. Of positive value is Kirk's refusal to reduce the intuitions of society to feelings of approval or disapproval alone. This is a good point, although, as we have mentioned, it is often very hard to separate feelings from cold reason. This has frequently been the fault (as well as the virtue) of many philosophical systems. It could well be that the Holy Spirit is speaking to us through a consensus fidelium that is a mixture of both. The common revulsion to child sacrifice is hardly a strictly rational one.

The close relationship between Newman's "illative sense" and Kirk's "intuitions" and "sensus fidelium" has already been noted. When we asked the question earlier as to what criteria can be used in evaluating consensus fidelium or the societal intuitions, we can only reply with Kirk's offering that these intuitions are always based on a wider ambit of evidence than subjective inferences are. It follows that a consensus fidelium will only be as authoritative as the reasons which underlie it. This is based on the close relationship between faith and reason. Kirk's remark that reason unites and feelings separate (in a general sense, of course) has the valid point that a consensus that may be present will then be based on objective reasons or truths which have more universality than subjective inclinations only. However, a subjective inclination could very easily share in a rational basis and complement it. This seems to be the fuller approach to a consensus fidelium. Without it, we are running the risk of only considering a consensus that is explicitly and rationally expressed, a conclusion which could deny the action of the Holy Spirit being made manifest in an "illative sense" in ordinary folk, but without any extensive rational underpinnings to it. Thus, both the rational and the emotive

aspect of a societal intuition play a criterial part in its assessment. 327

c) Popular Opinion and Common Sense

In our very first page, we mentioned the popular notion of what consensus fidelium means to the man in the street. Several times throughout our work we have had occasion to refer to the idea of "what everybody thinks" concerning a moral question, or to that vague and very English appellation, "common-sense". Can we posit anything specific about these ideas which will assist us in our understanding of consensus fidelium as a source of moral judgment?

Again with Kirk, we find the approach to this heading of popular opinion more in an empirical, existential and pragmatic approach than in the a priori approach of theologians such as Hájic and Koster, to mention two of the writers Harman cites. 328 Also frequently Kirk will list "common sense" side by side with other qualities such as "kindliness, manliness and good intention", 329 designating them as qualities given to the service of the Church but being quite insufficient to unravel the real problems facing Christianity today. Kirk generally prefers to situate common-sense as a kind of English know-how, a "savoir-faire", and the appeal to its use in assessing moral practices rather than to define it either philosophically or theologically. 330

Accordingly, we find Kirk talking about "common-sense" being "right in blaming the man who, in spite of every moral advantage in childhood, sinks to evil courses and champions immoral standards in later life". 331 This is one example of the continuous appeal that Kirk makes to "common-sense" as a kind of "common testimony" that often appears in his writings, but he never explicitly defines it. On one occasion, he dealt at some length with the "sentimentalist" theory, but went on to say that "we no longer speak of 'moral sense' or 'moral taste' as a simple distinct entity". 332 Kirk was here trying to refute the notion that morality was based entirely on feelings, and that such popular notions as "a sense of honesty" or a "feeling of obligation" were the main notions on which our moral judgments are based, or that "morality is merely a matter of feeling". Kirk rightly criticizes any notion of this kind as reducing moral judgments to mere

approval or disapproval by an individual or by a community as well as severely limiting the legitimate range of our moral judgments. The criticisms are equally valid for giving too much importance to "common sense" ideas about morality. Yet, Kirk's frequent recourse to this ordinary way of judging certain questions does indicate that it is a way in which the Holy Spirit can make Itself known to mankind. Frequently, however, it will appear under other forms, and this is why we have linked it up with "popular opinion". At the outset, it must be remembered, that they are not exactly identical. Common-sense connotes a basic and generally accepted way of viewing a practice which is presumed to be common knowledge to any normal average-educated individual. Public opinion, on the other hand, appears as a more existential and ad hoc manifestation of a viewpoint which may be shared by a large proportion of the population, but it is not necessarily expected to be shared by all, as something known by common-sense would be. This seems to be the essential difference between the two concepts as they appear in Kirk's writings. ³³³

Public opinion, however, is often very treacherous. It can end up by making religion into a "misinterpretation of sex-feeling or her-instinct", ³³⁴ if it becomes too much of a factor in framing moral judgments. Indeed, "Violent revulsions of feeling, particularly in the cases of crowds, can be produced by rhetorical appeal; but once the crowd has dispersed and the orator's personality is removed to a distance, the currents of emotion tend to revert to their normal channels". ³³⁵ It is quixotic and variable, and it would need some time to elapse before its true value would emerge. It is useful to point out another word of caution that Kirk gives us: "Another influence which has to be reckoned with in this connection is a curiously fallacious form of argument, to be observed in other spheres as well, whereby a useful experience is transmitted into a principle of discipline." ³³⁶ All too often public opinion as well is prone to seize upon past experiences and hardship or poverty and make them into necessary conditions of growth and development for each succeeding generation.

It is an interesting observation.

Kirk also remarked that "in the realm of theology" the average person will often "pass judgment on the deepest controversy with a lightheartedness which, despite its universality, is frequently appalling: for "theology" is to him a mere matter of common sense, whilst chemistry, for example, demands serious and sustained research". 337 Kirk's traditionalist bias is here standing on end, probably because he himself had spent so much time and effort in working on updating moral theology that he resented too many "off-the-cuff", facile solutions to moral issues that were extremely complicated.

But we must not conclude that Kirk had an entirely negative view of popular opinion. Indeed, he openly advocated "direct observation" of the chief ideas people have about God and immortality and how these ideas influence their lives, or what the outward differences are between one form of religion and another and how these different kinds of religion produce different results. 338 Kirk was always comparing the dogmatic beliefs of people with their impact on their moral lives. The same fidelium was never too far from the consensus fidelium in both dogma and moral. And he criticizes the Christian conscience for being so slow in catching up with the opinion of society in the case for example, of women and children being entitled to the same degree of happiness as men are. 339 Also, the Church must not abdicate its right to disagree with public opinion and society, and to chastize it when it is tending to stray from the basic goals and freedoms of humanity. This the Church has not always done. It is all too easy, asserts Kirk, to incorporate words and phrases into our current religious teaching which seem to give it vivacity and reality. But sometimes there is a tendency to associate these phrases and expressions with "modern thought" only because we do not wish our moral code to be spoken of as antiquated and outworn. Thus the suggestion of "rightly understood" or "expressed in terms of modern thought" can become an approval of conduct which Christianity has never given and could never give. 340

John L. Hollenbe has proclaimed that "Public opinion in the Church is one of the channels through which the Spirit speaks". 341

K.C. Hartman qualifies this: "Public opinion ... is not a safe guide. It needs itself to be educated".³⁴² Dietrich Bonhoeffer takes the other extreme and maintains that Peter's Church "does not mean a church of opinions and views, but the church of revelation".³⁴³ Kirk refers to "that more indefinable entity which we call 'public opinion'"³⁴⁴ and goes on to speak of the difficulty Anglicanism has in rallying all her members to an agreed position on any practical matter but the urgent appeal that "the Church cannot afford to let the matter of her independent jurisdiction over her members remain in a state of suspended animation ... No one can expect to receive the privileges of membership without conforming to the conditions, and discharging the obligations of membership".³⁴⁵

Where do these opposite views leave us, especially within the theology of Kirk? Actually, we think that Kirk was very wary of immediately basing a moral judgment on public opinion. It was too ephemeral and effervescent to be wholly reliable. It included too much of emotional and highly sensitive opinions which needed the test of time to confirm their validity or to be rejected as invalid presentations of the Christian message. That they are sources of determining a moral judgment, that they could be a consensus fidelium is indisputable in the light of all of Kirk's previous thinking on the sources of moral theology, intuitions, "common-sense", community judgments, and so on. But whether this people's public opinion is truly Christian or not is another matter, and here Kirk draws veils. This particular section may appear to be rather negative on the point of public opinion being a good source of moral judgment. And perhaps this is a good thing too, because of the very nature and "presentiality" of public opinion. A consensus fidelium (from all we have studied this far) implies a much deeper and wider mass of sources than does public opinion.³⁴⁶ Consensus fidelium places one foot on past Christian tradition and the other on the presence of Christ in a living, witnessing Church today. This means a necessary dialectic which public opinion, of itself, does not immediately imply. Kirk runs into difficulties here, but they are Anglican difficulties. The lack of some kind of authoritative fixed point of reference for all wings of the Church interpreting for each successive age takes for a very loose and hazy presentation of the Christian message in actual situations.

Not that we would opt for the equally dangerous extreme of an overly-centralized, overly-authoritarian or overly-legislated moral code. But consensus fidelium, and its "early-warning light" public opinion, do need a more clearly defined and commonly accepted moral centre if there can be a growing dialectic rather than a nebulous, many-headed and muddled dialectic.³⁴⁷ However, this is the Anglican way, and is it altogether fair to demand of it more than it clearly professes to achieve? The question is difficult if not impossible to answer today.³⁴⁸

4. SPECIFIC MORAL PROBLEMS AND CONSENSUS FIDELIUM

We now come to the final section of our study of consensus fidelium as a source of moral judgment. It is our intention here to simply take several moral questions which Kirk dealt with and to isolate his references to the actual influence consensus fidelium may have had, or still has, on the formulation these questions receive in Kirk's moral theology and Anglicanism in general. We do not intend to develop any of the wider theological perspectives which can inevitably creep into such headings. Our sole concern at this point is the actual use of consensus fidelium in the Anglican moral teachings on marriage, birth control, gambling, lying and war.

a). Marriage

Canon Kemp made the remark in his biography of Kirk that "There is no doubt that throughout all Kirk's thinking to the subject of marriage discipline what was uppermost in his mind was this urgent need to maintain and witness publicly to the Christian standard of marriage in face of the rapidly increasing laxity in sexual relationships which have been so apparent in the course of this century".³⁴⁹ This idealism on the part of Kirk on marriage colors all his allusions to consensus fidelium as a source of judging such questions as polygamy, nullity and divorce. Kirk saw the crux of the matter in "the growing tendency of society, to regard divorce with the right to remarriage as harmless, and to demand that it should be easily available to all."³⁵⁰ He refused to yield to a

proposal put before the British public in 1945 by Mr. McMillan who felt the law should be altered because it is unpalatable in society. The tradition of indissolubility contained in Scripture, right reason, and all of the social evils attendant on the increasing divorce rate were prime factors in Kirk's upholding of the ideal of the indissolubility of marriage. And Kirk worried that, the day when society lifted its blame on couples who sought and obtained divorce only when a real strain arose in domestic relations, then "a very potent inhibition against divorce and remarriage has thereby been removed." ³⁵¹ Consensus fidelium is seen by Kirk here as a check or inhibitive factor in influencing a community's moral judgment. It is just as inhibiting towards the practice of polygamy, prostitution or promiscuity, because "The customs and practices involved are debasing to human nature on either side. No parent would wish his or her son or daughter to be concerned in them; no brother would bear the thought of his sister becoming a victim to any of them." ³⁵² While some of these practices are not immediately related to marriage, still there is a parallel example here of the inhibiting force consensus fidelium can exert on individuals contemplating such actions as well as on a Church or government legislating against them.

In his book Marriage and Divorce, Kirk takes us on another of his grand tours of the Christian tradition in an effort to see what is essential in the tradition concerning marriage and what is not. Several interesting allusions are made which afford us a few applications of consensus fidelium at work concerning marriage legislation. We shall try to summarize them.

(1) It has been the community, the consensus fidelium, that has been the strongest influencing factor in determining the binding force and removability of marriage impediments. Thus, "the community refuses in any case (however extenuating the circumstances may be) to recognize a marriage contracted in their despite." (He is speaking of "Irremovable Impediments"). ³⁵³

(2) Kirk says that by the fourth century of our era, the yoke of Christian marriage was proving too heavy for the half-converted masses who were beginning to invade the Church; Sometimes this would be due to infidelity, sinfulness or uncongeniality; sometimes it was simply a wish

to be released from the first partner to be joined to a second one, and hence separation, and, though always allowed to, and often enjoined upon, an innocent husband or wife whose partner had been guilty of infidelity, yet it was not enough. Kirk felt that "Reluctantly but inevitably, the Church was compelled to make concessions — to provide safety-valves — for the untamed sex-instincts of her children. By a curious fate, the two great branches of the Church took different courses. The Greeks found their safety-valve in divorce; the Latins their's in nullity".³⁵⁴ The former is based on a breakdown in a marriage after the marriage has been entered into, while the latter is based on a judgment that there never was a marriage in the first place. But there is room for more discussion on a marriage that actually does cease to be a marriage in actual fact, and it is here that we can well explore the Greek tradition as well with the deference the Roman Church has paid to it in never officially denouncing the Greek position on divorce. Kirk goes on to mention how St. Basil did not dare to oppose "the custom of contemporary Christianity, which allowed remarriage to a husband who had divorced his wife for adultery",³⁵⁵ and Kirk goes on to trace the whole tradition of remarriage after divorce in the Greek Church, with its tendencies to certain excesses. But all we note is the influence that a growing consensus fidelium had on a moral practice of the Church that ~~had~~ proven too severe. Harkening back to the penitential disciplines of the early Church, Kirk notes how "Deprivation of the right to marry was one of the disabilities imposed upon penitents in the early centuries; and the vigour of the rule was one of the main reasons why the primitive penitential system collapsed".³⁵⁶ But all these were viewed by Kirk as exceptions to the ideal of marriage, and not as the normal Christian tradition.

(3) The ideal of the indissolubility of marriage is examined by Kirk,, He says that within 25 years of the Crucifixion itself, apostolic Christianity had accepted slavery, social inequality, the existing wage-system, the Roman imperial rule and taxation, and the legal obligations of the empire's subjects. It was "in no other matter than this of marriage" that Christianity showed "any inclination to alter the institutions of contemporary society".³⁵⁷ The consensus fidelium can be presumed here as influencing both the acceptance

and the rejection of these existing social institutions. (And it is noteworthy how a consensus could grow and develop on such institutions, e.g. slavery).

(4) Kirk would prefer to have the prohibition of divorce declared as the Christian ideal, and as the minimum precept which can be neglected or disregarded only at the risk of moral or spiritual disaster. "Even where "precepts" have been very clearly enunciated, if there has been the slightest ambiguity in them, society - even Christian society - has invariably interpreted them in the lower rather than in the higher sense". ³⁵⁸ This can mean that if we equate the consensus fidelium with the interpreting Christian society, then there will always be a mitigating element present in the consensus when it comes to the question of a moral precept. It points to a definite need for a dialectic, or we will eventually so mitigate the ideals inherent in the Christian precepts until we have completely watered down our faith to the lowest common denominator present in society at large. Kirk has struck home with an excellent point.

(5) Kirk felt that there are some things "so dangerous in their consequences that neither society as a whole, nor any part of it, may be allowed to treat them as toys". ³⁵⁹ And so, in all but the most extreme instances, these things may hold unquestionably, "whatever the world may say". ³⁶⁰ Kirk goes on to show how this is related to the "sliding scale" idea in which exceptions made in one case are immediately felt applicable in all. The Church has the right to jurisdiction of her own and this may, at all events in specified matters, diverge from the law of the State and even from popular opinion, claims Kirk. ³⁶¹ The problem of deciding what is "right" and "wrong" depends on more than what people say is "right" or "wrong".

"The majority of civilised men and women are, no doubt, as conventional in their ethical outlook as in anything else. But the exceptions to this rule are very numerous; and as a matter of fact there is no principle of conduct, be it never so crazy, perverse, or outrageous, that it cannot be and has not been professed (to all appearances in good faith) by persons claiming in many instances to be Christians, and in every case brought up in the atmosphere of Christian civilization". ³⁶²

Kirk is strong at this point on the Church's right to exercise discipline on those who profess to be her members. True, he counters

any tendency to over-rigidity by paternally upholding that the educative value of definite action must be weighed in the balance against any admitted innocence of those whose conscience (though in error) is at once scrupulous and void of offence. But he still opts for the maintenance of the integrity of Christian principles, the right of the Church to discipline her members, and the avoidance of individualism on a scale that "would stultify any attempt at corporate action by the Christian community".³⁶³ The consensus fidelium is clearly in juxtaposition with an authentic authority in the Church, and on the question of divorce for almost any reason (as Kirk thinks England practises) he is unflinching in his defense of a definitive ideal established by the Church.

It is not our intention, as we stated earlier, to analyze Kirk's position on divorce or the ideals of marriage. All we have been interested in were the ways that he used consensus fidelium, either as found in history or as present within Anglicanism itself, in influencing the moral judgments and practices of the Church. Having pointed out where Kirk has scored valid points, we now move on to a second moral problem, namely birth-control.

b. Birth-Control

We might expect Kirk to be full of arguments in favour of the practice of birth-control in the light of the dramatic changes which took place within the Anglican communion on this teaching between the Lambeth Conferences of 1920 and 1958.³⁶⁴ But such is not the case, and this means that there are but a few allusions to the role of consensus fidelium as a source of moral judgment in Kirk's treatment of birth control. It is another instance in which Kirk showed himself very restrained and reserved, coming around to the turn of events within the Church of England only slowly and gradually, and feeling his way ever so carefully in the light of the authentic Christian tradition that he worked so hard to discover and defend.

In 1925, Kirk defended the outright "Roman" position of the 1920 Lambeth Conference which quite categorically forbade the use of contraceptions.³⁶⁵ Kirk's arguments dipped into the writings of St. Augustine,

Peter Lombard, and St. Thomas Aquinas to show that there was a consistent Christian tradition against birth-control and that "modern conditions" merely by their novelty or greater urgency did not necessitate a reconsideration of the problem. ³⁶⁶ Kirk saw a principle here which the Church of England recognized as wholly obligatory, but he would not admit that she should commit herself to the position that it was obligatory because it is a law of nature. This, of course, is rooted in Kirk's great aversion to labelling too many practices as being first principles of the natural law and therefore in se good or in se evil. But he also found several points of ambiguity and difficulty in the Lambeth Conference's resolution. And finally, Kirk was impressed by the "genuine questionings of serious-minded Christians conscious of the real difficulties of the matter". ³⁶⁷

At this point, he could only regard the growing opposition as a "reasonable doubt; and the matter being one which the vast majority of Western Christians regards as essential to salvation, the doubt would not at present justify a confessor who held it in giving absolution". ³⁶⁸ But this situation would change "If ... our authorities did not avail themselves of obvious opportunities of reiterating the principle during, say, the next generation, whilst the feeling, on the part of seriously-minded Christians, in favour of relaxation grew" ³⁶⁹ This is the first time we have an explicit time-limit given to the growth of a consensus fidelium on a particular moral practice.

Kirk was more concerned with the dilemma in which a confessor found himself, than, with the theological justification of the practice. Thus, he placed strong emphasis on a dissenting priest to keep in close touch with his bishop in order to achieve some kind of uniform practice on the granting or refusing of absolution to penitents who could not bring themselves to believe that birth-control was intrinsically evil.

In 1927, Kirk expanded his treatment of birth-control in a large section of his book Conscience and Its Problems. The problem was always situated by Kirk within the wider concern of "Loyalty" and this is perhaps another reason why Kirk was so reluctant to differ to any great extent with the decision of the 1920 Lambeth Conference. In brief, he was being very cautious, growing consensus or no.

Kirk explicitly quoted the decision of the Conference, but added that "where any principle of morality is actually doubted by Christians of maturity, earnestness and intelligence, this in itself makes it to some extent "doubtful".³⁷⁰ He goes on to point out that there is an important and growing body of Christian opinion which refuses to regard the condemnation of birth-control in any and every case as legitimate, while there is a smaller body of opinion which pleads for the extension of liberty in the matter to the extreme limits allowable under the general law of Christian purity and temperance. Kirk also notices a significant silence on the part of the signatories of the 1920 Lambeth Conference Resolution. In his difficulties with the Report, Kirk even sees in some of the wordings of the resolution grounds on which these resolutions may be viewed more as a "thesis for serious consideration than an ecclesiastical ruling".³⁷¹ This, combined with his other objections, presents Kirk with some grave misgivings about the overall validity of the report's position. The influence of consensus fidelium is at least noticeable in Kirk's thinking here.

Thus far, Kirk restricts any possible exception of the birth-control resolution to hard cases only. He feels that this is the feeling of a great majority of the signatories as well as "of Church people as a whole".³⁷² So the statement of the bishops would be phrased thus: "No Christian may employ contraceptives except in cases of the most extreme urgency".³⁷³

The absolute and total prohibition of birth-control is disqualified by Kirk if it rests solely on the possibilities of grave incontinence or swift moral degeneration if left to the individual to decide. Why? Kirk retaliates by another of his sweeping historical generalizations:

"At first sight nothing would seem more obvious than that the Church should forbid all her members, without qualification, to employ any practice whose social consequences seem likely to be disastrous. And yet as a matter of history such total prohibition of practices simply and solely on the ground of public inexpediency appears rarely, if ever, to have been countenanced". 374

Kirk then instances the questions of gambling and drinking, practices which do untold damage to show that a universal prohibition is not the solution to moral questions which are being condemned solely on the ground of public expediency. As a result, Kirk maintains that the Church has never prohibited any practice, however dangerous to society unless convinced of its immorality on other grounds than these of its social effects. This conviction is intuitive, we are told, and so like all intuitions it may be right or wrong; all Christians alike need not share in it, and it is certainly subject to the possibility of revision. Too often, Kirk argues, we defend an intuition on the grounds that *if* it is covered by a prior and wider intuition, bound together to the present intuition condemning its practice by a chain of arguments known to psychologists as "rationalizations" — arguments devised to support a conviction already there. In such cases, then, the original ground of the conviction, however little its supporters knew it, may quite possibly have been the general inexpediency of the practice; but it has never been the sole ground alleged for it. 375

We are now informed by Kirk that we may not share the intuitions which animated our predecessors in their condemnation of practices deplored by us on the grounds of general expedience alone. 376 But without such an intuition of its inherent wrongness, Kirk refuses to condemn a practice in all cases and in all forms as always wrong, no matter how grave the argument from expediency may be. He reiterates his two dominating principles regarding the Christian law as being the law of liberty, and training the individual conscience to autonomy and self-legislation to as far a degree as possible within the duty imposed by loyalty.

"The multiplication of general prohibitions, beyond the barest minimum required by respect for what was supposed to be known of the absolute moral law, would be fatal to both these ideals. Few things are more impressive than the manner in which — in obedience, we must believe, to this unconscious and unexpressed tendency — the Church has consistently held its hand and resisted the temptation to prohibit practices, however dangerous in character, against which no more than general inexpediency could be urged. Only where

an intuition was current that the practice apart from all questions of consequences, was wrong in itself, might a writ of general prohibition run". 377

Applied to birth-control, Kirk says that we cannot insist that in no case whatever (however menacing and disastrous) may contraceptives be used, unless we have a clear conviction on other grounds than those of social expediency that the practice is always wrong.

This is the kernel of Kirk's position in 1927. There is clear evidence of a regard for the consensus of mature, intelligent and serious-minded individuals. The brunt of his argument, drawn from his discussion on expediency, interests us since this is often one of the key factors underlying a consensus fidelium. Kirk is always careful not to make expediency the only criterion in assessing the morality of an action. But his dismissal of actions as being in se evil when they have been so termed only on the basis of expediency is quite cogent, and it applies directly to consensus fidelium. Inherent in the argument Kirk is using, is the need of some kind of more objective moral evaluations than only those based on a contemporary or local expediency before a practice may be labelled in se evil. And as Kirk has already shown, there are not too many practices that qualify here. He dismisses the natural law argument somewhat summarily, and without too much criticism. While not appealing to it explicitly here as with regard to the question of birth-control, we can pass it over since it is another problem not of concern to us at present.

At this stage, we might note how Kirk's allusions to a more primary and basic intuition than the intuition now being manifested, could be viewed as a way of describing the sensus fidelium present over a large part of the world, and a consensus fidelium based on more particular and local parts of the community, faced with specific or special circumstances of a problem which cause them to formulate local "rationalisations", or local consensus fidelium. These could be authentically Christian only if they differed from traditional Christian moral teaching on matters which were not in se evil. Very much hinges on this question, but granted Kirk's premises about it, then what we do have here is a first class example of consensus fidelium as a positive source of moral judgment regarding the practice of birth-control.

All of Kirk's arguments thus far were speculative, however. The question was very much still in evolution. Opinions were still being formed. In 1930, the Lambeth Conference took a radical step, and officially endorsed the practice of birth-control, albeit with reservations and much ambiguity. ³⁷⁸ Kirk was now in a position to further clarify his views on the question.

But this did not happen in any radical way. The foundations of his basic position had been laid in his earlier articles, and all we find in subsequent writings are strong insistences that the Church not be overly-influenced by arguments based on feeling rather than discernment. In an article in the Church Quarterly Review in 1930, Kirk said that "the test of an ideal lies after all in the number and character of the concessions which its upholders are prepared to make to human frailty; and in the present case the concessions are at once so obscure and so perplexing that they demand the most careful scrutiny". ³⁷⁹ Apparently ten years' time was not good enough to warrant such a complete change of position in the Anglican Church in Kirk's mind, because he was most critical of the position the Bishops had taken on birth-control. He wondered what new facts or considerations had emerged since 1930, and he even asked whether another about-face would take place in another ten years' time. Indeed, he does not "recommend" any Anglican to act upon these principles, claiming that they represent "nothing but a ballon d'essai, sent up to test Christian opinion on a series of disconnected questions concerning the main theme". ³⁸⁰ Yet he admits that many Anglicans recognize that contraception is legitimate and he even begins to question the use of "primary" when referring to abstinence as a means of birth-control.

Kirk republished Conscience and Its Problems in 1933 and indicated in an introductory note the changes he made in his treatment on birth-control in the light of the newer resolutions of the 1930 Lambeth Conference. He stressed that the problem still remained "a problem of loyalty to the Church - that is to say, under the heading of "Doubt" and not as one for the wholly unfettered decision of the individual". ³⁸¹ Most of his treatment (as in the 1927 ed.) still remains the same with

respect to our theme. One of the conclusions that he repeats is that he has done no more than endorse the present attitude of the Church of England. This is given as "evidence that the Anglican good sense endorses the reformed probabilism upon which we are working, and would confidently allow it to be applied in other cases where the decisions of conscience remain doubtful".³⁸² Kirk heavily emphasized the necessity of close consultation between the laity and the clergy on the question and also urged that dioceses set up groups of clergymen to advise others on the problem. Medical men are also urged to be called in on the difficulty, a healthy approach towards putting the consensus fidelium into action on a specific moral issue.³⁸³

And so the problem of consensus fidelium as a source of moral judgment is treated as an influencing factor in Anglicanism's official teachings, but not without reservations by Kirk. Somehow, we feel that he did not want public opinion and consensus fidelium to outrun the theological background and precision that he always sought to discover and set down on specific moral issues. And while the general force of his thought up until now has definitely contained a great regard for the collective community conscience, on questions affecting marriage and birth-control, we see a certain reluctance to subscribe too quickly to the trends of the day. Kirk died before the final step was taken by the Anglican Church in its pronouncements on birth-control.³⁸⁴ Heavy diocesan duties, ill-health and age, greatly curtailed his writing from 1946 onward, and so we have no real indications of any parallel development in his thought on this question as it was taking place within the rest of Anglicanism.³⁸⁵ And it is here that we can criticise Kirk since he did not follow his premises to their logical conclusions. He clung to his conservative views on birth-control much longer than he should have in view of all that he said about a growing consensus, the lack of finality about the question based on the premise of birth-control being in se evil, or the refusal to base any moral practice solely on the basis of expediency. But for all his caution and wariness on the role of consensus fidelium as it is developing, we can note the positive aspect that there must be a close dialectic and dialogue between all offices within the Church if the true Christian practice for today is to be discerned.

c. Gambling, Lying and War

In each of these perennial moral problems, Kirk made a few

comments that give us a few final clues as to the role of consensus fidelium as a source of moral judgment. Since the remarks are quite familiar, it will be sufficient to simply mention these and pass on with as few comments as possible.

Kirk could not bring himself to believe that gambling could be in se evil, nor could it be absolutely forbidden by the Church on general grounds of expediency. Thus, Kirk argues for a definite parity of matter in gambling, and also to a valid distinction between betting only one shilling on a horse when you can afford it, and squandering a much larger sum of money when you cannot afford it. He says that there is nothing wrong at all with the former bet, and goes so far as to base his argument on common-sense: "If the common-sense of mankind is any test at all of truth, the truth is on their side".³⁸⁶ What is wrong is having many shillings on many horses when you cannot afford it, and this is so wrong in almost every case that Kirk feels we can expect the force of argument to appeal to every sensitive conscience. This is readily accepted by almost everyone and the simple example of betting one shilling vs. betting many shillings is used by Kirk to show that "In all moral questions an appeal to the phraseology employed by ordinary serious-minded Christians is, though never final, of considerable value".³⁸⁷ Kirk now lards his text with many examples of how ordinary people will readily distinguish between the use and abuse of theatre-going, alcohol, and gambling, as opposed to a common refusal to use the same distinction for adultery, cruelty, or dishonesty. Here Kirk argues, we have a small indication which can help us to determine what may be inherently sinful or wrong, and thereby cannot be "abused" or "indulged in to excess", and what is not inherently wrong. Consensus fidelium is once more at work.

With regard to lying, Kirk found people both sensible and somewhat lax. They were sensible because they seemed to readily admit, quite instinctively, to exceptions that could occur in every-day life, to the telling of an absolute truth. Some actions reveal more of the moral condition of their agent than others. To see a man reading a novel does not imply that he is an idler, but to hear him tell a lie implies according to Kirk, that he is habitually careless about the truth.

This conclusion "would seem to depend in the main upon the known habits of contemporary society as a whole".³⁸⁸ If we have a society of drunkards, we can readily suspect everyone who has recourse to the bottle to be a toper, while in a moderately sober society, the same suspicion is slow in arising. "And because the modern conscience", concludes Kirk, "is on the whole sluggish in this matter of truthfulness, a lie is only too often the sign of general unreliability".³⁸⁹

We can only conclude from this that a consensus fidelium may help us to maintain a human balance in our moral ideals lest we become too rigoristic and idealistic, but it can also be in need of education and inspiration lest it become complacent and lax about practices that are falling too far below what any concept of the Christian ideal can include and still allow the practice to be called Christian.

In 1945, the Bishop of Chichester, Dr. Bell, sought out Kirk's opinion about the appointment of a committee of moral theologians in the Upper House of Convocation to consider the atomic bomb in relation to the laws of war. Kirk did not favour this move and his reasons directly interest us. He felt that such a committee should include more specialists and not only moral theologians. Kirk wanted to see the considered opinions of expert scientists as well as other strategists of eminence included in the committee. Anything less would only produce another amateur and uninformed production of which there are enough being poured forth already, Kirk complained. Numerous complications were envisaged by Kirk which did not seem to make the project feasible nor profitable. Then Kirk makes a statement that is a direct-hit for our enquiry:

"So you see, I cannot support your Resolution. In this, as in so many other matters of faith and morals, I am certain that the main road of progress in the Church of England is by means of unofficial publications by groups of thinkers (or indeed by individuals), upon which, in the end, the mind of the Church passes its judgment in practice without official resolution. This is how Law, Morals and Foundations were treated, and their influence is still felt; whereas the official reports of Commissions have for the most part been forgotten within a few years of their publication".³⁹⁰

This is an amazing statement, for it gives practical expression to how consensus fidelium can be explicitly crystallized within the Christian community. It also shows how it emerges as a leaven in

and outside the often restricting confines of official Church committees. There is a note of freedom here that was an essential factor in our working descriptions of consensus fidelium that we set up in our first chapter. And its gradual acceptance or rejection by the judgment of the mind of the church without official resolution can easily be compared to all the practices in the Church that we have so meticulously described as having grown up, or died out through this internal dynamic action of the Spirit acting through consensus fidelium. Kirk must surely have had other more unsettled problems (such as birth-control) in mind when he wrote this letter to Dr. Bell. At any rate, he has summed up in a nutshell one of the precise ways of operating that consensus fidelium uses when it is applied to moral judgments. 391

V GENERAL CONCLUSIONS TO CONSENSUS FIDELIUM IN KENNETH KIRK

It is now our task to bring together the major developments we have discovered in Kirk's writings concerning consensus fidelium and moral judgments. Our comments within the text have given us the ad rem evaluations and criticisms that were needed as we examined each category under discussion. Throughout our work, innumerable wider and more complex issues of theological concern appeared and were explained at some length. It is not our intention here, then, to draw up an extensive criticism of Kirk's moral theology. Only his use of consensus fidelium as a source of moral judgment is our immediate concern.

We did not attempt to relate in any great detail the direct relationship between Kirk's use of consensus fidelium and the use we found in his mentors, though we did allude to it in the text as often as it was clearly manifest. What we did try to show was the emergence of the theme itself, in the writings of the "line" of Anglican moral theology. A more explicit comparison of Kirk with his mentors on the subject would be a work of a slightly different scope.

It is not surprising, however, that Kirk, for example, felt that the English Church could consider itself consensually able to reform a law whether human or divine in the sense that, because all laws are expressed in human terms and to this extent capable of some admixture of error as to their expression, then they are "reformatibiles". This was the claim of Article XXXIV, and Kirk followed this up in his thinking on the relativity of the moral law. Any consensus fidelium which appeared in the Anglican Church concerning a moral question could rightly be pointing towards an aspect of the moral law which needed a fresh approach in order to determine again what was divine and what was human in it. The germ of the role of consensus fidelium, active within a specific religious, albeit national, community and inherent in Tudor theology, has matured in Kirk's writings.

This happened as well with the manifestation of consensus fidelium in Richard Hooker under the forms of goodness and wisdom. Hooker was definitely working within a very Aristotelian and Thomistic aura in his treatment of these themes.³⁹² Kirk followed him up at far greater length when he frequently spoke of the consensus of mankind and the common mind of the Church on what constituted certain basic acts of goodness generally accepted by most men, or the consensus fidelium concerning virtues, or even the very Anglo-Saxon expression of common-sense as being informative to certain qualities and actions that would be regarded as good moral practice. Kirk also accepted Hooker's great emphasis on reason and law, which did Kirk in good stead when tackling consensus fidelium as it appeared in the eighteenth century under such schools as the "Sentimentalists", or "The Morality of Common Sense", or the prevalent notions of Hobbes which had achieved popularity just before Kirk's time. And finally, we can even see a close relationship between Hooker's thinking concerning the layman's active role in determining Church policy and Kirk's thinking of it. The consensus fidelium here has more than flourished in Kirk's writings.

Then too we would remiss if we did not at least allude to the great similarity that exists between the Carolines' use of consensus fidelium and Kirk's development of it. Robert Sanderson stressed very strongly the role that consent of the people plays in the legislating

and validating of laws. Kirk pursued this point further with numerous examples from earlier Anglican and Roman theologians to show that the law did depend to some extent, at least for its implementation and ultimate validating power, on its acceptance by the greater part of community. Here we can dispute with Kirk if he is trying to assert that positive laws need the approval of the members of the Church. Catholic opinion here would dispute this. The Church is not a democracy, and any tendency to make its legislative authority dependent on the consensus fidelium would soon emasculate one of the key concepts of the Christian community, namely legislative authority, that has been with it since apostolic times. Essentially, Kirk would agree to this, but all too often in his efforts to uphold the rights of individual consciences and the collective community conscience, he leans towards this misunderstanding of the role of consensus fidelium with regard to the validating of human laws. And the exceptions that he does instance, indicate legislation that has gone beyond the binding force of the law in making a practice a moral absolute in places or circumstances where it cannot be such. In this case then, and for serious reasons, the law does not apply, and the proof of it is its rejection by a large part of the community. Here, the consensus fidelium is not denying the Church's authority to legislate apart from it, but asserting the existence of conditions where the legislation must be qualified according to particular circumstances.

We also have Kirk giving much credence to the role of the "Voice of Society", "traditions" and "intuitions", and the general opinions of mankind as well as custom, in the formation of moral judgments. The connection with Jeremy Taylor is immediately evident, particularly in the role attributed to the Law of Nations and custom. Kirk's moral theology with dogmatic, ascetic and mystical theology intertwined in it, is a clear throwback on the work of Richard Baxter. And Kirk's references to Cardinal Newman and Bishop Butler were mentioned as they appeared in the text, as well as a few usages of some of the Lux Mundi school of

of thought such as their insistence on a fresh look at the role of the Holy Spirit acting in the community today.

This is all we wish to mention regarding the link-up between Kirk and his mentors. The development of the theme of consensus fidelium together with its excesses and pitfalls, has been described in the conclusions to each section and chapter. All that remains now is to formulate a general assessment of Kirk's teaching on consensus fidelium.

Standing back from all our individual specific references to consensus fidelium as a source of moral judgment in Kirk, we can see that it is definitely a positive way the Holy Spirit uses in guiding the Church in ways of acting relevant to each epoch and nationality. It is rarely so fixed and certain that it can be pointed to as an absolutely certain norm or guide. True, there are some moral practices that have, and still do, enjoy consensus fidelium that is generally universal. But it is this very quality of "universality" that is so beguiling. Kirk's writings have shown that very often what was generally considered to have been a practice approved by a universal consensus fidelium, often turned out to be so influenced by other pressures such as indulgence, expediency, or incorrect information or falsely understood concepts concerning the nature of the consensus, that, with newer insights and accompanying disagreement in some quarters of the Church, it could no longer be considered as a viable and authentic consensus fidelium. This means that each moral practice involving a consensus fidelium as one of its criterial norms, must carefully be considered in the light of all the factors that have led people to believe and act the way they do. Kirk is right in insisting that there are few first principles of the natural law concerning moral practices that we know with absolute and unflinching certainty. And many practices which Christianity has traditionally accepted on the grounds of a consensus fidelium as being first principles of the natural law ^{and} in se evil may well need a fresh examination.

But Kirk is sometimes hard to pin down here. On the one hand he will opt for a clear-cut objective moral law towards which we must be always striving, and on the other he will head off into a relativity that seems to deny any objective moral order whatsoever, short of the broadest and most general axioms. This makes him very hard to consider as to just what the Church teaches on many burning moral questions of today. Now in one way, his a posteriori, empirical and pragmatic approach is a healthy reaction to the overly-a priori orientated manuals which he is criticising. But without a more precise ontological moral teaching, even though presented not as universally, perpetually, and intrinsically binding, but at least as binding now for the normal Christian living in this particular country and time, then it is impossible to set up a truly effective and contrasting dialectic between the consensus fidelium and the official teachings of the Church. Over and over again, we have met this essential dialectic that appears in Kirk's theology and in the Christian experience itself throughout the ages. It is fascinating concept when attempting to decide the value of various methodological approaches in the formulating of moral judgments, and the seminal insights that our discussion of consensus fidelium in relation to a demarcating teaching authority within the Church have provided us with, can well be pursued further with regard to putting into practice this kind of methodology in moral theology.

But with a perennially vague and watered-down teaching authority within the Church, then we arrive at a morality whose ideals become submerged in complacency, mediocrity, and humanitarianism. This does not mean that we prefer a teaching authority that necessarily binds all its members, always and everywhere in a straight-jacket of sin and culpability. This is choosing a Church that simply goes back to the old, strictly exclusive, Ecclēsia docens - Ecclēsia discens idea. But, a more definitive and compelling moral idea is definitely needed so that the consensus fidelium, left to itself, does not end up by always seeking the lowest common denominator, a phenomenon that Kirk himself noted. Kirk's weakness is the weakness of Anglicanism.

But let this not be taken as the last word on the subject, for the respect that Kirk gives to consensus fidelium as it emerges in modern times is one that all of Christendom can learn from. The consensus fidelium

of Kirk often includes the whole Church and not just the laity. Witness his respect for the influence of small groups of thinkers such as those in the Oxford Movement or Lux Mundi. It has a witnessing value for both the traditions of the past and those of the present. It points to an understanding of revelation that includes both a certain kernel of "given" or "depositum", which is very seminal and small in actual content, along with a developmental Spirit that provides the Church with a continually experimental, ad hoc, novel, creative and "noisy process" of growth for its moral practices. All his examples from the Christian tradition point to this modus operandi and the consensus fidelium shines out as the past and present, assembling free, harmonious, local, and generally agreeing collection of all available and converging probable arguments that go into the explicit expression of this moral norm. And if our string of adjectives appears to be unduly superlative in usage, it is only because consensus fidelium needs such a highly qualified list of conditions before it can produce a norm that is significant for Christian witness today. It can never be considered alone, and it should never be evaluated and applied with undue haste or alarm nor with a binding force that is more demanding than the Spirit Who underlines it, and under whose prayer-sought patronage it must be assessed.

Leo Tolstoy is reported as saying that every important idea is simple. Kirk always felt that all of our moral ideals and practices will be ultimately related to our concept of God. While he did not develop this theme to any great extent explicitly with regard to our theme, nevertheless it is an idea well worth pondering in all of our moral turmoil and indecision today. Perhaps in some of our consensus today, we have lost sight of the real nature of the God whose life we are struggling to live. Kirk maintained that it is only as we continue to turn to a spirit of disinterestedness and love in our everyday lives that we will approach the true consensus erga Deum that would change our moral attitudes. It is only when we have fully realized God is love, as Kirk himself said following in the footsteps of Christ, St. John and St. Augustine, that we can properly orientate any consensus fidelium in the direction that such a loving God wishes. Consensus fidelium as a source of moral judgment is a many-splendored factor indeed.

FOOTNOTES FOR CHAPTER THREE

1. "Indeed, the more deeply and extensively Kirk moves from the renovationist intention and starting point of his analysis, the more difficult it is to see that he departs at all, except for alterations in language, from the familiar manuals of Roman Catholic moral theology." Paul Lehmann, Ethics in a Christian Context, London, 1963, p. 305.
2. Cf. Situation Ethics, The New Morality, London, 1966, p. 73 and 129.
3. Fr. Pütz confirmed this by correspondence to the writer. We have also alluded to this in Ch. 1 when discussing Kirk as a teacher. V. Demant refers to this in his article "Kenneth Kirk as Moral Theologian", The Church Quarterly Review, Oct.-Dec. 1957, pp. 423-434.
4. "The Bishop of Oxford seems to almost to outdo Fr. Davis in the detailed schematization with which he proposes a program for the progress of the soul." Paul Lehmann, op. cit., p. 305.
5. "Au XIX siècle l'incroyance progresse entraînant un divorce entre le dogme et la morale. Aussi les moralistes croient devoir fonder leurs principes moraux sur une métaphysique rationaliste ou, s'ils abordent l'Ethique Chrétienne, ils s'en tiennent au point de vue apologetique : la morale chrétienne peut apparaître comme la plus noble même jugée par le seule raison." FROST, p. 29.
6. Cf. The Coherence of Christian Doctrine, London, 1950, pp. 4-7.
7. AM, p. 32; He calls theology "the inner life of the organism", in The Coherence of Christian Doctrine, p. 4.
8. KEMP, p. 15.
9. SPMTh, p. 89. John L. McKenzie echoes similar sentiments about the New Testament: "Primitive Christians needed to see the impact of their belief on their conduct, and the New Testament makes this impact clear." Authority in the Church p. 131. T.B. Strong traces the same problem from Reformation times: "It is customary to regard it as almost a paradox that the creed should be in any way necessary or advantageous to high moral life. Not only have the particular forms of Medieval and Patristic ethical theory disappeared, but the principle which, as I have maintained, underlay them has also gone out of fashion. The Pauline habit of enforcing a moral precept by reference to strictly theological considerations which I do not think would have seemed strange in former days, has come to look strange now." Christian Ethics, p. 319. Kirk's tendencies, then, were only restorations.
10. FROST, p. iii.
11. VG, p. 9.
12. Cf. SPMTh, p. 12.
13. Cf. Moral Theology, No. VI of Annotated Lists of Books on Religion and

- Theology, ed. by E. Underhill, M.A., London, 1920. pp. 1-5; Kirk was criticised for his lack of social setting or consideration of the Biblical idea of the Kingdom of God. Cf. Some Principles of Moral Theology and Their Application, a review in Theology, July, 1921, by L.S. Thornton. p. 52.
14. SPMTh, p. 82, footnote 1.
 15. SPMTh, p. 83.
 16. Ibid.
 17. CAIP, pp. xv-xvi.
 18. Cf. John Henry Newman, Development of Dogma.
 19. CRISIS, p. 2.
 20. SPMTh, p. 88.
 21. Ibid.
 22. CAIP, p. xiv.
 23. CAIP, pp. xiv-xv. "Moral theology accepts unhesitatingly the data of Christian dogma. It assumes the reality and possibility of a communion with a personal and living saviour; and therefore claims the right to interpret the phenomena of Christian experience in terms of that communion." SPMTh, p. 131.
 24. STUDY, p. 263.
 25. Ibid. Kirk defends his "minimum" concept of moral theology by showing how a lack of minimums simply leads one to rigorism and Puritanism. Cf. ibid., pp. 364 ff.
 26. Cf. SPMTh, pp. 1-25.
 27. He is referring to SPMTh, Kirk's first major work in moral theology. The remark is valid for all of Kirk's theology.
 28. FROST, p. 29.
 29. SPMTh, pp. 7-8; also, cf: STUDY, p. 393, where Kirk lists his authorities as Scripture, the Church, reason, or two of these combined, also, cf. SPMTh, pp. 8ff; and FROST, pp. 29-30. J.A.T. Robinson puts it this way : "The raw material of an ethic is provided by the ethos of a society or a country, or a group." Christian Morality Today, p. 14.
 30. Cf. VG, pp. 1, 13, 467; also FROST, pp. 43-120.

31. Th. of E., p. 165.
32. SPMTh, p. 28.
33. Ibid.
34. Ibid., p. 131.
35. Cf. SPMTh, p. x.
36. Cf. SPMTh, p. xi. Also, R. Page, New Directions in Anglican Theology, p. 166, gives other references which substantiate Kirk's position.
37. The "juristic spirit" of Roman Catholic Moral Theology is said to formulate "morality almost entirely as a system of law or duty propounded to the Christian for his complacent acceptance and obedience, and, like every such system, it can deal throughout only with external facts." MTSP, p. 6. "Conscientiousness, in fact, is not demanded of the individual in the Roman system, and where conscientiousness is not demanded we can scarcely expect that it will be found. To accept the verdict of another as final is always the easiest and most comforting proceeding, and both in faith and morals we may fairly say this is not merely allowed, but even encouraged by the formularies of Roman Catholic theology." Ibid., p. 8.
38. Cf. SPMTh, p. 194.
39. Kirk, reviewing three non-Jesuit Roman Catholic manuals (Dom. M. Prummer, Manuale Theologiae Moralis; Antony Koch and Arthur Preuse, A Handbook of Moral Theology; G.F. Belton, Present Day Problems in Christian Morals) was more favorable to them than the Jesuit manuals about which he made his comment: Theology, July, 1921, p. 52.
40. Cf. SPMTh, p. 36.
41. MTSP, p. 3.
42. "It should proclaim Christian morality as a complex of definite, unalterable duties towards God, whilst at the same time it makes the strongest possible demand for the conscientious and righteous expression of the whole man in and through the whole of his life." MTSP, p. 10.
43. SPMTh, p. 36.
44. Ibid.
45. Ibid., p. 9.
46. Ibid.
47. FROST, p. 30.

48. Cf. SPMTh, pp. 33, Frost mentions Kirk's lack of any treatment on grace or merit in SPMTh; FROST, p. 333.
49. Cf. ibid., pp. 16, 133, 134.
50. SPMTh, p. 18
51. Ibid.
52. Ibid., footnote 1.
53. Ibid., p. 47.
54. Ibid. Kirk distinguishes between his general tendency to progress and our approval or disapproval of particular actions. Cf. SPMTh, p. 177. For a full treatment of Kirk's thinking on conscience, cf. F. Frost's Licentiate thesis La Conscience morale dans l'oeuvre de Bishop Kirk (1886-1954), Université de Lille, 1958. It has been incorporated substantially into his doctoral work: FROST, pp. 215-315.
55. SPMTh, p. 7.
56. Ibid.
57. Ibid., p. 133.
58. Ibid.
59. Theology, December, 1925, pp. 325-26.
60. Ibid., p. 331.
61. SPMTh, pp. 7-8.
62. Ibid., p. 7.
63. SPMTh, p. 24.
64. Bishop Robinson is strong on this point and goes a step beyond Kirk: "Moral theology in particular — is to be understood as an inductive discipline. It proceeds empirically, from the particular to the general. It starts from persons rather than principles, from experienced relationships rather than revealed commandments. But it does not disclaim authority. Indeed modern science has a high authority. Its authority is of a different kind." Christian Morals Today, p. 35. Cf. also —, The New Morality, p. 37.
65. Cf. STUDY, p. 393.
66. SPMTh, p. 89.
67. Cf. ibid., p. 88.

68. CAIP, pp. xiv-xv.
69. SPMTh, pp. 7-8
70. SPMTh, p. 131.
71. Ibid., p. 36
72. Cf. MTSP, p. 3.
73. Cf. SPMTh, pp. 18ff.
74. Theology, LXVIII, (March, 1965), p. 122.
75. VG, p. 301.
76. Cf. VG, pp. 5-6.
77. Cf. VG, pp. 8; 208ff.
78. VG, p. 97.
79. Op. cit., Montreal, 1969 p. 135.
80. "This consensus develops in the historical framework of the Church's perception of revelation and its authoritative exposition, a situation which both promotes and demarcates the consensus." Ibid.
81. VG, p. 429, footnote 1.
82. VG, p. 444.
83. VG, p. 179. M. Löhner notes the usefulness of the "consensus Sanctorum": "in ihnen ist der Glaubenssinn am meisten ausgeprägt, und in ihrem gelebten Zeugnis spricht sich ein Erfahrung aus, die der ganzen Kirche zugute kommen will und soll." Mysterium Salutis, I, p. 555. The revelation by the Holy Spirit of important truths to the individuals is claimed as a "third witness to the word of God", by a report presented to the Archbishop of Canterbury by a group of Free Churchmen; cf. R. Newton Flew and Rupert E. Davies, The Catholicity of Protestantism, London, 1950, p. 118.
84. Cf. VG, p. 275.
85. Eg. The third Council of Toledo in Spain, 589 A.D., in which the practice was condemned. Cf. VG, p. 507 (ii).
86. VG, p. 280.
87. VG, p. 292.
88. "Family Planning: An Irenical Approach", The Expository Times, 75 (Dec. 1963), p. 82. John Henry Newman also mentioned this influence of consensus fidelium: cf. Development of Dogma,

Ch. IX, no. 2-3 pp. 277-8.

89. E.g. The Relationship of prayer and consensus fidelium is hinted at in reference made to the circumstances surrounding the reconciliation of penitents: VG, p. 151. Kirk also mentions the danger of translating what is true of some Christians into a final criterion of sincerity to be applied to all Christians without exceptions: ibid, p. 233.
90. "Dans le même sens, nous sommes obligé d'employer souvent le mot eglise sans préciser exactement comment Kirk l'entend." FROST, p. 311.
91. Cf. Pütz, pp. 64ff.
92. Op. cit., p. 29. Cf. also, S. Neill and Hans-Kuadi, The Layman in Christian History, London, SCM, 1963, pp. 229ff.
93. Ibid., p. 31. These "canons" refer to legislation passed by the Convocations of Clergy which had not been meeting regularly until the 19th century. Thus, there was a real divorce between the legislations of Convocation, which were thought to be only for the clergy in spiritual matters, and that of Parliament, which was needed in any case to make any new legislation to be of unquestionable force and efficacy. The situation was stultifying any effective ecclesiastical reform, to say the least. Cf. ibid.
94. Cf. ibid., p. 33.
95. Op. cit., p. 149.
96. Ibid., p. 150; cf. also BE, p. 17, where Kirk develops the "shepherd" image.
97. SSM, p. 141.
98. Ibid., p. 135.
99. KEMP, p. 148.
100. CAIP, p. 83.
101. Ibid.
102. KEMP, p. 148.
103. Cf. CAIP, pp. 222ff, where Kirk weighs the advantages and disadvantages of this feature of the Church of England. Pütz felt that Kirk "did not see clearly that the clergy-laity relation in itself creates a social tension, the symptoms and expressions of which lend themselves too easily to a moral explanation. These tensions would emerge even if the clergy exercised a pure essential ministry released from the paraphernalia of sensitive appraisal of the respective roles and their changing relationship."

- Op. cit., p. 80. We must remember, too, that Kirk became a bishop, and with the apostolic foundations challenged, he "felt obliged to lay due stress on its unchangeable essentials." Ibid.
104. We must be careful not to make Kirk into any close follower of Henry VIII, especially "in ecclesiastical matters." However, on some points Kirk espoused the views of the King, particularly here where the King claims for the national church in England the right to declare and determine questions even in the case of "divine Law." Cf. CAIP, p. 90-1.
105. Ibid., p. 92.
106. "The tendency in modern times seems to be due to the prevailing juristic interest of the Society of Jesus, which culminated in their doctrine of the Church as a Societas Perfecta, and received an enormous stimulus by the withdrawal, first through the Protestant Reformation and then through the French Revolution, of the 'checks' upon the legalistic Universities." SPMTh, p. 11, citing F. von Hügel, Eternal Life, pp. 357-58.
107. Cf. The Apostolic Ministry (AM), London, 1946. 573 pp. A good selection of criticisms was published by Stephen Neill, The Ministry of the Church, London, 1947.
108. AM, p. 4.
109. Ibid., p. 8.
110. Cf. ibid., pp. 27-28; 39; 49; Also, cf. BB, pp. 117-37; and 146, where Kirk treats of these problems in the light of non-denominational theology. Leonard Hodgson defends the distinction between the 'visible' and 'invisible' Church in his article in The Nature of the Church, (ed. R. Newton Flaw), London, 1952, pp. 132ff.
111. AM, p. 31; also cf. p. 40.
112. Ibid., p. 31.
113. Cf. BB, pp. 138ff.
114. Cf. BB, pp. 120-127.
115. AM, p. 48.
116. This is Kirk's "like-to-like" doctrine. Cf. SSM, p. 136; also, SPMTh, p. 174.
117. ODM, Dec. 1938, p. 329.
118. ODM, Sept. 1939, p. 210.
119. Cf. ODM, July, 1945, p. 62. Kirk also feels that it is the laity who should take the initiative in prayer when the priest visits their home. Cf. ODM, August, 1938, p. 219.
120. Cf. SPMTh, pp. 171-74.

121. SMPh, p. 133. Kirk gives us an interesting observation from Cassian who says that "Holy Spirit is not wont to reveal directly to men anything that may be learnt through human teachers." Ibid., p. 134, footnote 1.
122. Kirk mentions that "Always for the consecration of a bishop it has required some degree of assent from the laity;" AM, p. 29.
123. Ibid. Cf. LTHK, III, col. 43; Patrick Granfield says, "It is more correct to say that the teaching Church and the learning church are united in learning." "Ecclesial Cybernetics: Communication in the Church", Theological Studies, 29(Dec. 1968), p. 672.
124. CAIP, p. 67. This witnessing and teaching by all members of the Church has received recent emphasis by many writers. Thus, J.N. Sanders refers to philosophers, poets, (even an independent one!), and prophets as being other "authorities" in the Church. Cf. "The Meaning of Authority in the New Testament", Soundings, pp. 130-3; For the value of art, especially of the film, in teaching morality, cf. J.A.T. Robinson, Christian Morality Today, p. 47. The New Testament speaks of Christ's investing certain charisms with teaching authority, but they were always subject to the hierarchy. Cf. Francesco Cardinal Roberti, Dictionary of Moral Theology, London, 1962, p. 687.
125. CAIP, p. 68. Henry Wace has a good summary of Anglicanism's sources of authority. Cf. Principles of the Reformation — Practical and Historical, London, 1910, pp. 244ff.
126. CAIP, p. 68.
127. E.g. cf. J. Beumer, "Glaubenssinn der Kirche als Quelle einer Definition," Theologie und Kirche, 45(1955), p. 254.
128. Cf. AM, p. 50.
129. Cf. BB, pp. 140ff.
130. Pütz, p. 157, citing H.H. Nenson, Retrospect of an Unimportant Life, Vol. III, 1939-1946, Oxford, 1950, p. 383.
131. Pütz, p. 71, Cf. MD, (1933 ed.), p. 154.
132. Cf. Pütz, pp. 5-7. This is a difficult point to explain in Anglican thinking since there is a wide range of opinion on it. Kirk definitely tended towards a more clearly defined teaching role for the clergy than other members of the other extremes within Anglicanism would have preferred. However, Kirk stressed (as we shall see) that this was a "moral" authority in questions of practice, a fact that agrees with what we said earlier about Article XX, and also what the Lambeth Conference stressed in 1948. For further discussion, cf. The Lambeth Conference, 1948 Committee Report, Part II, pp. 82-6; Charles Gore, The Holy Spirit and the Church, pp. 152ff. Also, John Todd, Problems of Authority, London, 1962, pp. 87ff.
133. "Magisterium", Sacramentum Mundi, III, p. 358.

134. SPMTh, p. ix.
135. Ibid., p. x.
136. Cf. FROST, p. 8. For a casual introduction into Kirk's manner of administering his diocese, cf. KEMP, Ch. VI, pp. 72ff.
137. CAIP, pp. xi-xii.
138. Th. of E., p. 17. Cf. also IFC, p. 142.
139. Freedom from oppression, from want, of speech, and of worship.
140. ODM, March, 1945, p. 21. Kirk also notes that "the New Testament uses the same word ("exousia") for both 'freedom' and 'authority'; indeed it is often difficult to know which of the two English words to use as the equivalent of the Greek. For freedom of speech, truly and fully realised, carries conviction with it; it is redolent of authority." Ibid., p. 22.
141. SPMTh, p. 196.
142. Ibid.
143. Ibid., p. 197.
144. MTSP, p. 3.
145. E.g. cf. SPMTh, pp. 6-7.
146. "The Father whom Christ revealed is not such as to demand that His Church should be organised and governed in this fashion." EB, p. 125.
147. Thus Kirk quotes from Melchior Cano (+1560), IFC, p. 144. Kirk also adds that Cano appears to be the first Medieval theologian to apply the Church's claim to infallibility to questions of morality. Hammon has some incisive remarks on the role of infallibility in the research being done today concerning "Glaubenssinn." Cf. op. cit., p. 250.
148. IFC, p. 144. Cf. F. Hood, Ignorance, Faith and Conformity. A Review, Theology, August, 1925, pp. 103-4, where Kirk's explanation of infallibility and indefectibility is praised. Kirk defines "indefectible" as being "incapable, under the guidance of the Spirit, of failing in the long run." CAIP, p. 69, footnote 1.
149. IFC, p. 145, citing Wm. Palmer, Treatise on the Church of Christ, 3rd. ed., London, 1842, vol. ii, pp. 89-93.
150. "Pour lui, l'autorité ecclésiastique n'est, au fond, qu'un épiphénomène de la conscience collective. Ce sont tous les membres de l'Eglise qui, ensemble, fondent l'autorité de ceux qui se voient octroyer une juridiction officielle. En ce sens, toutes les initiatives, toute la responsabilité pour les lois et les institutions en cours, reviennent à la conscience individuelleC'est la pousée de la conscience collective qui est la vraie cause des changements. C'est pourquoi l'autorité mandatée par

Dieu est, en dernière analyse, l'autorité de l'ensemble des consciences." FROST, p. 269.

151. Cf. SPYTH, pp. 206-7.
152. Cf. Ibid.
153. IFC, p. 134. Kirk goes on to explain that there seem to be few, if any, moral precepts which actually revolt the conscience of a would-be Christian impelling him to testify against them as fundamentally iniquitous or immoral. He feels that the doctrine concerning the things necessary for salvation is much more explicitly demanding of one's faith than any corresponding moral precept which is always conditioned by circumstances, the gravity of the matter, the degree of advertence, etc.
154. For a full treatment of Kirk's thinking on conscience and law, cf. FROST, pp. 261-317.
155. CAIP, p. 65.
156. Ibid., citing E. Bevan, Hellenism and Christianity, p. 245.
157. Cf. IFC, p. 145.
158. CAIP, p. 66.
159. Ibid., p. 67.
160. Ibid.
161. Ibid., p. 69.
162. Ibid. Daniel Maguire expresses this too: "The truth lives in us as something open, a disposition for more truth, for correction and completion. In a sense, human knowledge is never free of error inasmuch as it is never complete. This is not to say that it is invalid; it embodies the real, but for homo viator it is never complete or entirely error-free.....This notion was quite alien to the men of Vatican I, who sought to grasp truth nullo admixto errore (Dz. 1786). The term "infallibility" seems to imply a completion that our groping knowledge of reality does not allow. It conforms better to Cartesian assumptions than to modern views of truth." "Morality and Magisterium", Cross Currents, XVIII, Winter, 1968, p. 49.
163. Ibid., p. 70.
164. "Magisterium", Sacramentum Puncti, III, p. 356.
165. "The modern world may be wrong in its outlook, but it is the world with which we have to deal." IFC, p. 126.
166. Kirk alludes to St. Paul: 1 Cor. 4:7.
167. CAIP, p. 103.

168. Ibid., p. 61.
169. Ibid. "Such a study (of the development of the theory of authority during the last four hundred years of the Church) would show how the idea of authority like so many elements in the external structure of the Church, is affected by the culture in which the Church exists and fulfills her mission."
170. CAIP, p. 156.
171. Ibid., p. 62. Kirk's support of conscience is clearly stated on pp. 59-61.
172. Ibid., pp. 62-3. "It is to the Church as a whole that my allegiance is due." Ibid., p. 99; cf. also, p. 215.
173. K. Kirk, The Story of the Woodard Schools, p. 92.
174. CAIP, p. 101.
175. LOYALTY, p. 85.
176. Ibid.
177. Cf. supra, "Gambling, Lying and War", pp. 273ff, especially the section on "War" for Kirk's inclusion of groups such as these in arriving at a consensus fidelium.
178. LOYALTY, p. 87.
179. Ibid.
180. SPITH, p. 88.
181. Ibid. For an interesting article concerning the moral philosophy of community judgments of moral practices, cf. Jonathan Harrison, "Moral Judgments state what a community feels", in the entry under "Ethical subjectivism", The Encyclopedia of Philosophy, London, 1967, III, p. 80. R.C. Mortimer, a disciple of Kirk's, has taken up this same thought of experimentation when he notes; "Authoritative pronouncements are only properly made when they express and articulate the common mind of the Church. To determine what this mind is is a slow and difficult matter. It is not necessarily what those in authority in the Church hold to be true at the moment of the first impact of the new problem; neither is it the half-instinctive reaction of the general mass of Christians. The common Spirit-guided judgment more often emerges or crystallizes slowly after debate and reflection." Christian Ethics, London, 1950. The same idea is also found in one of Kirk's sources: "And this course of change is made possible by experience in society. It is by intercourse, by comparison of different ideals and modes of action, by reflection upon personal experiences, by sympathy with sorrow, caused by injustice but done under the aegis of law and custom, that the evolution is made possible to all." T.B. Strong, Authority in the Church, p. 12.

182. Cf. CAIP, p. 228. One of these conditions is that the person "should have taken full account of all considerations bearing upon the question at issue...." Ibid.
183. Ibid., p. 229. Prof. Moule describes such a local consensus at work in the New Testament Community. Cf. art. cit., p. 372.
184. Ibid.
185. Cf. CAIP. pp. 231ff.
186. Ibid., p. 234.
187. Ibid., p. 238. Kirk says that this explicitly applies as well to the layman. Cf. p. 240.
188. Ibid.
189. Th. of E. pp. 121-3.
190. Ibid., pp. 122-3.
191. Ibid., p. 123.
192. Cf. Kenneth L. Schmitz. "Authority, Community, Communication", Cross Currents, XVII, No. 4 (Fall, 1967), pp. 468-87.
193. CAIP, p. 255.
194. Ibid., p. 256.
195. Ibid.
196. This is in the Anglican sense of a more rationalistic approach to religion which some of the Lux Mundi school were accused of.
197. CAIP, p. 258.
- 197a Ibid.
198. Ibid., p. 259. G.R. Dunsten insists that this "new method of ethical discussion" is essential for our times. Cf. "Editorial", Theology, LXXVIII, March, 1965, p. 123.
199. Ibid., p. 259.
200. Cf. CAIP, p. 265. Also, cf. SPMTh, p. 200, where Kirk sums up his principles for guiding a conscientious Christian in any cause of grave perplexity as being "corroborated by the ordinary common rules of common sense."
201. Cf. CAIP, pp. 26-7. There is such fascinating material to be found in an article describing how the Mennonite religion effectively arrives at moral judgments and discussions, often without even

taking a vote. The "sense of the meeting" is outlined along with several graphic illustrations which give the psychological "response-quotient" (our expression) of various numbers present at a meeting along with different seating plans, etc. Cf. Franklin H. Littell, "The Work of the Holy Spirit in Group Decision", The Mennonite Quarterly Review, 34(April, 1960), pp. 75-96.

202. CAIP, p. 268.
203. CAIP, p. 226. Cf. A.T. Hanson, Beyond Anglicanism, London, 1955 pp. 111-121, for some good observations as to how Anglicanism should revamp some of its current thinking concerning the exercise of authority, the episcopate, etc.
204. SPMTh, p. 125, citing Dr. Figgis, Churches in the Modern State, p.158
205. Cf. ODM, March, 1945, p. 22.
206. Cf. Stephen's Commentaries on the Laws of England, 21st, ed., by L. Crispin Warmington, London, 1950, Vol. I, pp. 3ff.
207. Th. of E., p. 71.
208. Cf. ibid., p. 72.
209. Several of Kirk's references contain much fascinating material about the relationship of the community and the role of custom. Eg. cf. Edward Westermarck, The Origin and Development of the Moral Idea, London, 1912 (2nd ed.), I, pp. 159ff; and II, pp. 478-88.
210. Th. of E., p. 76.
211. Kirk mentions "the small number of cases in which blood-relationship is peculiarly intimate" and which, therefore, still fall under the prohibition. Ibid.
212. Th. of E. p. 77.
213. ETHICS, p. 27.
214. Th. of E., p. 80.
215. Ibid., p. 83. For an interesting article dealing with the role of consensus fidelium as viewed by moral philosophy, cf. J.N. Pindley, "Morality by Convention", Mind, N.S. Vol. 53(1944), pp. 142-169. The author gives several very practical and specific rules concerning the actual traits that must be considered in the ethical reactions of people when they are being evaluated for a consensus.
216. Th. of E., p. 85.
217. Ibid.
218. Ibid., p. 86.
219. IFC, p. 146.

220. Cf. IPC, p. 146, footnote, 1.
221. Cf. CAIP, pp. 81-2; also, IPC, p. 147.
222. Cf. CAIP, pp. 82-3; also, IPC, p. 156.
223. IPC, p. 155.
224. IPC, p. 159.
225. IPC, p. 159.
226. Cf. CAIP, pp. 108-9. The examples are Kirk's.
227. IPC, pp. 157-8.
228. IPC, p. 148. For the value of "non-universality" as a factor in considering a consensus fidelium, cf. J. Deumer, "Glaubenssinn der Kirche als Quelle einer Definition", Theologie und Glaube, 45(1953), p. 257.
229. IPC, p. 150.
230. IPC, p. 154.
231. IPC, p. 150.
232. CAIP, p. 85.
233. Ibid.
234. Ibid.
235. Ibid. p. 86.
236. Ibid. "The process of continuous revision, amendment and extension of the Christian code, which in the last chapter we suggested to be not merely a desirable but also an inevitable feature of the Church's life, is a process consisting in the main of applying the old illustrations to new problems, to discover whether the new so correspond with the old in all essential features that the same principle will cover both." Ibid., p. 106.
237. CAIP, p. 81, footnote 1.
238. Ibid.
239. St. Alphonsus asks "An lex obligat de se, independenter ab acceptatione populi?". He replies: "Certum est, peccare legem justam non acceptantes: ex propos. 28 damnata ab Alexandro VIII quas dicebat: Populus non peccat, etiam si absque ulla causa non recipiat legem a principe promulgatam. Ratio, quia, licet lex de se non obligat, nisi populus eam acceptaret: tamen princeps jus habet ut subditis justas leges suas recipiant." He goes on, however, to question whether "lex ubi non exprimitur velle principem obligare independenter ab acceptatione populi, de se obliget sine populi consensu?" He gives two views :

- (1) St. Augustine: "Leges instituantur, cum promulgantur; firmentur, cum moribus utentibus approbantur" because it will help "suave Ecclesiae, ut perturbatio populi evitetur.... Ideoque multa decreta pontificia de facto non obligant, quia non sunt acceptata." Cabassutius, Valentia, Filiucci, Reginaldus, Bonacina, Covarruvias, and the Salmant. are supporters of the view;
- (2) The contrary opinion (against St. Augustine) maintains that "leges per acceptationem confirmantur facto, non jure.... Notatur autem quod lex tunc dicitur recepta, cum major pars communitatis eam accipit in totum vel in partem." This is supported by Salmant., Laymann, Suarez, and Palao. This opinion, however, receives the limitation that Kirk mentions. Cf. Alphonsus di' Liguori, Opera Moralia, Roma, 1905, Vol. I, Q. 138.

240. "Leges, quae a majore et seniore parte populi acceptatae non sunt, sive civiles, sive ecclesiasticae, reliquos ligare non consentur, nisi Superior demum eas urgeat. Ita etiam ante legitimum desuetudinis tempus legis obligatio cessare vel suspendi potest, quia a) legislator praesumitur nolle paucos obligare ad discrepandum a communitate; b) in iis circumstantiis praesumi saepe potest, propter difficultates legi adversantes epitelikeias locum esse." A. Lehmkuhl, Theologia Moralis, Vol. I, (6th ed.), Friburgi Brigoviae, 1890, p. 94, no. 127(5). Lehmkuhl then refers to the reference we cited from St. Alphonsus. He also cites from Rebellus: "Quod tamen totum referendum est ad legem senes a populo acceptatae; quia lex, quantumcumque promulgata, si a populo non recipiatur, non videtur obligare in conscientia, ac proinde sub hac conditione tacite promulgari videtur, nempe si a populo recipiatur, ut tradit Navar, in sua. cap. 23, num. 41, et videtur communis sententia. Idque non solum si Princeps potestatem condendi leges accipiat a populo (ubi res clarior est; nec enim populus aliter eam potestatem daret) sive a Deo, ut Papa habet, quia licet fideles velint, nolint obligare possit, tamen Doctores ita voluntatem eius interpretantur, quae est ipsius clementia in obligationem suspendi, ne datur peccandi occasio." D. Fernando Rebellus, Opus de Obligationibus Iustitiae, Religionis et Caritatis, Lusitana, 1603, I, 1, q. 5, no. 7, p. 40.

241. CAIP, p. 81. Footnote 1.

242. This section may have been better inserted in our next section on "law" but it is also closely related to custom within a particular community objecting to a law promulgated against it (in a matter in which objecting would be validly allowable, i.e. in matters which are not first principles or certainly Revealed doctrines or practices.) We have chosen to insert its treatment here following Kirk who considers the point under "Custom and Re-Interpretation." CAIP, pp. 80ff.

243. CAIP, p. 87.

244. Ibid., p. 88.

245. CAIP, p. 89.

246. "If we have admitted an admixture of human promulgation even in the most 'divine' of moral laws, we must at all events be prepared to

admit an element of the divine—a bearing upon the genuine requirements of genuine moral behaviour—in the most human or 'ecclesiastical' of laws." CAIP, pp. 276-7.

247. CAIP, p. 90. "Meaning has a tendency to slip out from under verbal formulae; through usage new meanings succeed in attaching themselves to old expressions. It can happen that a verbal change is essential to capture and conserve the original meaning. This appreciation of the character of language is not entirely new. St. Thomas, for example, taught that the act of the believer did not terminate at the proposition but at the reality (II, II, q. 1, a. 2, ad. 2). But it is modern linguistic analysis that has presented this insight with force." Daniel Maguire, art. cit., pp. 49-50.
248. CAIP, p. 90.
249. Ibid., p. 92.
250. Ibid., p. 93.
251. CAIP, p. 97.
252. Ibid.
253. SPMTh, p. 182. Cf. FROST, pp. 261ff.
254. Ibid., p. 12. "'Be thyself' and 'Obey the law' to St. Thomas mean identically the same thing." Ibid., p. 13.
255. ST, I, II, a. 4; cited in SPMTh, p. 182, footnote 1.
256. IFC, pp. 36-7.
257. STUDY, p. 373.
258. IFC, p. 37.
259. K. Kirk, The Ministry of Absolution, p. 7.
260. Cf. Th.ofE., p. 31.
261. So have some theologians today. Cf. Thomas A. Wassner, S.J., "Is Intrinsic Evil a Viable Term?", Chicago Studies, 5(1966), pp. 307-14.
262. STUDY, pp. 384; 387.
263. Ibid., p. 383. Kirk also discusses the age-old maxim "The end justifies the means" as meaning "The probable results of the action justify us in performing it." Ibid. He takes this up in his Epistle to the Romans: "It is possible that the objector had some practical maxim of S. Paul's in view for the rule, 'Do evil that good may follow' (like 'the end justifies the means') is morally sound if the 'good to be produced is a matter of absolute obligation, if it outweighs the evil caused in producing it, and if there is no possible alternative course of action."

(p. 185) He clarifies this elsewhere where he says that the maxim "Do evil that good may follow" is wrong if it is done even though the good may be secured by other non-evil means, or to serve a dispensable good, or to secure even a little good. We must be in a position where we are forced to choose and thus "The claim of the one end justified us, in the circumstances of the case, in setting aside for this occasion the claim of the other end." Cf. Th. of E., p. 35. (We have explained this at some length since it is a point closely allied with Kirk's thinking on first principles. It appears often in his works and must be held alongside our considerations on consensus fidelium as often people tend to act on this principle.)

264. "It still remains possible to generalize as to sorts of circumstances which tend to impose duties upon us." ETHICS, p. vii.
265. Cf. FROST, p. 259.
266. "The Law of Christ", in Moral Theology Renewed, ed. by Enda McDonagh, Dublin, 1965, p. 82. Cf. also "Law: II Theology and Moral Theology", Sacramentum Mundi, III, pp. 283ff.
267. SPMTh, p. 183.
268. IPC, p. 3. Kirk speaks of the positive values of the law in Christian life: SPMTh, p. 21.
269. Kirk cites St. Thomas: "quaecumque posteriores crediderunt, continebantur in fide praecedentium patrum, licet implicite." ST, II, II, q. 1, a. 7; he also mentions Suarez, de. fid. theol., II, 6; de Lugo, de. virt. fid. div., III, 5. He says this also applies to conduct: ST, I, II, q. 91, a. 3. Kirk is not explicitly clear here as to whether he fully supports this concept of the "Deposit" of Revelation, and all further development in the Church as being "implicitly" contained in the original deposit.
270. CAIP, p. 121.
271. Ibid., p. 124. Cf. SPMTh, p. 43.
272. CAIP, p. 136. Cf. also IPC, p. 141.
273. CAIP, p. 72.
274. Ibid.
275. Kirk doubts the legitimacy of this factor: CAIP, pp. 296-99.
276. Eg. Prayer, fasting, almsgiving; uprightness of motive; self-sacrifice.
277. Theory of Good and Evil, II, p. 443.
278. "We do not write over the Savings Bank, Take no thought for the morrow"; CAIP, p. 74.
279. CAIP, p. 75.
280. Ibid., p. 77.

281. Ibid.
282. Ibid., p.77.
283. Ibid., p.77. Richard McCormick notes: "Laws which enact a society's moral code must express the convictions of the community. Such laws, representing a consensus of the community conscience, are elaborated through a process of rational reflection which must take into account the whole social reality with which the law must deal." "Notes on Moral Theology", Theological Studies, 26 (1965), p.600.
284. CAIP, p. 78.
285. Ibid.
286. Cf. IFC, p.3.
287. Cf. C.H. Dodd, The Bible Today, pp. 81 ff, for a good summary of the N.T. methodology in moral questions.
288. CAIP, p. 79.
289. Ibid., p.80. This summary of Kirk's is important, so we will cite it here in full: "Where the Church finds a principle of which she cannot conceive that it could ever reasonably be called in question by the mature Christian mind, honestly judging according to the standards set forth in Scripture as the standards of the Lord, she may unhesitatingly assert it as having a final claim upon the adhesion of her members of the moment; and nothing will be lost and something gained by adhering to the traditional phraseology and speaking of it as a first principle of the divine law. Where again she finds a principle which (whatever its past history may have been) appears to her considered and prayerful judgment to be of imperative obligation upon all her members by virtue of its importance for the central springs of their whole moral life, she must in the same way proclaim its obligation; and may fitly speak of it, if not as a first principle of the divine law, at all events as a secondary and a derivative one. Where she finds it necessary to question a principle which time-honoured acceptance has hallowed as sacred and endorsed with the title of "divine", she must hesitate long and anxiously before taking any step to dethrone it. But if in the end it proves, at all events under contemporary conditions, to be beyond all possibility of question a hindrance and stumbling block, she must abandon it as one of those things in respect of which the guidance of the Spirit is now leading her into fuller truth. Where finally a principle, though, important, does not normally affect the mainsprings of the Christian life, or may be thought of as temporarily desirable only, she need not fear to regard it simply as a matter of variable human law; claiming adhesion indeed for the moment, but capable of dispensation at the instance of a higher principle." Ibid., p.80.
290. "This means that the establishment of the content of the natural moral law must depend too on what we learn from Christ, and not be based on universal consent. We can say that reason and the wide acceptance of moral law by men indicate the original purpose

assessing a moral judgment. Putz has gone into this at some length and concludes that, while Kirk did use modern psychological material, nevertheless Kirk remained a strong traditionalist here: "He observes a growing opinion among the faithful that the results of psychological research provide an excuse for the sinner. Against this, Kirk holds up the traditional teaching of free-will, responsibility and conscience, though he has to admit that new research has to be done in order to prove these positions. Kirk's tone in writing on these questions is a serious one; he is aware of the difficulties, but maintains the traditional teaching." PUTZ, p.49. "There was no reconciliation between Kirk's pastoral teaching and the new psychology. On the contrary, there was a clash between them...." Kirk perhaps had not looked into the whole question, but for the time being "He obviously regarded the damage done by the new science, particularly in its popular aspect, as being greater than the help it brought." Ibid., p. 58. Also, cf. CRISIS, p.100; ORTH, p. 169; 173; Th. of E. p. 50, where Kirk refers to "psychological constellations" (environment, heredity, sentiments, dispositions, and complexes) as having an influence on us; K. Kirk, The Way of Understanding, London, 1920 p.15; SPMTh, p. 53. L.S. Thornton, in reviewing SPMTh, thought that Kirk had used "modern psychology insights a bit to excess." Theology, July 1921, art. cit. p. 51.

312. SPMTh, p. 98.

313. Ibid.

314. Ibid., Elsewhere, Kirk cites Bishop Butler's pious conviction that "almost any fair man in almost any circumstances" will know what to do." (Sermons, iii, viii). Kirk disagrees by countering with a dictum of Sir John Seeley: "Good men do wrong perpetually because they have not the mental training and skill which may enable them to discern the right course in given circumstances. They misconceive the facts before them and miscalculate the effect of actions." (Ecce Homo, c. ix). CAIP, p. 37. footnote 2. To which we might add a caution inherent in the classic dictum: "Knowledge is not virtue."

315. Kirk cites Newman: "It is by the strength, variety, or multiplicity of premises which are only probable, not by invisible syllogisms -- by objections overcome, by adverse theories neutralized, by difficulties gradually clearing up, by exceptions proving the rule, by unlooked for correlations found with received truths, by suspense and delay in the process issuing in triumphant reactions -- by all these ways, and many others, it is that the practised and experienced mind is able to make a sure divination that a conclusion is inevitable, of which his lines of reasoning do not actually put him in possession." Grammar of Assent, p. 321. (Cf. SPMTh, p. 99.)

317. "...ethical enquiry is almost exactly on the same footing as historical or scientific inquiry; and more than that perhaps, we have no right to expect." Th. of E., p. 143.

318. Cf. CAIP, p. 27.

319. Obviously all three designations overlap. Consensus fidelium, strictly speaking, is a theological designation and a subjective part of the more generic term "Society". Kirk's use of society

is usually very loose and general, although he did clarify it once: cf. Th. of E., p. 85.

320. CAIP, p. 29.
321. Prof. T.A. Roberts takes up Kirk on this argument. He thinks that Bishop Kirk's type of intuitionism "is markedly different from that of the modern ethical intuitionists, and, surprising as it may seem, owed little to them." (p.29). In his article, he goes through a long preamble in describing, in philosophical terms, what ethical intuitionism is according to philosophers such as Ross, Prichard, and Ewing. He tells us that Kirk is advancing a psychological and an ontological doctrine concerning the nature of intuition; that Kirk's distinction between a rational intuition and a rational inference is not clear or well developed; that he has all too easily dismissed the case that moral judgments are judgments of feeling, of approval or disapproval; and that Kirk is ultimately defending the notion of the objectivity of ethics by appealing to a psychological doctrine, whereas the notion can only be effectively defended, not on psychological grounds, but on logical grounds. "Bishop Kirk and Modern Intuitionism", The Church Quarterly Review, Jan.-Mar. 1966, pp. 29-44. It is interesting to see a moral philosopher defend objectivity in ethics while at the same time criticising Kirk's psychological justification for it. Basically, both men agree; it is more a question of how it takes place that the point of contention exists.
322. CAIP, p. 31.
323. Cf. Ibid., p. 33.
324. CRISIS, p. 13.
325. CAIP, p. 32.
326. Kirk held that for the most part intuitive judgments (which are the opposite of "reflective" or "discursive" judgments are most applicable in cases of ordinary moral judgment, but that they became extremely unpredictable and risky in more difficult cases. Cf. CAIP, p. 381, Note B.
327. M. Lefebvre points out how easy it is for a "psychologie collective" to manifest a local or national prejudice, a sobering fact in the light of all we have just said. Cf. art. cit., p. 69. The "vice" of intuitionism, i.e. when it becomes a matter of "private choice" determined by heaven knows what", is assessed by Kirk: CAIP, p. 383.
328. Hamman gives a few good theological perspectives concerning "Menschenverstand." He calls it a "spontane und ursprngliche Verstand," and maintains that "Auf ihm baut der sensus christianus auf." He denies that it is equivalent to the Modernist "feeling", nor has it any affinity "mit einer von "Humani generis" abgelehnten Meinung," preferring to ally it with a kind of "via affectiva" on the "Weg des Glaubenssinnes." This is all based on the Christian's immersion into Christ through Baptism and Confirmation. The gifts of the Holy Spirit are seen as supports

to the "Menschenverstand." Cf. op. cit., pp. 250 and 251.

329. SPMTh, p.1.
330. Thus, Kirk prefers to say "Human nature is infinitely too vast, complex and surprising a thing to be confined within the limits of strict and exhaustive analysis and definition;....The variety of endowments, impulses, inconsistencies, which go to make up even the most normal man, is more than the most detailed observation can ever take account of The springs of action lie deeper than human thought can plumb. Any attempt to formulate them exhaustively is doomed to failure from the outset." SPMTh, p.1.
331. CAIP, p.21.
332. CAIP, p.18.
333. Cf. Th. of E., pp. 115-119. Cf. J. Macquarrie, "Public Opinion", A Dictionary of Christian Ethics, p. 283. Kirk was wary of common-sense on one occasion: "Common sense, however, is always a prey to the sophist, the sceptic, and the scrupulous. Proverbial wisdom is bound to be betrayed by its manifest exceptions." IPC, p.6.
334. CAIP, p. 22. footnote 1.
335. Ibid., p.20.
336. CRISIS, p. 110.
337. ORTh, p.167. Kirk is bemoaning the fact that many scientists in his day were presuming to judge theological issues, claiming that "eminence in one branch of research confers upon its possessor the right to dictate in every other." Ibid., p.168.
338. Cf. K. Kirk, The Way of Understanding, p.18.
339. Cf. CRISIS, p.111.
340. Cf. K. Kirk, The Story of the Wooded Schools, p.89.
341. Authority in the Church, p.180.
342. The Elements of Moral Theology, p.23.
343. No Rusty Swords, p.215.
344. MD, p. 123. (All references to MD will be to the 1948 ed. unless otherwise indicated).
345. Ibid., p.132.
346. C.F.D. Moule has some excellent observations on the way public opinion and consensus fidelium in the days of the primitive church, worked to provide the seminal Christian community with a very Spirit-orientated and ad hoc approach to moral issues. Cf. The Birth of the New Testament, London, 1966, pp. 171, 176, 178, 211ff.

347. "Public opinion is meaningful only when it reviews and, when necessary, criticizes the decisions of authority....no one ever fights a decision which he thinks he had a part in making." John L. McKenzie, op. cit., p. 171.
348. An interesting development concerning the role of consensus fidelium is taking place within the Islamic religion. Presently, the priests are very suspicious of it, basing their objections on analogies drawn from medicine or science where popular opinions are not solicited or evaluated with any seriousness. The danger here, however, is to equate sources of faith with sources of scientific discovery. Cf. Kenneth Cragg, Sandals at the Mosque, London, 1954, pp. 59ff.
349. KEMP, p. 144.
350. ODM, No. 519, May 1945, p. 42.
351. MD, p. vi; cf. KEMP, p. 145.
352. ODM, Nov. 1946, p. 117.
353. MD, p. 61.
354. MD, p. 43. Kirk found it hard to see any essential difference between them; cf. ibid., pp. 41-3. The "safety-valve" in the Church of England in 1933 was simply "laissez-faire" according to Kirk (regarding the popular tolerance of the remarriage of divorced persons). Cf. MD, (1933 ed.), p. 143.
355. MD, p. 44.
356. MD, (1933 ed.), pp. 150-1. This argument of Kirk's (when a divorced and remarried person may be admitted to communion in the Church of England) is somewhat difficult to follow. But his historical example is indisputable. Elsewhere, he notes that "unswerving rigidity in morality is bound to shipwreck upon the rocks of common-sense." CAIP, p. 128.
357. MD, p. 71. "The attitude of the early Church in the matter (of divorce makes it even more incredible that He (Christ) should not have done so" (i.e. forbidden it as the Christian ideal). Ibid., p. 72.
358. MD, p. 76.
359. MD, p. 89.
360. MD, p. 93.
361. Cf. MD, p. 108.
362. MD, pp. 113-4.
363. MD, p. 116.
364. For a good treatment of the factors involved in the development of the Anglican Church's teaching on birth control between 1920 and 1958, cf. Robert E. Murray, A Historical and Critical Study of the Lambeth Conferences' Teaching on Contraception, doctorate thesis completed at

the Gregorian University, Rome, 1964. : the sociological and popular events leading up to the change of thinking in England, cf. Peter Fryer, The Birth Controllers, London, 1967.

365. "We utter an emphatic warning against the use of unnatural means for the avoidance of conception, together with the grave dangers—physical, moral and religious, thereby incurred, and against the evils with which the extension of such use threatens the race....In opposition to 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, we steadfastly uphold what must always be regarded as the governing considerations of Christian marriage. One is the primary purpose for which marriage exists, namely, the continuation of the race through the gift and heritage of children; the other is the paramount importance in married life of deliberate and thoughtful self-control." Conference of Bishops of the Anglican Communion (Lambeth, 1920): Encyclical Letter, Resolutions and Reports, London, 1920, p. 44.
366. Cf. K. Kirk, "Four Cases of Conscience", Theology, August, 1925, p. 81.
367. Art. cit., p. 83.
368. Ibid.
369. Ibid.
370. CAIP, (1927 ed.), p. 292.
371. Ibid., p. 293.
372. Ibid.
373. Ibid., p. 294.
374. Ibid., p. 296.
375. Cf. ibid., p. 297. This tight argument is tied up with Kirk's understanding of in se evil. Kirk notes: "Often enough of course the intuition has taken the form, 'This is forbidden in Scripture and therefore must be wrong in itself.'" Ibid. Cf. also pp. 329ff.
376. We no longer condemn 'usury' in its legitimate form of interest on capital, because we are no longer bound up with the conviction that barren metal cannot by nature breed. So too the condemnation of birth-control in the Roman Communion is bound up with the conviction that the practice is contrary to the natural law. Cf. CAIP, p. 297.
377. CAIP, p. 298.
378. "Where there is a clearly felt moral obligation to limit or avoid parenthood, the method must be decided on Christian principles. The primary and obvious method is complete abstinence from intercourse (as far as may be necessary) in a life of discipline and self-control lived under the power of the Holy Spirit. Nevertheless in those cases where there is such a clearly-felt obligation to limit or avoid parenthood, and where there is a morally sound reason for avoiding complete abstinence, the Conference agrees that other methods may be used provided that this is done in the light of the same Christian principles. The Conference records its strong condemnation of the use of any methods of conception-control from motives of selfishness, luxury, or mere convenience." The Lambeth Conference, 1930, Encyclical Letter from the Bishops with their Resolutions, London, 1930, p. 43, no. 15.

379. "The Lambeth Resolutions on Marriage and Sex", loc. cit., vol. III, (Oct. 1930), p. 96.
380. Ibid., p. 97.
381. CAIP, (1933 ed.), p. xi. Cf. also R.C. Mortimer, Elements of Moral Theology, p. 99.
382. CAIP, p. 303. For a good, brief resumé of the birth-control development, cf. James Finnegan, "The Anglican Church and Birth Control", The Ecumenist, Vol. 4, No. 4, May-June, 1966, pp. 58-65.
383. CAIP, p. 305. Later, when Kirk was a diocesan bishop, he did not always follow through this practice of "consulting" the laity to any great extent, and preferred to run his diocese by keeping "all the strings in his own hands." Cf. KEMP, p. 112.
384. Cf. The Family in Contemporary Society, London, 1958. Also, cf. The Lambeth Conference, 1958, Resolutions 112ff.
385. Very recently, Prof. G.R. Dunstan, of King's College, London, has written: "In most Western Churches, too, contraception within marriage is now a dead issue, at least in the encyclical's terms (Humanae Vitae). A consensus has established itself over three or four decades which the Churches' respective authorities have ratified in various ways. But in the Roman Church itself the issue of contraception has been submerged in a wider issue, the relation of the magisterium—which appears to be a compound of teaching authority with an implied ruling authority over teachers—not simply to personal conscience but also to the collective conscience of the Church, whether called the "common mind" or consensus fidelium or by whatever name." "Editorial", Theology, LXXII (Feb. 1969) p. 49.
386. CAIP, p. 317.
387. Ibid., p. 309.
388. Ibid., p. 342.
389. Ibid.
390. KEMP, p. 87. This idea has also been behind the formation of certain "Frontier Groups" whose aim it is to try to discover certain "middle axioms" regarding ways of acting. Cf. R. Page, New Directions in Anglican Theology, p. 161. For a further description of ad hoc groups, cf. Ronald Preston, "The Priest as a Teacher of Ethics", Theology, LXXI, No. 577, (July, 1968), p. 310. Bishop Gore expressed the same idea at the turn of the century: cf. Thomas Wood, "An Anglican Manual", Church Quarterly Review, CXLVI (1948), p. 171.
391. Canon Kemp further describes his father-in-law's scepticism about the value of Commissions and his general lack of interest in them except when they concerned some immediate practical decision to be taken. In his later years, Kirk was even dubious about the Canon Law Revision, feeling that most of the valuable parts of it would be defeated by the laity. In the liturgical field, Kirk felt that the problems had been greatly exaggerated, and were much better dealt with by custom and natural development. Cf. KEMP, p. 88.
392. Cf. F.S.C. Northrop, The Meeting of East and West, pp. 171ff.

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