

by Thomas Gilby, O.P.

The flock will safely pick its way across the stony hills to patches of fresh pasture, for the shepherd is there and, it is hoped, his trusty dogs, yet the hyaenas can be heard, alike from the *Osservatore Romano* and the *Guardian*, calling from one side that we should greet *Humanae Vitae* with joyful submissiveness and from the other that we are damned if we do: it is hard to tell which howls are the more remote. (Hyaenas, of course, have their merits; they are the ancestors of animals we domesticate and grow fond of, terriers, spaniels, and so forth.) These interim notes, written in mid-September when the pastoral instruction of the English Bishops is still to come, offer nothing fresh; they follow the marks in the old ordnance maps published ever since moral theology was established as a scientific discipline about seven centuries ago. They will indicate, first, the place of abstraction in moral teaching; second, the intervention there of ecclesiastical authority; third, the argumentation offered to support a decision; fourth, its consequent appeal to natural law; fifth, the varieties of assent. For convenience these five headings are expanded into five sections.

Abstraction in Moral Teaching

1. An encyclical letter, as its name denotes, is a circular addressed to many. It is accordingly impersonal, that is to say, it does not enter intimately into unique and personal situations, but considers what people or groups of people have in common. Even when it descends from general principles to specific types of situation it still remains abstract and does not reach through to the concrete, for no cluster of notional details renders a thing as existing and acting as a whole. Abstract—airy and vague? Concrete—hard and definite? Such association of images needs to be corrected, for in life matters are often otherwise, with the meaning of fornication all too clear and edged, and the incident all too soft and yielding. The human level of cognition and communication is lifted above the animal by moving into an abstract medium in which constant meanings can be perceived. Nowhere else can onlookers discuss a moral encounter which is directly experienced only by the person concerned or those closely involved, ideally by a love relationship, sometimes by a hate relationship, often by both. Call such abstraction dispassionate if you like, or even detached, but not irrelevant to the human dialogue.

Two points may be noted in passing. First, an abstraction in moral

theology should not be stiffened and fixed to purely juridical concepts, despite the tendency in human nature, and particularly when it is engaged, as they say, in the 'practice of religion', to make things all too clear: we shall return to this point later (§22 below). Second, nominalists allow less reality to general meaning than Platonists or Aristotelians do, and therefore are less comfortable about accepting judgments on types or kinds of moral action: however, as we shall suggest (§12 & 13 below), they can keep their philosophy without detriment to their religious loyalty.

2. An official school of moral theology, and it provides the structure underlying the Encyclical, works with these abstractions, and in doing so recognizes its own limitations. Three factors determine the morality of an action, its immediate objective, its intrinsic yet further purpose, and its attendant circumstances, which respectively correspond to the kind of action it is, its animating intention, and its propriety or impropriety; or, in other words, to its nature, its personality, and its historic individuality. The last two are outside the scope of moral theology and of any declaration of moral law, although they are treated with the greatest respect, indeed intention is admitted to be paramount, and the instant phenomena to be the most stirring and vividly experienced influences at work. Nevertheless, God alone searches our secret heart—and he is not a moral scientist; and incidents are too variable for any science to assess them in positive, proper, and peculiar terms. It is beyond the power of moral theology to judge every case on its own merits. This calls for the more biographical approach of medical psychology and of pastoral direction and personal commitment, above all, for the individual judgment of prudence (§22 below).

Leaving intentions and circumstances respected but unexplored, moral science accordingly concentrates on moral kinds of action, defines and elaborates on them, usually, but not always, in response to social pressures. Professional moralists are only human, and it would be too much to expect their discourse not to be inflected with the moods of their times, or even sometimes anachronistic and committed to obsolete conventions. They are also open to the occupational risks of any scientist, namely of growing doctrinaire, and of pushing narrow premises to narrower conclusions regardless of the *tact des choses possibles*.

3. The isolation of a type-meaning renders only part of a moral situation as it exists in fact. Yet this part is basic and constant, and it is here that the formulation of moral law, in the strict sense of the term, applies, and the moral theologian can insist that some actions are right or wrong in themselves. Without intruding into the privacy of a couple, his function is to be expose the general patterns required for being and acting as a husband and as a wife.

4. Though *Humanae Vitae* breathes a compassionate and pastoral gentleness not so evident in *Casti Connubii*, its declaratory teaching

is about kinds of action. In effect, the Pope has been asked a question in this frame of reference, and he has given his answer conformably: it would not have been an answer otherwise. He has not slammed the door on further study and discussion of the balance to be struck between the unchangeableness of moral law and its development according to the changing conditions of human history. The dialogue is still open, but henceforth it can proceed with one point having been made clearer.

5. Namely, that contraceptive temporary sterilization is now considered as a moral type or kind of act by moral theology, and is judged accordingly. It is no longer to be reckoned as a morally neutral kind of act, to be assessed according to the personal motives which invest it. Contraception enters into its very nature as its objective purpose. Moral judgment can be arrested at this internal trend, and so, without taking into account the personal motives, which may be admirable or not, it can pronounce that such an action is defective as a moral kind of action. For, if we may anticipate (§17 below), this judgment about an abstract though real form, though based on the physiological and psychological data, sets it in the order of morals, which for moral science is constituted by the teleological patterns which will help us to reach final happiness.

The Papal Decision

6. A distinction is to be drawn between the definitive ruling of an encyclical and its supporting arguments. The Pope's office is to bear authentic witness to the Christian Revelation, and Catholics believe that he is given special help to do that, not that he is necessarily impeccable in style and argument. In ordinary life, though not perhaps in logic—except, perhaps, we admit synthetic *a priori*—concluding statements can go beyond their rational premises and yet be true.

7. It seems agreed that the decision is not infallible, and that the Pope would not have us think that it is. But papal infallibility, a transliteration from the Latin and to be regretted as an occasion for ambiguity and *suggestio falsi*, is a technical term for a special charism which ensures against betrayal the truth Christ gave his Church. Because a papal statement is not technically infallible it does not follow that it is fallible and reformable. I am reminded of Vincent McNabb's words about a decision on another occasion; 'Not infallible, but certainly true'. An infallible definition is one that directly engages the faith of a Roman Catholic, yet the Pope's own words encourage nobody to persuade himself that here he is faced with a crisis of faith. Indeed, many would have been more shaken had the Pope gone back on the traditional teaching.

8. The issue is not a matter, how shall I say it?, well, majestic enough to be a rock on which the faith could founder. I run the risk of being misunderstood, for I do not deny the gravity a problem

touching what is nearest and dearest for many. Yet many, too, are tired and bored by all our talk about sex and birth-control. People will blithely ignore the Encyclical and go their way, and appear to come to no great harm; those, however, who take their religion seriously and yet would avail themselves of contraception for truly loving and family reasons, should be emboldened to see things in proportion. Had the Pope been asked whether under any circumstances husbands could rightfully sulk and wives nag he could well have replied that such kinds of behaviour should be excluded, and under all circumstances, even at breakfast. Would that have constituted a problem? And who would contend they are minor for morality, or for marital unity, faithfulness, and fruitfulness than taking the pill?

9. The Pope is the Vicar of Christ, not of the Church. His voice, however, is the voice of the Church, although he may not be a majority leader, for Catholic doctrine is to be settled neither by a poll nor by the vote of an expert commission.

10. A solemn decision he comes to may be unpopular therefore, and a Catholic is perfectly entitled to take it hard. If he does not take it at all he may be free from the charge of heresy, but he should be alive to the dangers of schism, contentiousness, seditiousness, disrespect, self-assertiveness, and sheer bad manners. They may not offend faith, but they do charity, justice, modesty, and friendliness, all of them part of the life of grace. And here he need think not so much of 'the sacred person of His Holiness' than of the bonds which unite him to his fellows; he should fear to prove a stumbling block to Christ's little ones.

The Argumentation

11. Though temperamentally reluctant to draw the conclusion arrived at by the Encyclical, I am sufficiently convinced that it follows from principles soundly established by reason and Revelation, and faithfully represents and applies the constant tradition of the Church that sexuality is never to be taken as an exclusively interpersonal value. I feel that the Pope sees the subject at greater depth than his critics do. Nevertheless, the argument for his uncompromising defence of sexuality is admittedly wiry, a single-minded advance maintained without looking to right or left, a logical development of principles beset by a tangle of difficulties, of which the facilities offered by modern science for the relief of suffering are more impressive than those which promote the morals of a permissive society. You do not have to be hedonist to feel that the proper use of a contraceptive, the neater the better, has much to recommend it in the name of plain commonsense and ordinary kindness.

12. Some theologians do not recognize types of moral action which can be defined apart from the intentions of the persons engaged: they mean persons in the fullest and metaphysical sense, not histrionic or legal characters. You may not agree with them, yet cannot

thereby deny that their faith may be as orthodox as yours. How can they follow an argument they consider to be wrongly cast, or grant to its conclusion as such an assent that is so hypothetical as scarcely to count?

13. Furthermore, of the many who accept its main presuppositions, and agree that human sex is for marriage, where in principle union is not to be separated from fruitfulness, a great number may yet hesitate to push a further abstraction within the abstraction and apply it to each and every climax: they would prefer to envisage the marriage act in its complete type of setting, and not to atomize it to one single type of episode or specific bit of that *gestalt*. This seems to have been in the mind of most of the Pope's advisers if we may judge from the majority report which was leaked to the press last year: its argument was sometimes rather woolly round the edges, just as that of the contrasting minority report was rather wooden.

14. For authority to call upon a man to be dishonest would be wicked. Here we return to the distinction between the Pope's judgment as a decision and as a conclusion. Now a man may perfectly reasonably accept a decision he does not understand on its own merits; he does so for other reasons, namely because he respects and trusts the authority which makes it: of course, such obedience sets up a strain, but it is not on his honesty. In the present case it is not a question of submitting to a mere party line, as when Clement XIV suppressed the Jesuits, Gregory XIV stood with Metternich, Pius IX was disenchanted with the '48, or Pius X hounded down those suspected of modernism. It is a solemn declaration of a doctrinal position in response to a widespread appeal.

15. It is as the conclusion of an argument that the Pope's ruling sets up a problem, and not merely a difficulty. And notably to those who think they can disprove it. All I will say here is, first, that they will have to be pretty confident in the strength of their argument, and second, that they should make sure that its conclusion is the precise and formal opposite of the Pope's: I will not elaborate the point beyond noting that there can be a tension and contrariness between arguments which in fact converge on a single truth though under different aspects, and referring the reader to the thirteenth-century debate on the eternity of the universe.

Those, more numerous, for whom the conclusion remains unproven are in a somewhat easier position. In their respect the pastoral instructions of the Belgian bishops seem to me admirable; they are exact without being stiff, firm on objective right and wrong without rushing into talk about sin and repentance; they have Louvain behind them, where technical expertise in systematic theology has been combined with a sense of history. Non-assentors to the conclusion are advised to ponder more deeply on the argumentation. They are not to be hurried and the issue is not to be forced. Let them be open and docile to the Holy Spirit and the Gift

of Knowledge, *scientia*, will grow in them. The truth, yes even the creaturely truth, is more easily arrived at in the leisure of contemplation than in the rush of disputation and exhortation.

Natural Law

16. The attempt to show the inherent reasonableness of a moral ruling necessarily involves an appeal to natural law. All due obedience to a command implies the exercise of right reason and is supported by natural law, yet this is especially brought in when the command is issued as deriving from the principles of morality by way of inference, not as an artificial supplement to them for the sake of discipline and regulating our traffic. And so, in parenthesis, let us touch on the concept of natural law which forms an essential element in the Pope's argumentation.

17. It is a moral category, which may be based on physical and conventional paradigms, but is not to be resolved into them, not even when these are considered to be perennial, still less when they are expressed in the science and manners only of a period or periods. The moral order is not established by the patterns of behaviour observable in sub-human life nor by the general consent of humanity, though to some extent both criteria enter into the natural law theory of classical moral theology, the first notably from Ulpian, the second from Gaius, but they are not indispensable parts of it. The underlying thought is simple: some standards of conduct are set before man by his author, others he sets up for himself; some actions are commanded because they are good or forbidden because they are bad, whereas others are good because they are commanded or bad because they are forbidden. Such is the test between natural and positive law, easy enough to apply where the primary decencies are in question, but with increasing difficulty and doubt when these are progressively developed into secondary precepts about increasingly specific types of human action.

18. Those who allege that the Encyclical reproduces a medieval reading of biology, looks so narrowly at human organs and their functions that it misses the wood for the trees, or naively assumes a consensus among all right-minded men should look again and be sensitive to the dangers of *fallaciae accidentis* and *elenchi*—the red herring and the Aunt Sally.

19. Natural law is sometimes reserved to ordinances essential for the good life according to reason at a level lower than that of grace. This condition of pure nature, though a useful methodological abstraction, has never historically existed. In theory such ordinances, like the natural truths of religion, lie within the scope of reason and so-called natural virtue; in fact, however, our nature is damaged and without God's grace and Revelation few would reach them, and then after a long struggle, and even so with an admixture of doubt and error. Nevertheless they are of capital importance for human

salvation. And so divine grace takes nature in its stride; charity is grounded on natural decencies, and faith on rational evidences. The Church does not work in a supernatural enclosure, and quite properly, as at Vatican I, acts to safeguard those truths and values in the natural order which bear on man's final happiness.

20. In a fuller view of natural law, however, this horizontal division between the natural and supernatural states or orders is less regarded. Instead, the natural is taken to include all that is genuinely from within, in contrast to what is shaped by extrinsic authority. Accordingly the activity of grace is seen as natural in its mode; it wells up from a human being who is single yet born again (*nativitas, natura*) of the Spirit, and falls into patterns that are not constituted by the interposition of positive laws. I will not delay on this theology of grace except to notice one consequence important for the present question. It is this. What are natural law precepts for a Christian will be discovered less by a deductive elaboration of the ethical norms for leading a good life according to right reason than by consulting how, in fact, Christ's Church has historically reacted from within and, as it were instinctively, to challenges to its life and truth. The method is that used in tracing the development of doctrine. With respect to sexuality in particular we may mark the Christian rejection of Gnostic and Manichean pessimism on the transmission of life, of Stoic disdain for passion, and later of Jansenist suspicion of pleasure. The response has been slow and sometimes fumbling and overloaded with contemporary moods, but the evolution of moral teaching has eventually steadied on a continuous and consistent course, and always from the resources of the Church's inner life. It is this natural law the Pope is articulating in opposing the contemporary dislocation between persons and the sort of things they really are.

Personal Judgment

21. The ruling of an outside authority can never be a substitute for a person's own decision; whether he conforms or not he alone is responsible for making up his own mind. The moral question is usually couched in terms of conscience, which in current English can refer to a man's stock of moral convictions or to his moral sense, but in scholastic usage is sharpened to a more determinate meaning, namely a practical moral judgment about what is to be done here and now. As such it marks but one stage in the progression of a moral act, which begins from deliberation and ends with its achieved execution.

22. It is unanimously agreed that it is never right to act against your conscience, even when mistaken. There is copious literature on the subject. All the same, I would suggest that the present question might be better discussed according to the classical concept of the cardinal virtue of prudence, which fell into some disuse with the

casuists and manualists. Let me indicate some of the differences between conscience and prudence. Conscience is an act which carries no guarantee of its being objectively in the right; quite blamelessly it may be objectively wrong. Moreover it does not ensure that good will be done, for a man may choose to go against it; indeed, it seems to be a condition of a full and deliberate sin that it has been preceded by a healthy judgment about what ought or ought not to be done. And finally, and very much to the present point, it can be leathery or tender, and if tender it can seek to be protected by a reassurance against sin provided by certificates of exemption and the observance of legal punctilios. I think we are using the wrong word when we speak of the primacy of conscience. What we really mean is its decisiveness.

Prudence, on the other hand, is unerring, and runs from being well advised (*euboulia*), to forming a right judgment according to common morality when this is possible (*synesis*) and having a flair for virtue when this is not and we are confronted with the exceptional (*gnome*); it issues into a effective decision (*imperium*) which translates intention into execution. In closing the gap between necessary theory and contingent practice it does not seek the sort of certitude which moral events cannot yield. Confident in the love of God and charged with desires that are fair and brave and tempered, it does not strain after an invulnerability to sin which might feel safe from God's justice and no longer trembling for his mercy. It does not treat the Church as a foolproof mechanism for providing us with all the right answers. It feels no need to be defensive. It does not turn its precedents into laws.

23. The Encyclical's judgment on contraceptive sterilization presents a complex of objects, not a single globule we may put into our minds like the pill into our mouths. The prudence of those who find themselves unable to swallow its teaching whole should leave them unanxious though not content; the Pope's governing prudence respects their quandary, and I refer especially to difficulties of mind when they can not get the hang of his arguments, or when they have been uprooted and find the theological style and culture which clothes them quite strange. Obedience is a virtue of the will, not the intelligence; it is the justice which renders what is due to a superior. Now the Pope's rule is civil, not despotic; his people are not slaves, but free men who contribute something of their own, in the present case their own rational sharing in what he has written to them. Their honest reluctance reminds me of the parable of the two sons; one started by refusing to go to the vineyard but afterwards went, the other said he would but did not go. *Which of the two did the will of his father? They said, The first. Jesus said to them, Truly, I say to you, the tax collectors and harlots go into the kingdom of God before you.*

24. As for the difference and degrees of assent, non-assent, and dissent—and of censures—we may learn the grammar from the

history of the troubles of Semi-Jansenists and Gallicans in the sixteenth and seventeenth centuries. Before they died down, and afterwards, people of both complexions were to prove themselves true confessors and even martyrs for the Church.

25. I end, perhaps not inappropriately, on a semi-legal note. A law which is negative in form is more stringent than one which is affirmative. Thou shalt not kill—never at any time should we be doing murder. Honour thy father and thy mother—but we should not be actively doing this all the time. That we should obey the Pope is an affirmative precept. A full moralist might look askance at some of the implications I have left unsaid. I confess that I have been writing as a minimizer. But is not that the generous course? If I have seemed guarded and grudging about the claims of authority, it is because I am conscious that while it may be a good rule to expect too much in a person to person approach, it is not so where a polity is concerned. And if I have appeared all too cold and clinical about religious teaching which puts not a few married people in a painful and tragic predicament, it is because I am not addressing myself to them, but to those of us who are merely thinking and talking about the general ruling and should play it cool.