

DIMENSIONS OF JUS DIVINUM IN ROMAN CATHOLIC THEOLOGY

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TALK OF INSTITUTIONS existing "by divine right" sets people on edge these days. It sounds so Byzantine and seems to smack of arrogance. Officials in the political world learned this long ago. Even the few kings and queens who remain expect to be judged on the quality of their performance. A head of state may sometimes act as if he governed by divine election or designation; but to claim openly to do so—even by recourse to the divine establishment of a royal line in the past—would likely be counterproductive and lend itself to ridicule.

With such attitudes prevalent, Roman Catholic theology finds itself in an embarrassing situation. The tradition out of which it arises speaks without blushing of offices and rites that exist "by divine right" and as a result of divine institution and mandate. The juridical terminology is dissonant enough for democratic or egalitarian ears; the monarchical imagery that frequently accompanies it compounds the problem.

Despite these built-in difficulties, a number of Catholic scholars have resisted the temptation to ignore the matter or wash their hands of it altogether. They think that terminology and its accompanying imagery attempted to say something important in the past—something that may help them find a way to say things which will be important for the present and future. With talk of divine right as a point of reference, they attempt to express what they hold as Catholics in their convictions regarding the Church. As a result, discussion of *jus divinum* continues. The pages that follow point up the directions that discussion has taken in Roman Catholic theology. They also suggest a practical consequence that may be of help ecumenically.

PRESENT STATE OF THE QUESTION

Karl Rahner's article on *jus divinum* is exceptional; it makes a unique contribution to the discussion of divine-human (as opposed to purely human) law with respect to the essential form of ecclesiastical office. These are judgments made by Magnus Löhrer in his perceptive article dealing with infallibility.¹ Is there any essential difference between the early evolution of church hierarchy and the formation of the biblical canon?

¹ "Towards a Discussion of Infallibility," *Worship* 45 (1971) 283. This article of Löhrer's, to which a brief response of Hans Küng has been appended, first appeared in the *Schweizerische Kirchenzeitung* of Sept. 24, 1971, and then in *Diakonia/Der Seelsorger* 2:1 (1971) 60-69.

The Swiss Benedictine poses this question for those who accept as irreversible the development whereby the Church included certain books and excluded others from its Scriptures.² He then goes on to say that the issues raised by Hans Küng in *Unfehlbar? Eine Anfrage* (Zurich, 1970) should provide a stimulus for clarifying the construct *jus divinum*.³

Piet Schoonenberg has made an effort to do just that by locating precisely where the problem of divine right lies. In his essay "God or Man: A False Dilemma," he asserts that it is as difficult to draw a line concretely between *jus divinum* and *jus humanum* in the sacraments as it is to isolate the divine from the human in historical achievements.⁴ If he is correct, then an analysis of *jus divinum* should go hand in hand with a consideration of synergism. Where in the endeavors of man the human ends and the divine begins is commonly recognized by Catholic theologians as a pseudo problem.⁵ The same would have to be said relative to the compenetration of the divine and human in the origin and conservation of institutions that exist by divine right. Schoonenberg's contention that in human achievements the contributions of God and man do not vary inversely has implications for interpreting a broad range of *jus divinum* claims. It would follow, for example, that one misunderstands what divine right is all about if he concludes that the more of the human there is in an institution, the less there is of the divine. Of course, his brief remarks should not be construed as if they were intended to sketch a theory of *jus divinum*. And in this sense Magnus Löhrer is correct: the

²*Ibid.* In this way Löhrer elaborates on his contention that the papal primacy of service to the entire Church can be adequately exercised only when it is also on principle a primacy of jurisdiction. To this Küng replies: "On some points the author [Küng] will perhaps have to maintain his original view, as, for instance . . . that a primacy of service does not on principle demand a primacy of jurisdiction" (*ibid.*, p. 289).

³*Ibid.*, p. 283.

⁴Cf. *The Christ: A Study of the God-Man Relationship in the Whole of Creation and in Jesus Christ* (New York, 1971) p. 47: "Israel, the Church, and the Sacraments are not from nothing. Israel is compared to a wandering Aramaean (*Deut* 26:5), the Church is from Israel and the peoples, the Eucharist from the passover meal or chaburah, Christian baptism from that of John. And the realities which arose thus are on the one hand truly institutions of God, which for that reason continue in our history, and on the other hand they entail a historical limitation which not even their "nucleus" can ever be freed of, and they are thus susceptible to reformation. For that reason the Church can alter the Sacraments though the Council of Trent cautions: 'while retaining their substance' (*DS* 1728), but is wise enough not to describe this substance. The salvific realities exist 'by virtue of divine law,' but their form is always at the same time 'of human law' and thus alterable; the border between both territories cannot be defined, and indeed cannot be defined in principle." Schoonenberg has some institutions continue in our history precisely because they are divine; this seems particularly noteworthy.

⁵The position of Bernard J. F. Lonergan is in this case typical; cf. "On God and Secondary Causes," in *Collection* (New York, 1967) pp. 54-67.

term in question designates an unfinished theological task.⁶ The foregoing points in the direction of a *theologia negativa* regarding the *jus divinum* that is operative in church rite and structure. There are, however, Roman Catholic scholars who have arrived at more positive conclusions. Edward Schillebeeckx is a good example. A systematic theologian, he is concerned with divine law or right in the context of church office.⁷

At the outset of an article that has significant ecumenical implications, he affirms the normative character of the past for the Church. Precedents must be studied, previous history has to be consulted; for in the hermeneutical circle encompassing past and present, each period of the Church's life criticizes and is criticized by that which precedes it. Offices exist in the Church not merely because it is a community but because it is one that is "apostolically ordered." As a result, although there is no direct link between contemporary church offices and an act of foundation on the part of Jesus, still the threefold office of bishop, presbyter, and deacon is the work of the Spirit of the risen Christ. Furthermore, it is in this sense based on a *jus divinum*, but one that does not exclude a reordering of the triadic structure itself.⁸

The Catholic notion of office requires that the local church or community of believers preserve its own distinct characteristics.⁹ But that same church "has to be 'in communion' with other local churches and with that Church in which the one who bears the office of Peter resides."¹⁰ The pluralism that thus results will be within a necessary unity of Church order.

Again there is no elaborated theory of *jus divinum* here; but there are indications of what any satisfactory theory would have to account for in the view of a Catholic specialist in sacramental theology. Thus the "apostolic ordering" of the Church is not something Christians have every right to modify exactly as they may choose, or even attempt to do away with altogether should they so desire. This general structure is an antecedently-given, a datum that is not untouchable but must be respected. Thus apostolic office in the Church today requires that the officeholder represent the Christian community *over against* the world, and conversely Christ and the Spirit *over against* the Christian community for

⁶Such terms as "revelation" "tradition," "church," "sacrifice," have long since been recognized as due for critical analysis in an ecumenical context; that the same is true of *jus divinum* should come as no surprise.

⁷"The Catholic Understanding of Office in the Church," *THEOLOGICAL STUDIES* 30 (1969) 567-87.

⁸*Ibid.*, pp. 568-69.

⁹It is, after all, the Catholic notion to which he is directing his attention in his article.

¹⁰*Ibid.*, p. 571.

the benefit of the world.¹¹ Furthermore, "even an episcopal or presbyterial structure of the leadership of the Church is not dogmatically inviolate, although the collegial unity of all the 'shepherds' of the Church, with the office-bearer who has the function of Peter in their midst, is."¹²

Schillebeeckx' article leaves a number of unanswered questions. How precisely does one establish the necessity of the shepherds' being in communion with the "one who has the function of Peter in their midst"? This is a matter of concern to many, but Schillebeeckx does not treat it. Why must officeholders in the Church be more than notary publics for the Christian community? Why do they serve by right and not by the mere grace and favor of those ministered to at a particular moment? He really does not say, nor was there any reason why he had to. But where does this leave his notion of *jus divinum*?

The New Testament offers a number of different ecclesial models, all of which are "apostolically ordered" churches. For this reason, none of those models can in principle be repudiated, none is excluded as no longer viable.¹³ Why? Not because of any human ordinance pure and simple but because of a fundamental liberty divinely accorded as the precondition of the religious life of the Christian, because of a pre-given which all Christians without exception must respect (*jus divinum*). But that liberty is not boundless or unconditioned "apostolically." Thus the possible modes of ecclesial existence do not include every conceivable type of structure. Room must be left for officeholders to exercise a right arising from a power greater than man's. They must be able to lead the community, even at times by opposing its wishes in the name of the risen Christ for the sake of the world. The conditions required for "apostolic" officeholders to issue an authoritative veto may be difficult to spell out and will likely vary according to historical situations. But the right to do so is a datum to be respected in an "apostolically ordered" church. So, too, such a church will not automatically and without difficulty realize in itself all the qualities a church which is Christ's must have. If it is to do this, the necessary condition is that it live in communion with other churches and in particular with the officeholder who exercises the function of Peter. Schillebeeckx surely does not make a complete equation between that function and the way it presently exists in the papacy.

¹¹ *Ibid.*, p. 572.

¹² *Ibid.*, p. 570.

¹³ *Ibid.*, pp. 575-76: "These cases of leadership in the community, which arose charismatically and outside the normal order of the Church, but were nonetheless within the one but differentiated Church order, were recognized by the later Church in her canonization of Scripture as possibilities in principle within the life of the Church." For a contrast of this position with others, cf. Carl Peter, "The Role of the Bible in Roman Catholic Theology," *Interpretation* 25 (1971) 87-94.

Still, he thinks that function cannot be missing from the Catholic notion of office. If one wonders why, his reason seems to be that a unifying principle corresponding to Peter in the New Testament presentation of the apostles is always necessary in the Church and is of divine origin.

Still, it is a fact, as Löhrer has pointed out, that when it comes to explicit reflection on the conditions and implications of *jus divinum* in Roman Catholic theology, Rahner is in a class by himself.¹⁴ In an early article on the subject, he makes use of an example he thinks will be familiar to Catholic and Protestant Christians: belief in the permanence of the Church through the centuries. In this instance faith means more than that there is a church today following after one that existed in the days of the apostles. The continuum encompassing the Church then and now is more than time. Indeed, there is a dimension common to Christ's Church present in the first century and in the twentieth. That abiding character may, for want of a better term, be called its "nature." There are also the most obvious differences of form in which the Church has appeared from one period to another. If such forms were the total reality, belief in an *apostolic* church today as a present reality would fly in the face of all evidence. Yet given the distinction, which is the work of reason seeking to understand faith, it must be admitted that no theological scalpel can be applied to separate the dimension of nature from that of form in the concrete. Nor can a laser ray be brought to bear to accomplish this purpose.¹⁵

Obscurum per obscurius is not a promising theological method. On closer inspection, however, one can see that this is not a fair indictment of Rahner here. It may help to recall that he took a similar approach in his treatment of nature and grace. Given their nonidentity, which is recognized by faith seeking understanding, they are nevertheless always inseparably connected in some way historically. Hence one simply cannot come up with a chemically pure case of either.¹⁶

This distinction between the nature and form of the Church becomes a hermeneutical principle. Rahner brings it to bear on historical data in an attempt to interpret and understand the Church's change *within* identity rather than *of* identity.¹⁷ He wishes to show what conclusions follow if one hypothetically adopts that distinction. If, in other words, one as-

¹⁴ "Über den Begriff des Jus Divinum im katholischen Verständnis," *Schriften zur Theologie* 5 (Einsiedeln, 1962) 249-77.

¹⁵ Nature is nevertheless not form as far as Rahner is concerned.

¹⁶ Cf. "The Position of Karl Rahner regarding the Supernatural: A Comparative Study of Nature and Grace," *Proceedings of the Catholic Theological Society of America* 20 (1965) 81-94.

¹⁷ The terminology is Rahner's; cf. "The Development of Dogma," *Theological Investigations* 1 (Baltimore, 1961) 45.

sumes that there is a nature of the Church that must be respected (*ius divinum*), then what follows for possible historical development?

First, he says, structure or form develops precisely because it is historical. But a particular element in that structure is not "reversible" or dispensable simply because it appeared at a particular time and not earlier or later. Biologism in the realm of theology has at times led to bizarre considerations.¹⁸ Still, in this context a comparison of the Church with living beings has much to commend it. Not infrequently, later developments attested to by the New Testament itself are regarded as somehow less normative than earlier ones. Such reasoning would have to be criticized in the light of Rahner's first conclusion. A living organism (individual or social) passes through stages. It remains to be shown, and cannot be simply assumed, that its initial stages can be reassimilated without passing through the equivalent of second childhood. Hence subsequent developments, despite their tardy appearance, may be so decisive as to make it impossible to turn the clock back to the way things were earlier.

Secondly, in a human community a particular pattern of development, rather than another that would have been radically different, may result from a free decision. The nature of the community might well have been patient of either. Neither this type of structure nor that may have been antecedently necessary, and the two may be mutually exclusive. Which one is actually selected will depend on choices that may only subsequently be reflected on critically. And it would not follow that because another course might have been chosen, therefore the option that was made is "reversible." Certain decisions (e.g., a choice of a career as a concert pianist versus one as a nuclear physicist) set up conditions that make a subsequent reversal in favor of a life style that was previously open well nigh impossible. A student may be a double major, in music and architecture; but it will be impossible practically to develop both talents to the same degree. He may opt for one in graduate school; in so doing he expends something of what he might have given to the other, even if later he changes his mind. He cannot relive that prior period; he is different irrevocably. In general, no person, as finite, is able to go back to a previous period of his life. Then he may have been bound simply to one course of action *or* another by the law of noncoincidence of contradictories, but to this one *rather* than the other only as the result of free choice. But once that choice has been made, it may be regretted or even retracted to the extent that this is possible. But it is unrepeatable, and

¹⁸For an earlier generation of Roman Catholics, literalism regarding the term "Mystical Body" is an example.

its consequences to some extent are irreversible for him as long as he lives.

What do such decisions mean for the individual or community? They are, in Rahner's opinion, more creative than expressive of what had to be. Rather than articulating a law of being, they set up a law for this being. Such decisions in the primitive Church may well give rise to a *jus divinum* for subsequent ages. Indeed, he sees no reason why a priori and certainly it is impossible to have a *jus divinum* arise in such a fashion in the postapostolic age, with the "irreversibility" that this would imply.¹⁹ He notes that his reflections on *jus divinum* are not intended to apply directly to the Roman primacy or the monarchical episcopate in the constitution of the Church. He does not assert that his reflections offer a way of grounding the divine-right claims of those institutions, much less that they are the only way. Nevertheless, it is obvious that his study deserves serious consideration in the context of Roman Catholic thought on divine-right claims.

Can an ordinance that is not clearly binding as a result of the New Testament become an irreversible development in the postapostolic age? Rahner did not rule it out. And to this the Tübingen canonist Johannes Neumann took exception long before the recent controversy regarding papal infallibility.²⁰ The basis for the difference between the two has to do with the normative character of the New Testament itself. Because these differences regarding the nature and foundation of *jus divinum* are thus related to attempts to grasp the Bible as *norma normans*, it is imperative to point out the lack of consensus existing today among Roman Catholics on the latter.²¹

This question lay at the root of much of the theological disagreement at the Second Vatican Council. During the early days of the Council many referred to the matter as the dispute concerning the sources of revelation (*De fontibus*). In its decree *Dei verbum* the Council steered a course between both extremes by emphasizing the importance of Scripture but indicating its close relationship to tradition and the teaching authority (*magisterium*) of the Church. For Roman Catholics, however, the *theological* issue still remained. The Christian must recognize a right of the biblical Word of God to pass judgment on his or her existence, a claim of that Word to conformity with the basic models of existence it

¹⁹ "Über den Begriff . . ." *op. cit.*, p. 274.

²⁰ "Erwägungen zur Revision des kirchlichen Gesetzbuches," *Theologisches Quartalschrift* 146 (1966) 286, 296. See also his comments in "Das Jus Divinum im Kirchenrecht," *Orientierung* 31 (1967) 5-8. Schillebeeckx has sided with Neumann explicitly in opposition to Rahner; cf. "The Catholic Understanding of Office in the Church," p. 569.

²¹ In my *Interpretation* article (n. 13 above) I tried to do this at greater length.

proposes as mandatory and avoidance of those it rejects. But does the Christian today recognize language other than the biblical Word (prayerfully and critically understood) as expressing and mediating that same claim? How one answers this question has theological consequences of the first order.

Thus, for Hans Küng, replying to the charge that he accords the third chapter of *Lumen gentium* less importance than others consider its due, the issue must be faced directly. The norm for the Catholic Christian interpreting Vatican II's Constitution on the Church must be the original message of Christ.²² In context, that original message is the New Testament itself. Traditions that are not contained or recorded in the New Testament cannot be the *norma normans*.²³ Concerned for the gospel and service to mankind, the theologian must distinguish between historical evolutions that are "secundum, praeter, et contra evangelium."²⁴ Concretely, when it comes to a threefold division of the Church's office: "Cette distinction ne se fonde donc pas, elle non plus, sur une 'institution divine,' mais bien sur un développement historique qui s'est joué d'abord en territoire syrien, mais qui est parfaitement légitime."²⁵

For Küng, episcopate, presbyterate, and diaconate represent a legitimate structuring of the ordained ministry. But the division of functions to which they correspond was not divinely decreed or established. His distinction between divine institution and historical development is obviously crucial. But why is that distinction applicable in this context?

Küng explicitly states that the only critical norm he followed in *The Church* was the truth of the gospel.²⁶ In context, that seems to mean the written word of the Bible. That written word, then, is the standard with which postapostolic institutions must be compared. As a result of that process of comparison one can recognize whether they are divinely instituted or not. Besides the verdict of the Old and New Testaments, some may think there are other judgments that are beyond appeal when it comes time to weighing the divine-right claims of contemporary institutions. From all appearances Küng does not agree.

There are, however, significantly different interpretations of post-apostolic developments as the latter are assessed by other Roman Catholics. One example comes from Raymond Brown, a biblical scholar who has concerned himself with theological difficulties occasioned by the dogmatic definitions of the Church.

²² "L'Eglise selon l'évangile: Réponse à Yves Congar," *Revue des sciences philosophiques et théologiques* 55 (1971) 209. I take the essay to be recent and representative.

²³ *Ibid.*, p. 211.

²⁴ *Ibid.*, p. 213.

²⁵ *Ibid.*, p. 217.

²⁶ *Ibid.*, p. 226.

If one has to propose a formula describing where one can find revelation, instead of saying that all revelation is in Scripture, I would prefer to say: "The revelation of God to men is found in God's action on behalf of man's salvation, as that action is interpreted by the Scriptures themselves and by later authoritative tradition." The importance of the Scripture is that it contains both the narrative of that action and the fundamental interpretation of that action, but there can be subsequent normative interpretation of God's action that is not found in Scripture. The doctrine of the assumption is a normative interpretation of what God has done in Jesus Christ, but that interpretation is not found in Scripture.²⁷

Thus, for Hans Küng some developments of church order are legitimate, but not for that fact obligatory once and for all. The reason is biblical: they are *praeter evangelium*, not *contra* or *secundum*. For others, developments that are neither *contra evangelium* nor contained in the Scriptures may become binding interpretations of revelation. Another way of looking at this is to say that Roman Catholics like Küng have come a long way from a position taken by John Henry Newman, namely, that the only thing that could be said to be not in Scripture was what was contradicted by Scripture.²⁸ A fundamental position of Küng seems to be that where the gospel leaves freedom, the latter cannot be definitively restricted by any legitimate church determination, be the latter in the order of doctrine or of ethical norm.

Karl Rahner takes a different position:

He who does biblical theology wishes to say exactly what the Scripture says, yet he cannot simply repeat the words of Scripture. In this respect, it seems to me, the only but essential difference between Protestant and Roman Catholic theology is this: that for the Catholic theologian the logical explanation of the words of Scripture by the Church can definitely become a statement of faith. . . . Let us add this however: that although a logical explanation can become for us an unchangeable dogma, we can see that even then it differs qualitatively from Scripture. Furthermore, not only insofar as it validly binds our faith, but also for its meaning and interpretation, such a formula always looks back to the words of Scripture (or of the original tradition). It is also true that this word of Scripture remains alive and normative only if, through dogmatically binding (logical) explanation, it abides in the ever-changing historical situation.²⁹

For Rahner, one may confront in propositions that are logical elaborations of Scripture the very demands of faith itself.

²⁷ Raymond Brown, *Jesus, God and Man* (New York, 1969) pp. 57-58.

²⁸ *An Essay on the Development of Christian Doctrine* (London, 1888) p. 71.

²⁹ The English translation is that of Joseph Donceel from *The Trinity* (New York, 1970) p. 54. For the German cf. *Mysterium salutis: Grundriss heilsgeschichtlicher Dogmatik 2* (Einsiedeln, 1967) 351-52.

To summarize, Roman Catholic theologians at present do have recourse to the terminology of divine law or right. They use it to express one dimension they *believe* is realized in certain, though not all, historical realities. The qualification *jure divino* indicates that the realities in question are held to be more than purely human in origin, and more than divine in the true sense that everything else is as well. Their historical permanence is guaranteed. This does not, however, mean that they are divisible into components, of which some are forever immutable as coming from God while others vary from age to age.

In the process of determining what elements in a historical institution exist by divine right, there is a consensus that the Bible must play a fundamental role. As to the ways in which the Scriptures are normative for a contemporary determination of the divine and immutable in religious institutions, there is still limited agreement. Some Catholics undoubtedly hold for two radically distinct sources of revelation, with tradition independent of Scripture. But even they would not with equanimity refer to the Author of revelation the contradiction that would be involved in having something indisputably contrary to Scripture imposed by divine obligation in tradition. What, however, of those institutions which are neither excluded nor required by the Bible? For some Catholic scholars, there is an evolution within the New Testament itself pointing to (though not spelling out clearly) a subsequent stage of development. The latter would be presumed to be of divine origin because of the Scriptures. Others feel that where this fundamental written law allows freedom, no later determination by the Church can rule it out definitively.

Löhrer is correct. There is no comprehensive study of what Roman Catholics mean when in theologizing today they refer to *jus divinum* and lay claim to it for some of their rites and institutions. *Fides quaerens intellectum* is in this case more *in via* than is regularly the case by the nature of the endeavor.

PRECEDENTS FOR CONTEMPORARY USAGES OF DIVINE LAW

Today, as in the past, Roman Catholic dogmatics regards the sacraments of penance and the Eucharist as biblical in their inspiration. Those two rites, however, have long offered grounds for a discussion of divine law. The reason becomes apparent as soon as one inquires whether there is a sequence that ought to hold between them in the case of the baptized believer who has seriously offended against God and the Church. What is the proper course he should follow? Are sacramental confession of sin and its absolution a prerequisite for his or her reception of the Eucharist?

The affirmative answer given by Catholic theologians since the sixteenth century has not been unqualified. Exceptions were recognized: for

example, the impossibility of availing oneself of the sacrament of penance, coupled with an urgency to celebrate or receive the Eucharist. But discussion of exceptions clearly indicates the acknowledgment of a rule. And at this point a problem arises: What is the source of this obligation of previous confession-absolution? Is it purely ecclesiastical law or one that derives more directly from the Author of revelation? Here one is asking something very fundamental: Does a particular sacramental ordering maintained in Church discipline for Roman Catholics arise from the divine will in such a way that it can be interpreted, determined, and confirmed but not abolished by a human legislator in the Church?

A serious study by Louis Braeckmans deals with the historical development of the present canonical regulation from the twelfth century to the years immediately following the Council of Trent.³⁰ The first period considered runs from Peter Lombard to Luther. A search is made for roots of the obligation that would later be asserted. One source consulted are the commentaries on the First Epistle to the Corinthians. How did authors during this period, those in particular whose works would be published and available to the participants in the Tridentine assembly, interpret Paul's words: "Let a man examine himself and so eat of the bread and drink of the cup" (1 Cor 11:28)?

Examination reveals that, following the example of certain of the early Fathers, many authors in the Middle Ages continued to see in those words of Paul an invitation to an examination of conscience and purification of heart (otherwise unspecified). Others referred briefly to an obligation of prior confession in this context.³¹ A study of synods during these centuries shows that some of these, even when dealing with the administration of the sacraments, took no position whatsoever on the confession of serious sins prior to Communion. There are, however, few such after 1215 and the Decree *Omnis utriusque* of the Fourth Lateran Council. Sometimes the matter was in fact treated but solely in the context of priests celebrating the Eucharist—perhaps assuming that with infrequent reception of that sacrament by the laity, other cases would be taken care of by the fulfilment of the Easter duty. A number legislated solely for the confession of the laity, and finally there are those that legislated for both.

According to Braeckmans' study, the lack of interest in this question on the part of the great canonists in the Middle Ages seems to indicate that the obligation did not have strong support in the collections of Gratian and Gregory IX. One example is crucial. In his commentary on the

³⁰ Louis Braeckmans, *Confession et communion au moyen âge et au concile de Trente* (Gembloux, 1971).

³¹ *Ibid.*, p. 18.

Decree *Omnis utriusque*, Nicholas de Tudeschis (Panormitanus) restricted the obligation of confession prior to Communion to the time and manner determined by the Church:³² “confessio aperte non videtur instituta de jure divino et esto quod fuerit de jure divino, est tamen praeceptum affirmativum. . . . Unde satis est illud adimplere tempore certo et determinato per ecclesiam. . . .”³³ Later yet, Thomas de Vio (Cardinal Cajetan) wrote that he did not find in natural, positive, or divine law an obligation of previous confession for the believer guilty of mortal sin.³⁴ Indeed, he expressly refused to charge with such sin one who had the opportunity to confess, chose not to do so for a good reason, and communicated nevertheless.³⁵

This was the situation the Council of Trent found when it came to consider what it took to be Luther’s position on the matter. Six weeks later it would assert that confession of serious sin committed after baptism was required by divine law.³⁶ But in October 1551 it deliberately refrained from saying the same of the necessity of previous confession for the Christian who was in mortal sin and wished to receive the Eucharist. The theologians and bishops involved distinguished a twofold necessity: (1) confessing serious sin to a priest empowered to mediate forgiveness in the name of the Church; (2) making such a confession before Communion on the part those in mortal sin. Both were seen as instances of a required ordering in the religious life of the Catholic Christian. The first was asserted to be of divine right; the second was not. But what were the grounds for distinction?

One factor involved was the disagreement regarding the existence of a biblical foundation for the obligation of prior confession: there was no consensus that 1 Cor 11:28 was then or ever had been considered decisive.

³² *Abbatibus Panormitani Commentaria in quartum et quintum librum decretalium* 12 (Venice, 1588) 346.

³³ Braeckmans, *op. cit.*, p. 36.

³⁴ Thomas de Vio Cajetanus, *In III Summae theologiae*, q. 80, a. 4 (ed. Leonina 12, 232–33).

³⁵ *Summa de peccatis* (Rome, 1524) fol. 24: “Sine confessione autem, si rationabilis subest causa non confitendi, excusatur communicans, quia praeceptum de confessione praemittenda communioni non est de jure divino nec de jure positivo, quum nullibi inveniat, nisi semel in anno. . . .” Considering the case of one who has the opportunity to confess mortal sin before Communion but for a reasonable cause does not, he continues: “Non damno tamen ipsum peccati mortalis propter rationem dictam.” Cf. also Adrian VI, *Quaestiones de sacramentis in quartum Sententiarum librum* (Rome, 1522) fol. 119: “Sic enim expectans nullo jure, quod ego sciam, prohibetur communicare si vere penitens est.” Delay in making one’s confession might be motivated, e.g., by a desire to seek the assistance of a more suitable confessor than the one available at the time. A minority view saw nothing seriously objectionable in this procedure or at least did not exclude it as mortal sin.

³⁶ *DS* 1706–7.

Secondly, the way Scripture had been traditionally read in the Church was recognizably different in its application to the two situations in question.³⁷ The impasse was resolved by asserting vigorously an obligation of prior reception of the sacrament of penance. That requirement was not, however, characterized as one of divine law, whereas the need for confessing mortal sin (without further determination of time and place) would be so described.

After the Council, as before, there were Catholic theologians who interpreted the origin of that obligation of prior confession in radically different ways. Indeed, there were those who invoked Trent itself as having settled the question, whereas the ultimate source of the obligation had in fact been left deliberately unclear.³⁸ A number of observations may be in order at this point.

The Linguisticity of Christian Faith

One observation has to do with language. Trent resembles Vatican II at least in this: it sought formulae that said something positive but that did not claim to be exhaustive. The importance of those formulae was a consequence both of the linguisticity of Christian faith and of the potentially unitive character of language. A formula-hunter or phrase-coiner may at times find words that win acceptance mainly because those who are united by the language used are committed to so little by it. What Trent said of penance in relation to Communion was not such a case. Despite the disagreement among the participants, that there *should* be some obligation of prior confession was not the object of dispute. In this the assembly saw itself as one, over against positions attributed to Luther. Furthermore, the working rule at Trent was that disputed scholastic questions would not normally become objects of final decision by the Council. Where theological freedom had reigned before, it was not to be restricted.³⁹ This did not mean that such questions would never be resolved in the future; it meant that the Tridentine assembly was not about to solve them. When unresolved questions are answered differently by men accepting one and the same formula, there is a difference of understanding among those who hold to the formula. Still, the very attempt

³⁷ The ambiguities of 1 Cor 11:28 in relation to the need for confessing mortal sin prior to Communion were missing when Jn 20:22 and Mt 18:18 were considered in relation to the need for confessing serious sin to a minister representing the Church in its active role in the rite of divine forgiveness.

³⁸ Braeckmans, *op. cit.*, pp. 199–206.

³⁹ Heinrich Lennerz, "Das Konzil von Trient and theologische Schulmeinungen" *Scholastik* 4 (1929) 38–53. This has been repeatedly confirmed by the research of Hubert Jedin; cf. "La nécessité de la confession privée selon le concile de Trente," *Maison Dieu* 104 (1970) 88–115.

at formulation, notwithstanding serious divergencies in understanding on the part of the formulators, is significant. The effort made at Trent shows that those involved were convinced that they held in common more than words. The realities for which the words stood united those confessing the same formula; and the faith expressed in such a stance was thought capable of uniting believers understanding it differently. As a result, the right formula might well be a precondition for reaching a common understanding of the faith in the future. To dismiss this whole procedure as a callous compromise in the face of the harsh reality of division is to miss a whole dimension in what took place. But one thing is sure: Catholic theologians and bishops in the Council could not agree whether a particular obligation was one of divine law or not; and if it was, how it could be.

In the third chapter of *Lumen gentium* the Second Vatican Council repeated divine-right claims for the hierarchical character of the People of God.⁴⁰ The grounds offered for those claims were traditional. This procedure left many theological questions unanswered. Not the least of those questions is, how convincing are those grounds and how good a case do they make for those claims? Notwithstanding silence on this score, the assertions made in chapter 3 do express one conviction: papal primacy and episcopal collegiality are providentially willed for the well-being of Christ's Church. Such language, with all its obvious limitations, has something to commend it. It may help Roman Catholics to work together in an effort to make a more credible and intelligible case for their faith and the institutions they believe the faith demands.⁴¹

⁴⁰ *Lumen gentium* 18: "Ut vero Episcopatus ipse unus et indivisus esset, beatum Petrum ceteris Apostolis praeposuit [Jesus Christus] in ipsoque instituit perpetuum ac visibile unitatis fidei et communionis principium et fundamentum. Quam doctrinam de institutione, perpetuitate, vi, ac ratione sacri Primatus Romani Pontificis deque ejus infallibili Magisterio, Sacra Synodus cunctis fidelibus firmiter credendam rursus proponit, et in eodem incepto pergens, doctrinam de Episcopis, successoribus Apostolorum, qui cum successore Petri, Christi Vicario ac totius Ecclesiae visibili Capite, domum Dei viventis regunt, coram omnibus profiteri et declarare constituit." Here *jus divinum* appears in terms of divine institution, as in Vatican I (DS 3058). Similarly in *LG* 20 with regard to the succession of bishops: "Proinde docet Sacra Synodus Episcopus ex divina institutione in locum Apostolorum successisse." With regard to those bishops it is later asserted: "singuli ea sollicitudine pro universa Ecclesia ex Christi institutione et praecepto tenentur . . ." (23). The same bishops exercise personally an authority in the name of Christ. By virtue of this authority "Episcopi sacrum ius et coram Domino officium habent . . ." (27). Episcopal authority is not weakened by the supreme and universal authority in the Church but is rather strengthened by it, given that the Holy Spirit unceasingly preserves the form of government established in the Church by Christ (27). Ministry in the Church is divinely established (28). Priests exercise their office especially in Eucharistic worship as acting in the person of Christ (28). That the claims are reasserted is not presently questioned, whatever some may think of their validity.

⁴¹ The assumption here is that there may be a fundamental unity in faith without theological agreement as to the probative character of the basis proposed for that faith.

Bible and Tradition as Normative

Something else can be learned from a consideration of precedents. Trent was well aware of this fact: some procedures were legislated by the Church despite the fact that they were not required either by Scripture or by tradition. With regard, however, to the confession of mortal sins committed after baptism, the obligation had its origin not in a canonical source but in the divine will. No consensus, however, could be reached that the same was true of the need to confess mortal sins before Communion. In other words, two contemporary situations were considered and an effort was made to bring the written Word of God to bear on them. In both cases abuses were present in the situations, were recognized as sinful, and in need of elimination. But there were elements in both that were not at odds with God's commands. One was the clear and distinct confession of serious sin to the Church's representatives empowered to mediate divine forgiveness. It was seen as related to the divine will positively and by way of a necessity more fundamental than any resulting from canon law. To be sure, the penitential rite was not a Platonic idea independent of time and circumstances. Joseph of Nazareth had indeed not built the first confessional, and this was well known.⁴² But God's will assured the existence of a concrete reality in time and space, namely, a rite ordered to signify and effect the sinful Christian's reconciliation with the Church and God. Such a rite (thus instituted), with all its variations from age to age, would always exist in the Church. The biblical Word brought to bear on the present situation gave rise to this assessment.⁴³ To be sure, the exegetical and theological methodology are by later standards deficient. On the other hand, the New Testament did not give rise to a similar evaluation when applied to the sacramental sequence required between penance and the Eucharist in the case of a baptized person guilty of mortal sin.

Jus Divinum in Context

What does this tell us of the nature of divine law as operative in the thought-patterns of the theologians and bishops who spoke of it in this context? They too were willing, as is Karl Rahner now, to distinguish between the concrete form and the substance of institutions they regarded as both human and divine in origin and nature.

Calvin himself seems to recognize something of the sort as being the case when he writes of scholastic theologians in the *Institutes*:

⁴²Cf. Jedin, "La nécessité de la confession privée," p. 115. Jedin notes this despite his admission that participants in the Council held historically incorrect views regarding ancient penitential practice.

⁴³I have tried to relate the reasoning behind this to a commonly-held world view at the time; cf. "Integral Confession and the Council of Trent," in *Concilium* 1 (1971) 99-109.

... there has always been a great controversy between the canonists and the scholastic theologians. For the canonists have said that it [confession] was established by positive law, i.e., it was established by church statutes; the theologians have claimed that it was established by God's own law. In this dispute, the theologians have manifested a remarkable lack of prudence in that they twisted and corrupted the scriptural passages, which they cited to their own purpose. And seeing that even in this way they did not accomplish their purposes, those who tried to be more subtle found this way of escape: confession came from divine right in its *substance*, but took its *form* from positive law.⁴⁴

Theologians see the substance or necessary core of penance as coming from God and the form of its celebration from human law. The form is regarded by canonists as so influential that they make it accountable for nearly the whole reality in question. Calvin unquestionably put his finger on a neuralgic point in Catholic discussions.

Positive law was responsible for certain salient features of historical institutions. As a result, in the sixteenth century as now, some found it hard to understand the claim that those institutions exist by divine right. Others saw the abiding character of certain elements in various forms and regarded the institutions as arising out of and existing by divine law. A good example of the latter is James Lainez, who wrote what is probably as long and thorough a theological treatise on the nature of divine law as any Catholic of the time.⁴⁵ His right to be heard becomes clearer if one recalls that the works of Calvin were cited before all others at Trent when it came to determining the Reformers' attitudes regarding the necessity of the sacrament of penance; and Lainez was in all likelihood directly involved in drawing up the résumé that served as basis for the discussion of the Reformers' opinions on the matter.⁴⁶

After the Council Lainez wrote two volumes on the Tridentine debates. The first is concerned with the origin of episcopal authority in relation to that of the Roman Pontiff. Here an effort is made to determine the meaning of *jus divinum* in the dispute that arose at the Council during the discussion of a canon that would have described bishops as superior to priests by divine law.⁴⁷ The question under discussion was whether and how the jurisdiction of bishops exceeds that of priests. Lainez defended

⁴⁴ Translated from Jean Calvin, *L'Institution chrétienne* 3, 4, 2 (Geneva, 1957) pp. 102-3.

⁴⁵ Jacobus Lainez, *Disputationes Tridentinae* (Innsbruck, 1886; ed. H. Grisar). The first of the two tomes is entitled *Disputatio de origine jurisdictionis episcoporum et de Romani pontificis primatu*. To describe his position as a "papalist presbyterianism" is to minimize his acceptance of episcopal priority in the sacrament of orders. For such an assessment, cf. H. Outram Evennett, *The Spirit of the Counter-Reformation* (Cambridge Univ. Press, 1968) p. 136.

⁴⁶ Hubert Jedin, *Geschichte des Konzils von Trient* 3 (Vienna, 1971) 315.

⁴⁷ Jacobus Lainez, *Disputationes Tridentinae* 1 (ed. Grisar, p. 1).

the thesis that the successor of Peter was the only officeholder in the Church who could, with the certainty of faith, be said to have jurisdiction by divine right.

It was in this context that he expressed his own notion of divine law. For him, divine law referred to an ordinance communicated not by man but by the Father on Sinai, by Jesus Christ in the Gospels, or by the Holy Spirit through faith and charity in the hearts of the faithful.⁴⁸ The difference between divine law in the Old and New Testament is that in the latter it is far more general and much less concerned with contingent details of time, place, measure, etc.⁴⁹ Thus, a divine law in the New Testament might well call into existence (and serve as grounds for) an institution that was the only one of its kind. But the law in question would not prescribe in a very detailed way for that institution. Indeed, Lainez thought divine law was related to its historical object in the way a universal idea is related to its concrete referent, with all the variants of time and space that this implies.

A general law requiring that, when possible, serious guilt had to be confessed clearly to the Church was, in the view of Lainez, God's will and therefore *jus divinum*. So, too, the existence of a universal pastor in the Church depended on a divine institution. But the latter, viewed from the perspective of the concrete exercise of jurisdiction, left concrete details to be worked out in history. It is crucial not to overlook this in the theology of one who was among the most ardent defenders of the Roman primacy. Again, the distinction between the generic nature of an institution and the way it is realized contingently in history seems crucially important.

The conclusion from this example is simple. Roman Catholic bishops and theologians at Trent interpreted God's written Word with direct reference to their day. They brought it to bear on the contemporary rite of penance. As a result, they regarded penance not as the double of an in-

⁴⁸ *Ibid.*, p. 28: "lex vero Moysis ex divina revelatione et auctoritate homini a Deo concessa prodit; et ideo divina est, licet non ita immediate a Deo prodeat, sicut doctrina decalogi vel doctrina per Christum dominum prolata, vel sicut lex fidei et caritatis, quae per Spiritum sanctum in cordibus fidelium infunditur." But that immediacy is precisely his *conditio sine qua non* for *jus divinum*. Cf. also p. 35: "Canonicae etiam epistolae apostolorum continent quaedam praecepta positiva, quae tamen non asserunt esse proprie juris divini. . . ." More interesting yet, p. 36: "omnino certas esse expositiones apostolorum positas in Scripturis, et etiam expositiones domini nostri in evangelio contentas, licet non dubium sit, doctrinam per Verbum prolatam esse digniorem sicut evangelia digniora sunt epistolis."

⁴⁹ *Ibid.*, p. 46: "jus divinum proprie sumptum et obligans in novo testamento non admodum descendit ad particularia, nec de accessoriis et mediis tractat, ut saepe fiebat in vetere testamento; sed in universalibus se continet . . . quae omnia noluit dominus per se decernere, sed ecclesiae relinquere."

stitution from New Testament days but as the sole equivalent available for the needs of the sixteenth century. It was therefore of divine law.

Two others cases, however, were different. There was a divine law forbidding the Christian to partake of the Eucharist unworthily. But did this law require in the sixteenth century that sacramental confession of mortal sin precede the reception of the sacrament of the altar? That such confession, when possible, was required there was no doubt. But was it demanded antecedently to church statute? Here there was no agreement. Consequently, the Council did not characterize the obligation as one of divine law. Similarly, bishops were recognized as the ecclesiastical superiors of priests in terms of church leadership. But that this superiority in teaching and governing arose from divine law was again in doubt because of varying historical relations of bishops to the successor of Peter. Here, too, divine-law claims were avoided.⁶⁰

Hermeneutic and Application

In all three cases the hermeneutics involved came to this. An effort was made to determine what the Word of God, understood at the time by the Church represented in Council, said in its judgment regarding contemporary institutions. But the basis for the judgment was not the Word of God as understood by all who followed the same principles of scientific exegesis or by all holding either a common notion of theology as a science or a similar view of the relation between critical thought and Christian faith. It was rather the Word of God as understood by those sharing the same faith, reading the same Bible out of the same tradition in the same Church, and facing the same realities in a crisis situation. In such circumstances the term *jus divinum* was applied to some realities, and deliberately not applied to others, by the Catholic Church in Council. Some of the underlying theology has been presented to show what the situation was and what it was not.

It may now be possible to draw a conclusion. Christian faith as God-centered defies complete articulation but strives for expression nevertheless. As a result, the positive relation of certain historical institutions to the divine will can be affirmed in faith even if the grounds for the relation are not adequately grasped even ideally in such a way as to be compelling. The difficulty theologians experience today in their efforts to isolate elements of divine right in sacraments and church order from contingent, changeable factors is not new.

⁶⁰For a similar outcome with regard to the dispute about the divine-law foundation for the residence of bishops in their sees, cf. Hubert Jedin, "Der Kampf um die bischöfliche Residenzpflicht," in *Il Concilio di Trento e la riforma Tridentina: Atti del Convegno Storico Internazionale* (Herder, 1965) pp. 1-26.

Nor does this difficulty imply that all realities positively related to God's will are related with exactly the same contingency. *Jus divinum* claims, then as now, were shrouded in the realm of mystery. The role of the Roman Catholic theologian was to bring the light of reason to bear, so as to understand his Church's belief regarding those realities—this by means of exegesis and historical investigation. The goal was to locate the mystery, to relate it to others, to view it in relation to other areas of human experience. But that mystery was not to be rejected or whittled away simply because it exceeded the theological efforts which it evoked. Had that mystery not somehow transcended these efforts, then the *divinum* in *jus divinum* would have been a misnomer. Efforts to establish divine-right claims in the past deserve to be viewed in this context; otherwise they are misunderstood. There is a lesson here, one worth considering in investigating divine-right claims made for present institutions in the Roman Catholic Church.

THEOLOGICAL METHOD, CATHOLIC FAITH, AND DIVINE-RIGHT CLAIMS OF THE ROMAN PRIMACY

An attempt has been made to indicate various usages of *jus divinum* in the writings of contemporary Roman Catholic theologians.⁵¹ Then instances from the past were cited. They showed that this is not the first time Roman Catholics have felt both the conviction and the obscurity of their faith. This was likewise the result of previous efforts to state precisely which concrete elements in their institutions they regarded as of divine right.⁵² It now remains to point out an easily overlooked application which this has to an ecumenical reassessment of the divine-right claims of the Roman primacy.

Since the days of the First Vatican Council in particular, Roman Catholic dogmatics has presented the bishop of Rome as much more than the central figure in church structure and discipline. Divine-right claims have in fact been made regarding his jurisdiction over the universal Church. Indeed, they have been specifically related to and grounded in the Bible and tradition, however the latter pair may have been delineated. Therefore, both for Roman Catholics and for other Christians, dialogue today must include the recognition of one fact. Such claims have not been re-

⁵¹The authors chosen are representative; the list could be further lengthened. Cf. L. M. Örsy, "On Mixed Marriages," *America* 117 (1967) 242-46; Peter Huizing, "Göttliches Recht und Kirchenfassung," *Stimmen der Zeit* 138 (1969) 162-73; Avery Dulles, "The Church, the Churches, and the Catholic Church," *THEOLOGICAL STUDIES* 33 (1972) 234.

⁵²For a further use of divine right, this time in relation to the Roman cardinalate, cf. Giuseppe Alberigo, *Cardinalato e collegialità: Studi sull'ecclesiologia tra l'XI e il XIV secolo* (Florence, 1969).

garded by Roman Catholics as belonging solely to the sphere of canon law, but as situated somehow in the realm of faith itself. Is the Petrine function realized in the Roman primacy despite the historical abuses associated with the latter? The answer of Roman Catholic dogmatics has been in the affirmative. Does that function thus realized derive its legitimacy from God's revelation, so as to demand in its exercise the assent due to His Word? At least under certain conditions? Again the answer has been positive. Some other sort of claim for the bishop of Rome would likely not have seemed so significant either for its Catholic defenders or for Protestant and Orthodox objectors.

The point is important. It calls attention to something that should be taken for granted when the claims in question are studied and analyzed by believing Christians of different churches. Both sides in such a discussion hold certain things in common with regard to the demonstrability of articles of Christian faith. These articles are neither arbitrary conjectures nor compellingly self-evident assertions. Whatever the vast majority of mankind may feel, there is a consensus among most Christians on this. And where there is not, ecumenists had best not argue among themselves about the conditions that would have to be fulfilled to make a convincing case for such a divine-right institution in Christianity. Far from investigating how well or poorly such a demonstration is carried off, they should ask what it would entail to present with intellectual honesty to non-Christians the *grounds* of the truth-claim for any specifically Christian tenet. Perhaps they can agree on the limits any such effort would have of its very nature. If so, they should not be surprised by something else. One group in their midst may observe those same rules but be able to go no further in giving fellow Christians its grounds for a particular tenet which it does not share in common with the rest but holds as binding in faith nonetheless. This, it seems to me, may help clarify the Roman Catholic claim regarding the primacy. But to see any parity between the situations, a few words of explanation are imperative.

Neither as an experience nor as expressed in doctrine is Christian faith reducible to the laws of inductive or deductive reasoning. A partial validation may arise for the truth-claims of certain propositions from the fact that at very least they follow from self-evident premises with logical necessity. But Christian faith does not claim that sort of validation. Or, if some Christians think it does, the question is far more fundamental than divine-right claims for an institution accepted as such by one group and viewed in a radically different fashion by another.

The sort of proof one does have from the past for Christian tenets is not that compelling, however important it is for the credibility of the faith. Far from it. The ultimate validation of truth-claims for Christian faith is

in the future, when the substance of things hoped for in the present will be seen face to face. Until then the Christian lives in a confidence and hope that are intellectually responsible and respectable but far from self-evident in their implications. Neither the most outstanding theologians nor the best historians find in their respective disciplines an escape from the decision such faith and hope involve. That is a decision to accept or reject individual persons and institutions of the present on the basis of the Word of God as more than either can apodictically prove themselves to be.

This was the scandal posed to His contemporaries by the historical Jesus; it was the stumbling block encountered in preaching the Risen Christ; it was the cross experienced by Paul in whose word God's Word reached men, all appearances to the contrary notwithstanding (1 Th 2:13-14). But surely such obstacles to Christian belief did not cease either with the completion of the New Testament canon or with its acceptance. Nor do they vanish as soon as one freely recognizes that the Word of God is mediated by those texts. Jesus' own ministry did not so validate itself as to preclude the need for the decision of faith on the part of men of common intelligence and good will. At least no Catholic dogma requires one to say it did. Now this indicates an enigma in His own ministry—one precisely connected with the validation of its absolute claims to announce the kingdom of God. The resulting question is simple. Should it be surprising if one group of Christians maintains that the ministry of Peter, however unrepeatable, is nevertheless continued in the exercise of an office through history for men of subsequent ages? The historical demonstrability of such a claim would a priori be expected to be neither totally absent nor apodictic. Far from arguing solely in favor of a purely charismatic ministry, such considerations can tell positively in favor of a succession in the exercise of the Petrine function in the Church. To put it somewhat differently, if the New Testament presents a chief apostle, a principal spokesman and confessor of the faith, would not a presumption that his function continued in others be at least entertainable as a position Christians might take as believers?⁶⁸ I would answer in the affirmative. This position is not self-evident but should be comprehensible to other Christians, who may not hold it as true in any way. Nor do I see how its defenders could be faulted solely on the grounds of not having demonstrated it apodictically through biblical premises. As if that were or ever was the only way to ground faith for Christians living after the completion and determination of the New Testament canon!

⁶⁸ For analogous argumentation in favor of the succession of bishops, cf. Myles Bourke, "The Catholic Priest: Man of God for Others," *Worship* 43 (1969) 68-81.

He may have exaggerated, but James Robinson was basically right in describing the New Quest of the Historical Jesus as *fides quaerens intellectum* rather than *intellectus quaerens fidem*.⁶⁴ And that example is very pertinent.

How would Christian theologians describe the process of comparing the creeds they confess with the explicit language of the New Testament to find grounds for the former in the latter? Would this, too, be a case of faith seeking understanding? The point is crucial. Given an assent to the biblical Word in faith, is the adherence to subsequent creeds with their notably different language the work of reason pure and simple? The Word of God is recognized in both forms, even if it is accorded a primacy in its biblical expression. But are the creedal formulae accepted only because of their *evident* connection with the New Testament message? If so, then logical consistency would be the final motive for accepting subsequent dogmatic development. One would not be assenting to the Word of God acknowledged as operative in that development. It would be as if one knew he could not deny the Creed and hold the Bible as expressing the Word of God, and for this reason—namely, his own human apprehension of the rules of logic as applying in this case—assented to the Creed.

If in the history of Christian faith there appear creeds with articles that are accepted as confessions of faith itself, their genesis would likely share in the qualities of that same faith. By this I mean that one should not be shocked if their origin is not explicable solely in terms of the laws of deductive or inductive logic. At least there is no reason why it would have to be; for revealed truth either in its biblical expression or in its subsequent creedal formulation transcends reason without negating it, as perhaps the Christian eschatologist understands best of all.

In the contrary hypothesis, there would be a need for grace and divine guidance in the expression of the Christian faith found in the New Testament, but subsequent true development could be adequately guaranteed by the cultivation of sound logical habits of thought. The role of the Spirit recalling to the Church the words of the Lord is, I submit, diminished considerably in this way of viewing things. Computers could probably do a better job of verifying the compatibility of later forms of faith with earlier expressions than any consultation with believing Christians or their leaders.

What is more, that is simply not the way notable dogmatic development has taken place in instances where churches now divided on the Roman primacy are one in their official confession. For instance, in the

⁶⁴James M. Robinson, "The Recent Debate on the New Quest," *Journal of Bible and Religion* 30 (1962) 198–208.

Nicaenum it is impossible to relate all the articles to clear biblical premises giving rise to them by way of logical necessity. Notwithstanding, their connection with the Bible is credible. But the connection is not of such a sort that there is no need for a faith-decision recognizing the truth of the New Testament in the words of the Creed. Arguing against any syllogistic nexus between articles of subsequent creeds and biblical confessions is the fact that the creeds not infrequently contain terms the Bible does not. The Nicene *homoousion* is a case in point. A new term in the conclusion indicates that the logic, whatever its nature, is not recognizably syllogistic.

Now one may retort to this that such creedal articles follow from the biblical confession of Christ and from another premise indicating that what the conclusion says in its terms is what the Bible says in other terms. As a believer, I accept this equivalence as true. But to argue for a deductive paradigm of development in such a way seems to beg the question in the minor premise. That question has to do with how one asserts with the binding force of faith that the Son presented one way in the New Testament and the Son presented in a different way in the Nicene Creed are indeed one and the same. To assume the compatibility or mutual inclusiveness of both presentations in a minor premise is begging the question. For this reason the dilemma is not solved by arguing that everything said of the Father in the New Testament is said as well of the Son "excepto Patris nomine." One who so reasons is a better witness to the faith than a theologian explaining accurately the concrete development the faith legitimately went through at Nicaea.

Of course, one may also argue for a theory of development arising from strictly inductive logic. This means maintaining that what is said in various contexts in the New Testament regarding the Son leads to the generalization that He is indeed God in the sense of Nicaea. A case for this approach involves a considerable task: it involves settling one by one the manifold problems that keep arising as a result of ongoing research into the historical basis for the variety in the New Testament presentations of Jesus Christ. The last *needed* word has not yet been spoken on the conclusive character of this approach.

I am arguing that other Christians besides Roman Catholics find themselves confronted today with the results of an information explosion. As a result, there are unanswered questions that are at the same time closely connected with the validation of the truth claims of the faith professed by Christians. How deal with those questions? Not by assuming that the validation of later expressions of faith is to be sought primarily in deductive or inductive processes of reasoning linking those expressions with biblical premises or the explicit testimony of tradition. Today, proofs in

theology and efforts to show the reasonable, historical grounds for the faith and the institutions that are called for by God's word are recognized more and more as not being of that sort.⁵⁵

A conclusion would seem to follow. In a dialogue the question facing Catholics and other Christians regarding the Roman primacy should not be: How can Catholics establish it *conclusively* from Scripture? Such a validation should not be expected unless a theory of development is espoused in which deductive or inductive logic provides the sole applicable rules.

The question raised should rather be: What grounds do Roman Catholics have for their conviction that in the papacy there is a Petrine function which is not a purely human creation? It should not be surprising if they confess they do this on the basis of Scripture but simultaneously admit they cannot establish their position conclusively even to their own satisfaction at present. This admission would attest to their renewed dedication to the task of making the Bible the soul of all sound theology. Nor should their position be reckoned a disavowal of scientific theologizing. It is not the function of the Christian theologian to establish apodictically a necessary sequence between earlier and later expressions of the faith that his or her church professes. He must, however, try ceaselessly to show that the case for real continuity is not irrational and has intellectually respectable arguments to corroborate it. I think a fair number of Roman Catholic exegetes and dogmaticians are effectively doing this today in their studies on the normative character of Scripture and the historical grounds for the divine-right claims of the Roman primacy. What some have already suggested on this score⁵⁶ does not seem to be rejected by other serious scholars.⁵⁷ The unresolved questions regarding succession in the Petrine function indicate one thing: historical studies and philosophical sharpening or nuancing of concepts like "succession" are an unfinished task. But that task can be one of seeking a fruitful, contemporary understanding of faith in the permanent character of Peter's function in the Church.

⁵⁵ For a useful study of the historical working-out of this problem in Roman Catholic circles, cf. Winfried Schultz, *Dogmenentwicklung als Problem der Wahrheitserkenntnis* (Rome, 1969).

⁵⁶ One could cite Myles Burke, "The Petrine Office in the New Testament," *Proceedings of the Catholic Theological Society of America* 25 (1970) 1-12.

⁵⁷ A limited but real beginning of convergence may perhaps be found, for Matthew's Gospel at least, in Günther Bornkamm, "The Authority to Bind and Loose in the Church in Matthew's Gospel: The Problem of the Sources in Matthew's Gospel," in *Jesus and Man's Hope* 1 (Pittsburgh Theological Seminary, 1970) 37-50.