THE CATHOLIC UNIVERSITY OF AMERICA

John Henry Newman, Doctrinal Development, 
and the Canonical Status of the Theologian in the Church

A DISSERTATION

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By
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The 19th century British theologian John Henry Newman (1801-1890) proposed a theology of the development of doctrine as proof that the Catholic faith was free from corruption and error. In early works such as *Arians of the Fourth Century* (1833) and *Lectures on the Prophetical Office of the Church* (1837), Newman presented doctrinal development as the interplay of private judgment, public discourse, and ecclesial indefectibility. This interplay allowed theologians to draw out from revealed truth elements of the faith that were previously only implicitly recognized. After his reception into the Catholic Church in 1845, Newman’s *An Essay of the Development of Christian Doctrine* (1845) and *On Consulting the Faithful in Matters of Doctrine* (1859) illustrated how private judgment and public discussion safeguarded doctrinal truth, with theological investigations becoming more nuanced and refined in the process. Finally, Newman’s later works such as *A Letter Addressed to His Grace the Duke of Norfolk* (1875) and his third edition of *Lectures on the Prophetical Office of the Church* (1877), asserted that the dogma of papal infallibility, newly defined in 1870 by the First Vatican Council, did not stifle doctrinal development or the work of the theologian in that development, but catalyzed them.

It is clear, therefore, that throughout his writings Newman held fast to a view he first proposed in 1837, in that “the Church is declared to be the great and special support of the Truth, her various functionaries are said to be means towards the settlement of diversities and of uncertainty of doctrine, and securing unity of faith” (*Lectures on the Prophetical Office of the Church*). For Newman, these “various functionaries” included not only apostles, prophets,
evangelists, and pastors, but also teachers. He thereby granted theologians a role in securing the unity of faith.

On the centenary of Newman’s death, in 1990, Joseph Cardinal Ratzinger wrote the following: “In the idea of ‘development’ Newman had written of his own experience of a never finished conversion and interpreted for us, not only the way of Christian doctrine, but that of the Christian life.” More recently, Pope Francis in his 2019 Christmas Greetings to the Roman Curia referenced the famous passage from Newman’s Essay on the Development of Christian Doctrine that “Here below to live is to change, and to be perfect is to have changed often.” Pope Francis continued his reflection on Newman’s thought by stating, “Naturally, he is not speaking about changing for change’s sake, or following every new fashion, but rather about the conviction that development and growth are a normal part of human life, even as believers we know that God remains the unchanging centre of all things. For Newman change was conversion, in other words, interior transformation.” It was in that light that Francis offered his understanding of the reformation of the Roman Curia as “a need to respect history in order to build a future that has solid roots and can thus prove fruitful. Appealing to memory is not the same as being anchored in self-preservation, but instead to evoke the life and vitality of an ongoing process. Memory is not static, but dynamic. By its very nature, it implies movement.”

Contemporary scholarship has produced numerous works on the development of doctrine in Newman (cf. Avery Dulles, John Ford, Nicholas Lash, Terrence Merrigan, and Jan Henrik Walgrave), with the works of Ian Ker deserving particular attention. There has been little scholarship, however, on how Newman’s thoughts on doctrinal development can influence current canon law or Church governance. By offering a systematic analysis of Newman’s concept of development and current canonical practice, while examining the hitherto underexplored links
between the two, this dissertation proposes a new model for integrating doctrinal development and canon law in the life of the Church.
This dissertation by David P. Long fulfills the dissertation requirement for the doctoral degree in canon law approved by Kurt Martens, J.C.D., as Director, and by John Beal, J.C.D., and Nancy Bauer, J.C.D., as Readers.

Kurt Martens, J.C.D., Director

John P. Beal, J.C.D., Reader

Nancy Bauer, J.C.D., Reader
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I have learned that the writing of a dissertation can be the most rewarding experience in
the world, especially as each chapter came to its conclusion! Late nights of researching obscure
secondary authors, painstakingly checking every footnote to make sure all the information is
accurate and writing that last page while racing the sun and the start of another day are all part of
the process. Another important part of the process is taking a moment to recognize those people
who have provided the support, encouragement, and strength to push a struggling author towards
the finish line.

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and they have always worked to “meet the people where they are.” My father, a retired Catholic
high school theology teacher, has often shared with me the highs and lows of teaching students
who run the range of religious practice. In these conversations, I listen as he explains how he
constantly adjusted his lessons and his materials to make his courses relevant to the young men
and women he taught. When a lesson worked, he tweaked it to make it even better; when a lesson
fell flat, he scrapped it and started over.

As for my mother, she has been an educator in classrooms of three different Catholic
elementary schools, has worked in parish adult education programs as a pastoral associate, and
now continues in a most vital role in education as grandmother to my son, my three nephews and
one niece. I remember as a first grader working on math problems at the dining room table that I
would question my mother if she knew how to do the problems because she was not a math teacher.
Foolishness knows no bounds in first graders, and I am happy that she did not hold my insolence
against me. Through it all, my parents have truly been the best and most influential educators I
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chance to read this dissertation, even if you find it boring, I hope you will be proud of me for writing it and sticking with it to the end.
# TABLE OF CONTENTS

**LIST OF ABBREVIATIONS** .................................................................................................................. x

**GENERAL INTRODUCTION** .................................................................................................................. 1

  * Brief Biography of John Henry Newman .......................................................... 3
  * The Purpose and Methodology of this Dissertation .......................................... 7
  * Some Keys to Reading John Henry Newman ................................................... 11

**CHAPTER ONE: NEWMAN'S UNDERSTANDING OF THEOLOGY** .................................................. 15

  * FAITH AND DEVELOPMENT ......................................................................................... 15
    * Faith and Theology for Newman ........................................................................ 16
    * Doctrinal Development ....................................................................................... 19

  * NEWMAN AND PRIVATE JUDGMENT ........................................................................ 38
    * Private Judgment in Action: The Grammar of Assent ...................................... 53
    * Concluding Remarks .......................................................................................... 60

  * NEWMAN AND PUBLIC DISCUSSION ....................................................................... 63
    * The Sensus and Consensus Fidelium .................................................................. 65
    * The Theologian within the Sensus Fidelium .................................................... 73
    * Concluding Remarks .......................................................................................... 78

  * NEWMAN AND HIERARCHICAL MODERATION ...................................................... 83
    * The Interplay of the Prophetical and Regal Offices of the Church .................. 83
    * Theology and Authority ..................................................................................... 93
    * Concluding Remarks .......................................................................................... 103

**CONCLUSION** .................................................................................................................................. 106

**CHAPTER TWO: THE THEOLOGIAN IN CANON LAW** ................................................................. 111

  * INTRODUCTION ........................................................................................................... 111

  * THE CODEX IURIS CANONICI (1917) AND DEUS SCIENTIARUM DOMINUS (1931) .... 122
    * The Rights and Responsibilities of Bishops in the 1917 Code of Canon Law ...... 123
    * The Rights and Responsibilities of the Christian Faithful in the 1917 Code of Canon Law 128
    * Deus scientiarum Dominus ............................................................................. 133

  * DOCUMENTS OF THE SECOND VATICAN COUNCIL .............................................. 137
    * The Roman Catholic Church and Education: Gravissimum educationis .......... 138
    * The Conciliar Vision of the Theologian within Catholic Education ............... 145
    * The Pastoral Constitution on the Church in the Modern World Gaudium et spes 147
    * Apostolicam actuositatem and Ad gentes .......................................................... 150
    * Conclusion ......................................................................................................... 153

  * THE PONTIFICATE OF JOHN PAUL II ........................................................................ 155
    * Sapientia Christiana ......................................................................................... 156
    * Theology and Theologians in the 1983 Code of Canon Law ............................ 166
    * The Rights and Responsibilities of All the Christian Faithful .......................... 169
<table>
<thead>
<tr>
<th>Chapter Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rights and Responsibilities in Catholic Education</td>
<td>172</td>
</tr>
<tr>
<td>Schools (canons 796-806)</td>
<td>174</td>
</tr>
<tr>
<td>Catholic Universities and Other Institutes of Higher Studies (canons 807-814)</td>
<td>179</td>
</tr>
<tr>
<td>Canon 812 and the Mandatum</td>
<td>182</td>
</tr>
<tr>
<td>Ecclesiastical Universities and Faculties (canons 815-821)</td>
<td>185</td>
</tr>
<tr>
<td><em>Donum veritatis</em></td>
<td>188</td>
</tr>
<tr>
<td><em>Ex corde Ecclesiae</em></td>
<td>194</td>
</tr>
<tr>
<td><em>Veritatis splendor</em></td>
<td>205</td>
</tr>
<tr>
<td><em>Ad tuendam fidem</em></td>
<td>209</td>
</tr>
</tbody>
</table>

**FURTHER CANONICAL DEVELOPMENTS**

<table>
<thead>
<tr>
<th>Chapter Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regarding the Theologian in <em>Veritatis Gaudium</em></td>
<td>221</td>
</tr>
<tr>
<td>Conclusion</td>
<td>231</td>
</tr>
</tbody>
</table>

**CHAPTER THREE: NEWMAN, DEVELOPMENT, AND CANON LAW**

**NEWMAN AND CANONICAL REGULATION**

<table>
<thead>
<tr>
<th>Chapter Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>As Rector of the Catholic University of Ireland</td>
<td>234</td>
</tr>
<tr>
<td>A Hopeful Project</td>
<td>236</td>
</tr>
<tr>
<td>The Organizational Failures of the Catholic University of Ireland</td>
<td>244</td>
</tr>
<tr>
<td><strong>CRITIQUES OF NEWMAN'S THEORY OF DOCTRINAL DEVELOPMENT</strong></td>
<td>254</td>
</tr>
<tr>
<td>Critiques from Newman's Contemporaries</td>
<td>255</td>
</tr>
<tr>
<td>Current Critiques of the Development Approach</td>
<td>264</td>
</tr>
<tr>
<td><strong>JOHN HENRY NEWMAN AND THE SPECTER OF MODERNISM</strong></td>
<td>275</td>
</tr>
<tr>
<td><strong>THE REHABILITATION OF NEWMAN AND DOCTRINAL DEVELOPMENT</strong></td>
<td>296</td>
</tr>
<tr>
<td>A Further Integration of Development in the Contemporary Church</td>
<td>304</td>
</tr>
<tr>
<td><strong>THE CREATION OF A DEVELOPMENT MODEL IN CANON LAW</strong></td>
<td>308</td>
</tr>
<tr>
<td>Newman, Sullivan, and Órsy: Orthodoxy and Orthopraxy</td>
<td>308</td>
</tr>
<tr>
<td>Newman's Theology and the International Theological Commission</td>
<td>316</td>
</tr>
<tr>
<td>Theology Today: Perspectives, Principles, and Criteria</td>
<td>318</td>
</tr>
<tr>
<td>Sensus Fidei in the Life of the Church</td>
<td>327</td>
</tr>
<tr>
<td>The Continued Expansion of the Sensus Fidelium</td>
<td>333</td>
</tr>
<tr>
<td><strong>CONCLUSION</strong></td>
<td>348</td>
</tr>
</tbody>
</table>

**GENERAL CONCLUSIONS**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>351</td>
</tr>
</tbody>
</table>

**BIBLIOGRAPHY**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>359</td>
</tr>
</tbody>
</table>

**WORKS BY JOHN HENRY NEWMAN**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>359</td>
</tr>
</tbody>
</table>

**PRIMARY SOURCES**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>362</td>
</tr>
</tbody>
</table>

Papal Documents                                             | 362 |
Conciliar, Synodal, and Episcopal Documents                | 365 |
Curial Documents                                           | 366 |

**SECONDARY SOURCES**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>368</td>
</tr>
</tbody>
</table>
LIST OF ABBREVIATIONS

This dissertation uses the standard abbreviations of the works of John Henry Newman as follows:

Apo. Apologia pro vita sua
Ari. The Arians of the Fourth Century
AW Autobiographical Writings
Cons. On Consulting the Faithful in Matters of Doctrine
DA Discussions and Arguments on Various Subjects
Diff. i, ii Certain Difficulties felt by Anglicans in Catholic Teaching, 2 vols.
Ess. i, ii Essays Critical and Historical, 2 vols.
GA An Essay in Aid of a Grammar of Assent
Idea The Idea of a University
LD i, ii, iii, etc. The Letters and Diaries of John Henry Newman, 32 vols.
Norfolk A Letter Addressed to the Duke of Norfolk on Occasion of Mr. Gladstone's Recent Expostulation
OS Sermons Preached on Various Occasions
PS i-viii Parochial and Plain Sermons, 8 vols.
SD Sermons bearing on Subjects of the Day
TT Tracts Theological and Ecclesiastical
US Fifteen Sermons preached before the University of Oxford
VM i, ii The Via Media, 2 vols.
VV Verses on Various Occasions
This dissertation uses the commonly recognized abbreviations used in canonical writing for the following works:

\textit{AA} \quad \text{Decree} \textit{Apostolicam actuositatem}

\textit{AAS} \quad \textit{Acta Apostolicae Sedis}

\textit{ASS} \quad \textit{Acta Sanctae Sedis}

\textit{AG} \quad \text{Decree} \textit{Ad gentes}

\textit{CD} \quad \text{Decree} \textit{Christus Dominus}

\textit{CDF} \quad \text{Congregation for the Doctrine of the Faith}

\textit{CIC} \quad \textit{Codex Iuris Canonici}

\textit{CLSA} \quad \text{Canon Law Society of America}

\textit{DsD} \quad \text{Apostolic Constitution} \textit{Deus scientiarum Dominus}

\textit{DV} \quad \text{Dogmatic Constitution} \textit{Dei verbum}

\textit{DVert} \quad \text{Instruction} \textit{Donum veritatis}

\textit{ECE} \quad \text{Apostolic Constitution} \textit{Ex corde Ecclesiae}

\textit{GE} \quad \text{Declaration} \textit{Gravissimum educationis}

\textit{GS} \quad \text{Pastoral Constitution} \textit{Gaudium et spes}

\textit{LG} \quad \text{Dogmatic Constitution} \textit{Lumen gentium}

\textit{PB} \quad \text{Apostolic Constitution} \textit{Pastor bonus}

\textit{SC} \quad \text{Apostolic Constitution} \textit{Sapientia Christiana}

\textit{USCCB} \quad \text{United States Conference of Catholic Bishops}

\textit{VG} \quad \text{Apostolic Constitution} \textit{Veritatis gaudium}

\textit{VS} \quad \text{Encyclical} \textit{Veritatis splendor}
GENERAL INTRODUCTION

The British priest and intellectual John Henry Newman (February 21, 1801 – August 11, 1890) is widely recognized as one of the most influential theologians of the nineteenth century in both the Anglican and Catholic churches. He was a prolific writer spanning over sixty years of scholarship, with over fifty works ranging from biographies, histories, theological treatises, collections of sermons, and university lectures to thirty-two volumes of his letters and diaries, but he is best known for his proposal of the theology of the development of doctrine as proof that the Catholic faith was free from corruption and error. In early works such as *Arians of the Fourth Century* (1833) and *Lectures on the Prophetical Office of the Church* (1837), Newman presented doctrinal development as the interplay of private judgment, public discourse, and ecclesial indefectibility. This interplay allowed theologians to draw out from revealed truth elements of the faith that were previously only implicitly recognized. After his reception into the Catholic Church in 1845, Newman’s *An Essay of the Development of Christian Doctrine* (1845) and *On Consulting the Faithful in Matters of Doctrine* (1859) illustrated how private judgment and public discussion safeguarded doctrinal truth, with theological investigations becoming more nuanced and refined in the process. Finally, Newman’s later works such as *A Letter Addressed to His Grace the Duke of Norfolk* (1875) and his third edition of *Lectures on the Prophetical Office of the Church* (1877), asserted that the dogma of papal infallibility, newly defined in 1870 by the First Vatican Council, did not stifle doctrinal development or the work of the theologian in that development, but catalyzed them. It is clear, therefore, that throughout his writings Newman held fast to a view he first proposed in 1837, in that “the Church is declared to be the great and special support of the Truth, her various functionaries are said to be means towards the settlement of diversities and of
uncertainty of doctrine, and securing unity of faith.”¹ For Newman, these “various functionaries” included not only apostles, prophets, evangelists, and pastors, but also teachers. He thereby granted theologians a role in securing the unity of faith.

Newman famously resisted granting himself the role of theologian, at one point even claiming he was merely “a writer, who was not teaching or treating theology.”² The famed Newman scholar Ian Ker claims that “Newman certainly did not see himself as a theologian in any technical sense of the word”³ and “as a Catholic Newman always disavowed any claim to be a theologian.”⁴ Even if he refused to be identified as a theologian, he has since been recognized as one through the force of his writings. His works on the topics and issues of his day continue to inform contemporary theological debates, including those on doctrinal development, authority, infallibility, and conscience. As Terrence Merrigan notes, “the continuing relevance of Newman ought not to be sought in his extended discussions of particular topics, discussions which inevitably bear the marks of the situation in which they were written. Rather, the continuing relevance of Newman is to be situated in the fundamental principles which inspired those discussions.”⁵ He also approached theological questions in an inductive, personal, and topical manner, which was different from the then-dominant deductive style of theology that worked to build a comprehensive system that stood beyond current events.

¹ VM i, 193.

² Cons., 199.


On the one-hundredth anniversary of John Henry Newman’s death in 1990, Joseph Ratzinger wrote the following: “In the idea of ‘development’ Newman had written of his own experience of a never finished conversion and interpreted for us, not only the way of Christian doctrine, but that of the Christian life.” Contemporary scholarship has produced numerous works on the development of doctrine in Newman, yet these works have focused almost exclusively on development as it relates to theology, while the possible integration of doctrinal development and canon law has not been examined. By exploring the connection between the development of doctrine and canon law in general, and the canonical status of the theologian in the Church in particular, this dissertation seeks to show the value of integrating “a plurality of enquiries and methods into the unified project of the intellectus fidei.”

Brief Biography of John Henry Newman

Shortly before beginning his studies at Trinity College in Oxford, Newman underwent a conversion experience from his youthful practice in the Church of England of “Bible religion,” which he called “having the Bible read in Church, in the family, and in private.” After his conversion, he began to follow Evangelicalism, and “fell under the influences of a definite Creed, and received into my intellect impressions of dogma, which, through God’s mercy, have never been effaced or obscured.” However, Newman found the movement’s “emphasis on religious

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8 GA, 56.

9 *Apo.*, 4.
feeling and on the Reformation doctrine of justification by faith alone, [to be] a Trojan horse for an undogmatic religious individualism that ignored the Church’s role in the transmission of revealed truth, and that must lead inexorably to subjectivism and skepticism.”

Ian Ker points out that a further reason behind Newman’s disillusionment was that “he had not in fact had ‘those special Evangelical experiences, which, like the grip of the hand of other prescribed signs of a secret society, are the sure token of a member,’ for he had not undergone, ‘the evangelical process of conversion [or] its stages of conviction of sin, terror, despair, news of the free and full salvation, joy and peace, and so on to final perseverance.’”

Even though Newman ended his studies at Trinity College with a third-class honor ranking, the lowest ranking in the British undergraduate honors system, he gained election in 1822 as a fellow of Oriel College, which was recognized at the time as the most intellectually demanding of the colleges at Oxford. He called his election as an Oriel Fellow “the turning point of his life, and of all days most memorable.” While a fellow of Oriel College, he was ordained an Anglican deacon (June 13, 1824) and priest (May 29, 1825), and after his priestly ordination was assigned as curate of St. Clement’s Church, where he served from 1825 to 1827. When a disagreement over the pastoral and academic roles of the Oriel provost forced Newman to resign his position as fellow and tutor in 1828, he became the vicar of St. Mary’s University Church, where he attracted students, university officials, and residents of Oxford with sermons that were both scholarly and pastoral, a blending that became an important part of his theology.

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It was also during his service as vicar of St. Mary’s that Newman began gravitating away from his evangelical roots and towards a higher Anglican theology, spurred by a growing interest in the writings of the Church Fathers. From this theological shift came his influential position as a leader of the Oxford Movement, an effort to return the Anglican Church to the foundations of the Christian faith, including the celebration of the sacraments, episcopal authority, and apostolic succession. Newman became a proponent of the *via media* within the Oxford movement, which he believed was the middle way between the excesses of Roman Catholicism, especially its claims to authority and infallibility, and the reliance of Protestantism on liberty, private judgment, and individualism. Between 1833 and the end of his tenure at St. Mary’s in 1843, Newman was recognized as the movement’s spokesperson, and he promoted both the movement in general and his own *via media* from his pulpit at St. Mary’s and in his writings in the *Tracts for the Times*.

By 1845, Newman had found his position in the Anglican Church untenable, and through his research on theological development, he determined that the *via media* was an illusion, and that the foundations of the Christian faith had remained present in the Roman Catholic Church throughout history. Both Protestantism and Anglicanism had in fact abandoned many of the principles held by the Church Fathers, and the High Anglican Oxford Movement could not become the source of the renewal Newman hoped he would find through it. Therefore, after retracting his anti-Catholic statements and publishing *An Essay on the Development of Christian Doctrine*, Newman was received into the Catholic Church on October 9, 1845, and he spent the remaining forty-five years of his life as one of the leading English Catholic intellectuals.\(^\text{13}\) His writings during

this period included *The Idea of a University* (1852), *Apologia pro Vita Sua* (1864), and *An Essay in Aid of a Grammar of Assent* (1870). After the First Vatican Council (1869–1870), Newman devoted many of his theological writings to issues surrounding papal infallibility and conscience, becoming a leading figure in advancing the position that infallibility does not restrict conscience but instead gives it room to operate and thrive.

While his writings on the role of the laity in matters of doctrine generated considerable consternation amongst the English Catholic hierarchy, his views eventually gained the support of Pope Leo XIII, who “after being elected Pope, is supposed to have said that the policy of his pontificate would be revealed by the name of the first Cardinal he created.”14 The Pope named John Henry Newman to be that first cardinal in 1879, and, years later, when asked why he raised Newman to the dignity of the cardinalate, Leo admitted, “They said he was too liberal, but I had determined to honour the Church in honouring Newman. I always had a cult for him. I am proud that I was able to honour such a man.”15 Newman wrote at the time of his elevation that the honor “was indeed the end of all those stories which have gone about of my being a half Catholic, a liberal Catholic, under a cloud, not to be trusted.”16 To another he wrote, when admitting that he knew he would be vindicated eventually, “The Pope has superseded Time.”17

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15 Ibid.

16 *LD* xxix, 72.

17 *LD* xxix, 106.
Newman continued to preach and write sporadically after his elevation to the College of Cardinals, and died on August 11, 1890, in the Birmingham Oratory of St. Philip Neri that he had helped to found forty-two years earlier. In 1991, John Henry Cardinal Newman was proclaimed Venerable by Pope John Paul II, and Pope Benedict XVI beatified him on September 19, 2010, in Cofton Park, Birmingham. In his homily during the Mass of Beatification, Benedict reflected on Newman’s importance in the English Church: “His insights into the relationship between faith and reason, into the vital place of revealed religion in civilized society, and into the need for a broadly-based and wide-ranging approach to education were not only of profound importance for Victorian England, but continue today to inspire and enlighten many all over the world.”

On February 13, 2019, Pope Francis approved Newman’s canonization, and on October 13, 2019, he became the first English person born after the 17th century to be named a Roman Catholic saint, with Ian Ker hoping that Newman will soon be proclaimed a Doctor of the Church.

The Purpose and Methodology of this Dissertation

The purpose of this dissertation is to investigate the connections between the thought of John Henry Newman on the development of doctrine and the present canonical understanding of the role of the theologian in the Church. Doctrinal development will also serve as the lens through which the evolution of the various levels of Church teaching is investigated, with particular attention given to infallible teaching. These levels evolved from the documents of both the First and Second Vatican Councils and were later codified in Pope John Paul II’s 1998 apostolic letter

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19 Ian Ker, “Newman should be the next Doctor of the Church,” *Catholic Herald*, February 21, 2019, accessible online at https://catholicherald.co.uk/magazine/newman-should-be-the-next-doctor-of-the-church/.
issued motu proprio *Ad tuendam fidem*. Finally, the dissertation will illustrate that by applying Newman’s theology of doctrinal development in a canonical context, the Church can gain a deeper appreciation of the contribution of the theologian to the life of the Church.

Newman understood theology to be “the Science of God, or the truths we know about God put into system; just as we have a science of the stars, and call it astronomy, or of the crust of the earth, and call it geology.” As the Science of God, theology is therefore grounded in the “initiative and abiding presence of religion,” and is connected directly with the faith of the Church, which “in its theological sense, includes a belief, not only in the thing believed, but also in the ground of believing; that is, not only belief in certain doctrines, but belief in them expressly because God has revealed him.” With that in mind, and even though he placed theology in the same intellectual category as the natural sciences, Newman did not hold that theologians could use the same methodology extolled by natural scientists in seeking new discoveries in their investigations, since theology does not have the same starting point as astronomy or geology. As he wrote in his *The Idea of a University*,

> Theology begins, as its name denotes, not with any sensible facts, phenomena, or results, not with nature at all, but with the Author of nature, —with the one invisible, unapproachable Cause and Source of all things. It begins at the other end of knowledge, and is occupied, not with the finite, but the Infinite. It unfolds and systematizes what He Himself has told us of Himself; of His nature, His attributes, His will, and His acts.

Through the systematic unfolding of the revelation that God has already given, the theologian’s task becomes one of developing doctrinal expressions that tease out new ways of understanding

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21 *GA*, 98.

22 *GA*, 99–100

23 *Idea*, 434.
God, but never involves discovering new revelations. Such an act would presume that God has left something hidden in God’s self-revelation, but which the human mind could find through researching or hunting for the secrets of the Divine.

In the first chapter of this dissertation, Newman’s understanding of theology will be analyzed, continuing lines of research and investigation begun in two previous articles written by this author on the theology of John Henry Newman. The chapter begins with the recognition that the faith of the Church is the starting point for all theology. From this starting point, a clear explanation of what Newman meant by doctrinal development will be provided, since doctrinal development is the method through which Newman saw theology as an active intellectual exercise in the Church. With these definitions in place, the chapter will move into three sections of analysis. The first traces Newman’s notion of personal judgment and the ability to draw out explicit theological statements from revealed truth. The second section investigates Newman’s concept of the theologian in the public function as nuancing development and presenting it to the Church for its consideration. Within this second section, a distinction will be made between believers in general, who have a collective role to play in theology through the sensus and consensus fidelium (that is, the sense of the faithful and the consent of the faithful, respectively) and theologians specifically both in their individual and collective roles as what Newman termed the schola theologorum. While all believers engage in theology in a broad sense through their reflection on articles of faith, theologians with their specialized education and training have a specific charism that Newman saw as essential in developing doctrine. The third section elaborates the moderating role of the Magisterium in relation to both private judgment and public discussion in theology. In

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this section, special focus will be given to Newman’s understanding of the three offices of the Church, especially the interaction between the prophetical and kingly or regal offices, and how this interaction affects theology as it relates to Church authority.

In the second section, an overview of the current canonical understanding of the theologian will be provided and analyzed. Again, this continues previous lines of research and investigation conducted by this author, including academic work completed at the Katholieke Universiteit Leuven.25 This analysis will include discussions on the role of the theologian as expressed in the 1983 Code of Canon Law, as well as the apostolic constitutions Sapientia Christiana,26 Ex corde Ecclesiae,27 and Veritatis gaudium.28 The apostolic letter issued motu proprio Ad tuendam fidem (1998) and its elaboration of the levels of teaching in the Church will also be evaluated. Further investigation will surround the hierarchical moderation of the theologian provided by various instructions from the Congregation for the Doctrine of the Faith and other organs of the Roman Curia as delineated in the apostolic constitution Pastor bonus29 and its subsequent amendments.


through *Querit semper*,\textsuperscript{30} *Ministrorum institutio*,\textsuperscript{31} *Fides per doctrinam*,\textsuperscript{32} and *Confermando una tradizione*.\textsuperscript{33}

In the third (application) section, this dissertation will explore, with regard to the task and role of the theologian, the connection between Newman’s theory on development and present canonical practice. This application will seek to create a valuable model for understanding the theologian’s contribution within the life of the contemporary Church. By offering this systematic analysis of Newman’s concept of development and current canonical practice while examining the hitherto underexplored links between the two, this dissertation proposes a new model for integrating doctrinal development and canon law in the life of the Church.

**Some Keys to Reading John Henry Newman**

John Henry Newman always hesitated to call himself a theologian, admitting in an 1866 letter, “I am a controversialist, not a theologian,”\textsuperscript{34} and again in an 1869 letter,

Really and truly I am not a theologian. A theologian is one who has mastered theology – who can say how many opinions there are on every point, what authors have taken which, and which is the best – who can discriminate exactly between proposition and proposition, argument and argument, who can pronounce which are safe, which allowable, which dangerous – who can trace the history of doctrines in successive centuries, and apply the principles of former times to the conditions of the present.\textsuperscript{35}


\textsuperscript{34}LD xxii, 157.

\textsuperscript{35}LD xxiv, 212.
Authors such as J. M. Cameron agree with this assessment, but also nuance it, writing, “We cannot say he was a fine poet, or a distinguished historian, or a first-rate theologian; but it was the one man who was in all these things and who was great in the ensemble of these roles.” 36 His works were as much historical or historiographical as they were theological, and Newman used history to frame his arguments in both fields. He was primarily a historian and an expert in Anglican theology, but after his conversion to Catholicism in 1845, the second specialty proved of little use in his future writings, while the first took an approach to theological questions in a manner unfamiliar to Roman Catholic audiences.

Newman was also not a Scholastic theologian in the line of Thomas Aquinas or Bonaventure, and he was not in step with the dogmatic theologians and manual authors of his day, which means he cannot be read as such. As John Ford explained,

He usually did not use the deductive method that was then the hallmark among Roman Catholic “theological authorities.” For example, scholastic theologians of Newman’s time were accustomed to argue from universal principles to specific conclusions, from general premises to particular applications. In contrast, Newman habitually began his theological discussions with a concrete situation, a particular question of the day that intrigued or challenged him. 37

An additional challenge in reading Newman is his penchant for editing and revising previous works when he felt they needed to reflect updated theological insights. Therefore, it is difficult to read his works linearly when attempting to find a systematic argument. Instead, it is helpful to move back and forth between texts, and, in that movement, his system becomes clearer. This is not to say that he was inconsistent, argued sloppily, or was someone who contradicted


himself during sixty years of theological investigations, for he argued steadily for what he believed was true and worked to develop that argument more clearly in his later thoughts. It was in those arguments, for instance, in essays written on specific topics or letters written in response to certain people and their positions on theological issues where he raised difficulties from which readers can tease out more comprehensive understanding of his theology.

Despite such issues, and with this explanation in mind, Newman’s writings show that while he approached theology from a unique perspective, his system still provided a sense of what he thought it meant to be a theologian and, more importantly, what he thought it meant to be a believer. Newman wrote in The Grammar of Assent: “As intellect is common to all men as well as imagination, every religious man is to a certain extent a theologian, and no theology can start or thrive without the imaginative and abiding presence of religion.”38 Theology involved a connection between the intellectual activities of the mind and the religious experiences of the heart and soul, with theology sprouting not solely from intellect but from faith as well. He hoped that in his writings on theological controversies he could lead his readers to think about the topics that piqued his interest and prompted his writings, and, in their own context, the readers would find that his thought peaked their thoughts as well. John Ford noted that in this theological approach, “Newman did not invite his readers to follow him by a series of logical steps to a foregone conclusion, but rather to join him in his intellectual struggles and to work out a solution to a problem along with him.”39

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38 GA, 98.

CHAPTER ONE: NEWMAN’S UNDERSTANDING OF THEOLOGY

FAITH AND DEVELOPMENT

In presenting any understanding of John Henry Newman and his theology, it is important to understand his placement of theology within the larger context of faith and religion. For Newman, theology was always in service to revelation, and he never held it as a purely intellectual enterprise separated from the doctrinal pronouncements of the Church. Instead, “Theology [for Newman] realizes its true raison d’être in its services to the transmission of the depositum, which can only be elucidated, never augmented.”¹ Such a position was rooted in Newman’s own experiences as a believer, of which he wrote, “From the age of fifteen, dogma has been the fundamental principle of my religion: I know no other religion; I cannot enter into the idea of any other sort of religion; religion, as a mere sentiment, is to me a dream and a mockery.”² This connection between personal faith and dogmatic truth would become the guiding principle of Newman’s theology, as “for him the act of faith includes both a personal religious commitment as well as an intellectual acceptance of the dogmas of faith,”³ and also allowed for the inclusion of the element of development. It would be this inclusion of doctrinal development for which Newman is best remembered and in his time made him a controversial thinker in both Anglicanism and Roman Catholicism.


² Apo. 49.

**Faith and Theology for Newman**

Theology, since it is rooted in faith, serves to assist in the transmission of the faith through reflection on revelation. As Jan Hendrik Walgrave explained, for Newman “Faith is, first of all, an experience, a real knowledge of supernatural realities, and this intuition of faith is transposed by theology into notions.”⁴ The German theologian Gerhard Ludwig Müller likewise observed that in Newman’s approach there is a deep connection between theology and religion as the expression of faith: “The proposition that there is one Personal and Present God may be held either as a theological truth, or as a religious fact or reality. The notion and the reality assented to are represented by one and the same proposition but serve as distinct interpretations of it … Theology, properly and directly, deals with notional apprehension; religion, with imaginative.”⁵ Theology’s roots in faith also means that theologians must first recognize themselves as faithful believers, and must start their investigations from the primary source of the revelation given to the Church. As Newman explained, “Theology is the fundamental and regulating principle of the whole Church system. It is commensurate with Revelation, and Revelation is the initial and essential idea of Christianity.”⁶

In their theological investigations and their dealing with notional apprehensions, theologians were responsible for continuing the development of doctrinal understanding in the Church. As Terrence Merrigan writes in his explanation of Newman’s position,

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⁶ *VM* i, xlvi.
It was the task of the theologian to honestly confront whatever data modern scientific and historical research brought to bear on questions of faith, and not to shy away from contemporary challenges to even the most long-cherished convictions and opinions. New answers can only be developed where there is a degree of flexibility, a willingness to leave well-trodden paths, methodological or otherwise, however serviceable they may have proved themselves to be.\(^7\)

To accomplish this task, Newman offered a theology that was both intellectual and practical, with an inferential process taken along three avenues: natural/instantaneous, prolonged, and formal/logical. The American theologian John Ford summarized these avenues, which Newman himself discussed at length in his *Grammar of Assent*, as follows: The first avenue follows natural, instantaneous inferences, which are spontaneous judgments made on immediate sensible reactions, and “can easily get a person in trouble: if there can be love at first sight, there can also be hate at first sight—either of which may later prove to be seriously mistaken.” The second avenue of prolonged inference involves a person “ponder[ing] a variety of options before making a decision: the more important the decision, the more likely a person is to take a long time to decide.” Finally, the third avenue of logical or formal inferences are “the type of process that the ‘evidentialists’ of Newman’s day – and the technologists and technocrats of our own – wanted to have: a sure-fire process of arriving at a conclusion that is completely certain and so acceptable to everyone.”\(^8\)

Newman claimed that we engage in this inferential process in one of its three forms habitually and without recognizing that we are engaged in it. It is a personal, everyday process, ranging from decisions on what food we want to eat, to what clothes we want to buy, to what classes we want to attend as a doctoral student. We collect data: what is in our refrigerators or what do we really crave at that moment? We check the calendar: which season is coming up and what do the latest

\(^7\) Merrigan, *Clear Heads and Holy Hearts*, 152.

fashion trends demand? We look at our tracking sheets: what degree requirements do we need to fulfill, and how do the course offerings match these needs? Through this evaluation of the information provided, we come to a decision that satisfies our hunger, meets the demands of fashion, or fulfills our course requirements.

Newman extended the practical decision-making process into the religious sphere as well and “He saw the certitude of Catholic faith and the process by which it was obtained as analogous to the process by which the mind arrives at certitude in matters of concrete human truths.” God’s self-revelation prompts a person to ask questions about revelation’s believability, acceptability, and the resulting influence revelation will have on the individual. It does not matter if the individual is an ordinary believer and the world’s pre-eminent theologian, for both must first be people filled with faith, and from their faith, they must come to their own conclusion on whether their faith is justifiable. In religious matters, God’s self-revelation prompts individual belief, but this is only the start of the process, for from belief comes doctrinal development within the natural process of inference. Jan Hendrick Walgrave explained, “Newman compares the development of doctrine from the intuition of faith to that of rational, purely natural, knowledge from sensory perception. But he brings out, also, the differences; in the absence of an organ for the immediate perception of spiritual objects, the intuition of faith has to reach us through the study of Scripture and of dogmatic theology.”

In the second stage of theology, individuals share their findings for public discussion, and within that discussion, Newman recognized that doctrinal development even with the best of intentions could still involve misunderstanding or misinterpretation. Doctrine holds both

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10 Walgrave, Newman the Theologian, 133.
A revelatory and a mysterious character because all of God’s revelation simultaneously both reveals and conceals. It reveals insofar as it illuminates the human mind concerning a divine truth. But it conceals insofar as the revelation—precisely because it is the supernatural word of God delivered in human words—cannot possibly convey its whole self. It is always holding something back even as it is being delivered. This incompleteness of revelation leads us to further recognize how incomprehensible God is, with the result that God’s revealing makes him appear simultaneously more hidden than we previously thought. Our increase in knowledge about God also increases our awareness of our ignorance.  

For instance, Newman’s sermons became models of such discussion, but it was simply one of the many possible avenues for development, with each avenue having its own strengths and weaknesses. Newman knew that a sermon as a preached lesson in a liturgical setting was limited by its own genre, since it was always “too short in exposition to embrace the particularities of doctrine, and necessarily too general in exhortation to apply to the varieties of character and circumstances of those to whom they are spoken.”  

Nevertheless, in his sermons Newman maintained a “commitment to the rational appropriation of the Christian experience, both at the level of the individual believer (where Newman insists on the legitimacy of intellectual certitude) and at the level of the Christian community (where he enshrines theology as ‘the fundamental and regulating principle of the whole Church system’).” As Danielle Nussberger explains, Newman’s sermons were an important part of his method in sharing his private judgment with his audiences, and he knew, “faith is all the more trustworthy because of one’s personal involvement. Faith is

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13 Merrigan, Clear Heads and Holy Hearts, 167–168. The internal quote is from VM i, xlvii.
more reasonable because of his personal commitment that actively witnessed to the truth of the Christian message.”

Thirdly, Newman recognized that within this interchange of judgment and discussion, a moderating guide allowed the dialogue to take place within certain accepted boundaries. He ascribed this moderating function to the Magisterium as authoritative teachers that, in certain well-defined circumstances, could teach with infallibility but also recognized that the sensus fidelium had a general claim on infallibility, again in certain well-defined circumstances. The claim on magisterial infallibility was needed only in the most exceptional of circumstances and was meant to be the claim made at the end of a theological investigation. Likewise, infallibility specifically, and the authority of the Church’s Magisterium generally, should not be conceived of as inherently opposed to private judgment in theology. As John Connolly explains, “Newman’s respect for the magisterium and his acceptance of the necessity of doctrine and dogma did not mean that he saw Catholic faith as a blind act of obedience or an uncritical acceptance of the teachings of the Church. For Newman, the response of Catholic faith is compatible with many forms of rational criticism.”

It was in this interaction between judgment, discussion, and moderation that Newman found the most successful means by which the theologian contributed to the Church and assisted in securing the unity of faith.

**Doctrinal Development**

Newman recognized that the Church, especially through the work of its theologians, was engaged in constant dialogue with revelation and doctrine, which constantly led the Church

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through its theologians to a greater understanding of doctrine over its history, an understanding that Newman called development. As Denis Robinson explains, “Theology (in its basic sense as a Word about God) must always be involved in history because the reality that is considered in history is an Incarnational reality whose human or earthly aspects cannot be teased away from its divine aspects but must remain within the tensile space of a gerundial saying and unsaying between the two natural poles of the Logos.”16 In other words, the Church through theology engages with revelation that is not only historical but is also divine and eternal. As part of a historical process, there were times when the Church saw things clearly and guarded against opaque points of view. At other times, the Church possessed cloudier judgments and tensions between myopic and hyperopic positions in the community led to religious and theological crises. History is replete with such crises, starting with the debates between Saints Peter and Paul at the Council of Jerusalem as told in Acts of the Apostles. Yet for Newman, these events were not calamities, as he understood the Church as guardian of Divine Revelation where development continued historically through the ebbing and flowing of doctrinal interpretation. Ryan Marr argues that for Newman, “The various doctrinal developments ratified by the Catholic Church over the course of its history … are not corruptions of the original deposit, but organic developments of what was originally given as the Body of Christ continued to reflect on the mystery of the faith.”17

Newman’s own corpus reflected this organic and historical development. His works contain important concepts on history, ecclesiology, and theology, moving freely between


documents, revising and reformulating along the way, much in the manner he envisioned Church progress taking, with theology seen as developing while rooted in the constancy of the Church. Christopher Mooney believes that this pattern of development purposefully reflected Newman’s own thought process and observes,

Newman’s understanding of development is not uniquely theological. It does not contend that ideas develop because of the exclusive activity of the Holy Spirit in the Church. Rather, it offers a universal theory of how all ideas develop—revealed and non-revealed—and applies that theory to Christian doctrine in order to show its historical continuity over time. Newman, of course, does not deny the influence and safeguarding of the Holy Spirit, but the fact that his theory applies to all human ideas confirms that it is by no means necessary to invoke additional divine revelation in order to give an account of development.  

In looking at Newman’s thought on development, it is appropriate to begin this investigation with the 1833 work *Arians of the Fourth Century*, which served as Newman’s entry into the theological discussions of his 19th century Anglican community at a time when that community was divided between three distinct movements. The first movement, Latitudinarianism, with its understanding that human reason, when inspired by the Holy Spirit, could determine doctrinal truth, and that constraints on human reason or individual freedoms were therefore unnecessary, was prevalent among Anglican bishops; these bishops believed their position could increase the Church’s appeal throughout the country. The second movement, Evangelical Anglicanism, which Newman had followed as a teenager and young man at Oxford, and which was influential amongst the local parish clergy, tended towards an emphasis of religious feeling and the Calvinist doctrine of justification by faith alone. The third group, which developed at English universities, sought the restoration of Anglican liturgical and devotional customs that were influenced by pre-Reformation and contemporary Roman Catholic traditions. This group

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eventually evolved into the Anglo-Catholic Oxford Movement, with Newman becoming one of its leading intellectuals.

Within this context of contrasting approaches, Newman investigated the struggles that the fourth-century Church faced in formulating Church doctrine during its own period of ecclesiological strife. While he did not intend to investigate doctrinal development in *Arians of the Fourth Century*, Newman nevertheless found that in times of theological conflict, the development of doctrine seemed inevitable. The inquisitive nature of the human mind always sought a deeper understanding of religious truth, and for Walter Ong, “Wherever you found Christianity in the early centuries, you found not a static, but a developing doctrine.”19 Using the doctrine of the Trinity as his example, Newman noticed that in its first stage, “Before the mind has been roused to reflection and inquisitiveness about its own acts and impressions, it acquiesces, if religiously trained, in that practical devotion to the Blessed Trinity, and implicit acknowledgment of the divinity of Son and Spirit, which holy Scripture at once teaches and exemplifies.”20 He called this stage “the faith of uneducated men,”21 and likened it to the non-discriminating love an infant shows to everyone, including his parents, in the earliest stages of his life, because the child cannot differentiate between his general relationship to other human beings and the specific relationship he has with his parents. It is only when the child grows and understands what parenthood means and what his specific parents mean personally to him that the child is able to recognize “his own original debt to them for the gift of life and reason, the inestimable blessing of an indestructible,


20 *Ari.* 143.

21 *Ari.* 143.
never-ending existence.”

Through the growing child’s analysis of his situation, which occurs after his intellect expands and he starts to contemplate his place in the world, he wants to understand the world around him and his relationship to it.

The same process holds true in the religious sphere. Returning to the doctrine of the Trinity, Newman wrote, “As the mind is cultivated and expanded, it cannot refrain from the attempt to analyze the vision which influences the heart and the Object in which that vision centres; nor does it stop till it has, in some sort, succeeded in expressing in words, what has all along been a principle both of its affections and of its obedience.” In this moment of analyzing, the process of doctrinal development has begun, but that process will not end with the same resolution as the child knowing to love his specific parents, since his parents are seen while the Trinity is unseen. As Mooney explains, doctrinal development deals with thoughts and observations surrounding revelation:

In the case of Christianity, its idea or ideas are primarily a matter of revelation, which means that they are communicated by God to human beings at discrete historical moments and conveyed through the words and writings of their recipients. An idea, then, may be given at a single time or at multiple times, but once it is given it has the power to develop and expand all in itself, without the need for additional or subsequent ideas to be given. When God conveys an idea through an inspired author, it comes by means of that author’s words, which words capture certain aspects of that idea. These aspects then expose the recipients to that idea, though only in a limited sense, after which the recipients develop it by continually contemplating it. The richer the idea, the greater the possibility for further contemplation.

Malcolm Yarnell agrees with this assessment, and holds that Newman’s understanding of the process of theological and doctrinal development is part of the Church’s anthropology:

Newman construed the Christian religion as an “idea” that is revealed. This idea, through revelation, leaves an impression on “the mind,” which Newman understood to be the mind of the church. The idea and its revelation, being divine, are always greater than the created

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22 Ari., 144.

23 Ari., 144.

human mind is able to comprehend. The church, like Mary, long mulls over this “impression,” and expresses its perception of the revelation to others in the form of “dogma.” Because of the lag time in its perception, the church’s dogma may take centuries to develop. Yet the church’s dogmatic statements, once made, are authoritative and thus true.

Doctrine and its development are therefore necessary for theology to take place in the Church, for doctrine not only guarantees the truth but also prevents errors. Newman warned, however, that the doctrinal expressions used to guarantee the truth must not become comprehensive statements that became static or lifeless, for “comprehensiveness is, in fact, harmful to the Church, because of its unreal substitution of ‘words for things’ … Throughout his life Newman was to keep the balance between insisting on the necessity of dogmatic formulations and yet allowing for their inherent limitations.”

Doctrinal expressions thereby become something to which human beings give their assent, and for those who give that assent, “provided they introduced no novelties of their own” to doctrine, they were welcomed to join the communion of the Church.

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26 The Anglican theologian and former Archbishop of Canterbury Rowan Williams argues that for Newman, this doctrinal codification was not so much an avenue for providing true theology, but instead represented a “necessary but real evil for the Church.” (cf. Rowan Williams, “Newman’s *Arians* and the Question of Method in Doctrinal History,” *Newman After a Hundred Years*, eds. Ian Ker and Alan G. Hill (Oxford: Clarendon Press, 1990), 263–286, at 270). James Wilson describes Williams’ assessment of Newman’s position as “a tragedy because it signals that apostasy and heresy have already occurred, spurring dogmatic articulation, and because the formalizing of dogma makes possible future misrepresentation and error” and a “skeptic of historical contingency (and therefore hermeneutical instability) looming over the development and articulation of doctrine.” (cf. James Matthew Wilson, “Doctrinal Development and the Demons of History: The Historiography of John Henry Newman,” *Religion and the Arts* 10:4 (2006), 497–523, at 503–504.) This assessment seems too harsh for Newman’s own position and expectation, for as Wilson rightly notes, “the anxiety Williams discovers in *Arians* may properly be assigned to Newman’s desire to understand Christianity as a visible church discernable in the structure of every historical moment, from its founding to the present.” (504) As such, *Arians of the Fourth Century* represents an early understanding of doctrinal development and progress, and not an admission of doctrinal error.

27 *Ari.*, 150.
Later in his life, Newman looked back at *Arians of the Fourth Century* and called it “the most imperfect work that was ever composed” and “inexact in thought and incorrect in language [with] many imperfections of wording,” yet his discovery that doctrine developed even during periods of ecclesiastical turmoil was one of the “good points in it.”\(^{28}\) This discovery subsequently led Newman to investigate further the development of doctrine within what was becoming his attempt to create a *via media* between Protestantism and Roman Catholicism. In that attempt, he found development possessed both an evangelical (that is, Gospel-based) and divine nature. No other explanation would suffice for Newman, especially in a Church where doctrinal thought “is the expansion of a few words, as if casually, by the fishermen of Galilee,” and where “St. John should be a theologian … [and] St. Peter should be a prince.”\(^{29}\) Specifically, as he would preach in the fifteenth of his collected *Oxford University Sermons*, which he titled “The Theory of Developments in Religious Doctrine,” Newman found that the Gospel’s

> Half sentences, its overflowings of language, admit of development; they have a life in them which shows itself in progress; a truth, which has the token of consistency; a reality, which is fruitful in resources; a depth, which extends into mystery: for they are representations of what is actual, and has a definite location and necessary bearings and a meaning in the great system of things, and a harmony in what it is, and a compatibility in what it involves.\(^{30}\)

From the harmony of the gospels, dogmas develop that are “propositions expressive of the judgments which the mind forms, or the impressions which it receives, of Revealed Truth,”\(^{31}\) and

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\(^{28}\) *LD* xxiii, 46; xxviii, 172; xxx, 240.

\(^{29}\) *US* 15:7.

\(^{30}\) *US* 15:7.

\(^{31}\) *US* 15:10.
doctrine “is but the expression of the inward belief … formed upon an analysis of that belief.”\textsuperscript{32}

Newman saw doctrinal development as the fulfillment of an inherent expectation that doctrine could develop at all. While this may seem to be a circular argument, it follows the patterns that he found in nature, with Walter Ong summarizing this observation when he wrote, “Nature develops; why not expect something analogous in revelation? Dogma, although it be revealed, is expressed in terms with natural origins, and so it must partake somewhat of the properties of these terms.”\textsuperscript{33}

Catholic theology, like nature, develops, and in its case it develops within a coherent system when one doctrine leads to others with each suggesting and confirming the other. The process of development does not create new doctrines, however, and Newman explained, “Ideas and their developments are commonly not identical, the development being but the carrying out of the idea into its consequences … For though the development of an idea is a deduction of proposition from proposition, these propositions are ever formed in and round the idea itself (so to speak), and are in fact one and all only aspects of it.”\textsuperscript{34} Gerhard Müller explains further,

Catholic theology has always recognized the fact and necessity of the development of dogma. It is part of Christianity’s essence as the religion of the incarnate Word—the religion of God’s self-revelation in history—to affirm the identity of the doctrine of the faith along a continuous process by which the Church comes to an ever more differentiated conceptual comprehension of faith’s mysteries. This principle is inherent to revelation itself.\textsuperscript{35}

By the time Newman completed his 1845 work \textit{An Essay on the Development of Christian Doctrine}, he had come to confirm what he had suspected since he began his investigation of

\footnotetext{32}{\textit{US} 15:10.}

\footnotetext{33}{Ong, “Newman’s Essay on Development in Its Intellectual Milieu,” 14.}

\footnotetext{34}{\textit{US}, 15:21, 26.}

\footnotetext{35}{Gerhard Ludwig Müller, “Development, or Corruption?” \textit{First Things} (February 20, 2018), accessible online at \url{https://www.firstthings.com/web-exclusives/2018/02/development-or-corruption}.}
development, namely that it was not original to the 19th century Church. In making this conclusion, he cited as an authority on the matter what appeared at first to be a contradictory source: the fifth-century Gallic theologian Vincentius (Vincent) of Lérins and his rule in the Commonitorium peregrini adversus hæreticos (Reminder of the Pilgrim against the Heretics, commonly shortened to Commonitorium) “that revealed and Apostolic doctrine is ‘quod semper, quod ubique, quod ab omnibus,’ a principle infallibly separating, on the whole field of history, authoritative doctrine from opinion, rejecting what is faulty, and combining and forming a theology.”

Placing this quote in its full context, Vincent of Lérins wrote, “[I]n the Catholic Church itself, all possible care must be taken, that we hold that faith which has been believed everywhere, always, by all. For that is truly and in the strictest sense Catholic, which, as the name itself and the reason of the thing declare, comprehends all universally.”

This rule, which had been re-discovered in the sixteenth century after a long period of dormancy during the Middle Ages, represented for the Catholic Church “a firm insistence on the continuous preservation of the gospel message in its purity. Continuity in fundamental principles is a sign of truth, while innovation is a sign of waver from the clear teaching of the Bible and the apostolic tradition.”

Such a position made Vincent a popular theologian to cite in the nineteenth century and appealed to a broad range of religious positions. “Roman Catholic authors were attracted to Vincent’s accent on tradition; theologians of

36 Dev. 10.


Reformation heritage (particularly Anglicans) ceaselessly invoked his well-known canon, insisting on the strictly regulative value of the early centuries for authentic Christian doctrine." 39 Even at the beginning of his theological studies, Newman thought that the Commonitorium and its “demand for antiquity embodied classical Anglican principles,” 40 and he used Vincent’s writings to support several of his claims in An Essay on the Development of Christian Doctrine.

Alongside his demands for preservation of the truth of Christianity, Vincent allowed for the possibility of doctrinal development or, more accurately, doctrinal progress, in what Thomas Guarino has called his second rule. Guarino summarized this rule as “[Vincent’s] assertion that while there is, undeniably, significant progress in church teaching, this development must always be understood in eodem sensu eademque sententia with what has preceded it.” 41 Where his first rule “quod semper, quod ubique, quod ab omnibus” was well-known as a bulwark against heresy, Vincent’s thoughts on doctrinal progress were often misunderstood or overlooked entirely, and as the Catholic Church moved away from what it believed was a formula stressing “always and everywhere,” theologians dismissed the first Vincentian rule as outdated and superseded by the Second Vatican Council. 42 Yves Congar, for instance, described Vincent’s axiom as possessing an

39 Ibid., 2.

40 Ibid.


42 After the Second Vatican Council, for instance, Joseph Ratzinger claimed that because the Council Fathers rejected the use of Vincentius’ text in Dei verbum, even though it had been used in documents issued by the Council of Trent and Vatican I, the fifth-century theologian “no longer appears as an authentic representative of the Catholic idea of tradition. It is not that Vatican II is taking back what was intended in those quotations: the rejection of a modernistic evolutionism, an affirmation of the definitive character of the revelation of Christ and the apostolic tradition, to which the Church has nothing to add, but which is its yardstick, but it has another conception of the nature of historical identity and continuity.” Cf. Joseph Ratzinger, “Dogmatic Constitution on Divine Revelation,” Commentary on the Documents of Vatican II, ed. Herbert Vorgrimler, (New York: Herder & Herder, 1969) 3:187.
“excessively static, not to say archaizing, character, and thus its limited validity,” while Joseph Ratzinger claimed the Commonitorium “no longer seems the right way of expressing [tradition],” with Dei verbum providing a “new orientation [that] simply expresses deeper knowledge of the problem of historical understanding, which is no longer adequately expressed by the simple ideas of a given fact and its explanation, because the explanation, as the process of understanding, cannot be clearly separated from what is being understood.”

However, in these interpretations, which focused solely on the “first rule” (to borrow Guarino’s naming convention) and not the entire Commonitorium, both Congar and Ratzinger failed to appreciate that Vincent “was well aware that we live in a world deeply affected by change, historicity, and shifting circumstances. In this sense, Vincent was a theologian marked by historical consciousness, grappling with the questions of continuity and change as they affect Christian faith and doctrine.” This consciousness is apparent in the Commonitorium’s twenty-second and twenty-third chapters, where Vincent did not allow for the expression of new doctrine, but also

44 Ibid.
45 Guarino, Vincent of Lérins and the Development of Christian Doctrine, xi.
46 Commonitorium 22. “Let that which formerly was believed, though imperfectly apprehended, as expounded by you be clearly understood. Let posterity welcome, understood through your exposition, what antiquity venerated without understanding. Yet teach still the same truths which you have learned, so that though you speak after a new fashion, what you speak may not be new.” Intellegatur te exponent illustrius, quod ante obscurius credebatur. Per te posteritas intellectum gratulentur, quod ante uetustas non intellectum venerabatur. Eadem tamen, quae didicisti, doce, ut cum dicas noue, non dicas noua. Translation is the author’s.
47 Commonitorium 23. “[I]s there no progress of religion in the Church of Christ? Certainly there is progress, even exceedingly great progress. For who is so envious of others and so hateful toward God as to try to prohibit it? Yet, it must be an advance in the proper sense of the word and not an alteration in faith. For progress means that each thing is enlarged within itself, while alteration implies that one thing is transformed into something else. It is necessary, therefore, that understanding, knowledge, and wisdom should grow and advance vigorously in individuals as well as in the community, in a single person as well as in the whole Church and this gradually in the course of ages and centuries. But this progress must be made according to its own type, that is, in accord with the same doctrine, in the same meaning, and in the same judgment.” Sed forsitae dicit aliiquis: Nullus ergo in ecclesia Christi profectus habeatur religionis? Habeatur plane et maximus. Nam quis ille est tam invidus hominibus, tam exosus deo, qui istud prohibere conetur? Sed ita tamen, utu ere profectus sit ille fidei, non permutatio. Siquidem ad profectum pertinent ut
did not prevent doctrine from being expressed in a new way, especially if that new way allowed doctrine to be more clearly understood. True belief is not affected by novel words or phrases, for if this novelty of language brought believers to better understanding, the new language should be embraced.

Vincent believed the Church followed the natural growth patterns experienced by human beings, with children becoming adults, or by plants, with seeds eventually growing into bushes, trees, and other fauna. Countless variations exist in growth patterns, with tall boys becoming tall men and some short boys sprouting into taller men, but it is not possible for boys to grow into plants, as that would be a violation of the nature of both boys and plants. As Vincent explained, “It behooves Christian doctrine to follow the same laws of progress, so as to be consolidated by years, enlarged by time, refined by age, and yet, withal, to continue uncorrupt and unadulterate, complete and perfect in all the measurement of its parts, and, so to speak, in all its proper members and senses, admitting no change, no waste of its distinctive property, no variation in its limits.”

The Commonitorium thereby provided a framework for doctrinal development that Newman would build upon in his Essay on the Development of Christian Doctrine, as well as in the creation of notes that Newman used to test proper development, which he admitted he

48 Commonitorium 23. “Ita etiam christianæ religionis dogma sequitur has decet profectuum leges, ut annis scilicet consolidetur, diatetur tempore, sublimetur ætate, incorruptum tamen inlibatumque permaneat et uniuersis partium suarum mensuris cunctisque quasi membris ac sensibus propriis plenum atque perfectum sit, quod nihil praeterea permutationis admittat, nulla proprietatis dispensia, nullam definitionis sustineat uarietatem.” Translation from Guarino, “Tradition and Doctrinal Development: Can Vincent of Lérins Still Teach the Church?,” 36.

49 Newman recognized “that it is not enough that a certain large system of doctrine, such as that which goes by the name of Catholic, should admit of being referred to beliefs, opinions, and usages which prevailed among the first Christians, in order to my having a logical right to include a reception of the later teaching in the reception of the earlier…[I]t becomes necessary in consequence to assign certain characteristics of faithful developments, which
borrowed liberally from Vincent because he was “so great an authority in the present controversy.” 50 The Essay, first published in 1845 and later revised in 1878, had as its stated purpose the discovery of “a solution of the difficulty which has been stated – the difficulty which lies in the way of using testimony of our most natural informant concerning the doctrine and worship of Christianity, viz., the history of eighteen hundred years.” 51 It serves as the model of what Newman saw in the Church, and it is here where readers find Newman’s classic definition of doctrinal development:

From the nature of the human mind, time is necessary for the full comprehension and perfection of great ideas; and that the highest and most wonderful truths, though communicated to the world once for all by inspired teachers, could not be comprehended all at once by the recipients, but, as being received and transmitted by minds not inspired and through media which were human, have required only the longer time and deeper thought for their full elucidation. 52

While Newman was rightly comfortable with the classical definition of theology as *fides quærens intellectum* (faith seeking understanding), and resisted the conflation of development with

none but faithful developments have, and the presence of which serves as a test to discriminate between them and corruptions.” (Dev. 170.) From this demand, Newman created seven tests (in the 1845 version) or notes (in the 1878 version) “of varying cogency, independence and applicability, to discriminate healthy developments of an idea from its state of corruption and decay, as follows:—There is no corruption if it retains one and the same type, the same principles, the same organization; if its beginnings anticipate its subsequent phases, and its later phenomena protect and subserve its earlier; if it has a power of assimilation and revival, and a vigorous action from first to last.” (Dev. 171.) In the second part of the Essay, he spent over two hundred written pages on the application of these notes on various circumstances in Church history, eventually concluding, “If corruption be an incipient disorganisation, surely an abrupt and absolute recurrence to the former state of vigour, after an interval, is even less conceivable than a corruption that is permanent. Now this is the case with the revivals I speak of. After violent exertion men are exhausted and fall asleep; they awake the same as before, refreshed by the temporary cessation of their activity; and such has been the slumber and such the restoration of the Church. She pauses in her course, and almost suspends her functions; she rises again, and she is herself once more; all things are in their place and ready for action. Doctrine is where it was, and usage, and precedence, and principle, and policy; there may be changes, but they are consolidations or adaptations; all is unequivocal and determinate, with an identity which there is no disputing.” (Dev. 444.)

50 VM i, 72, n. 31.

51 Dev. 29.

52 Dev. 30.
change, which he equated with corruption, “He also was patient with the collision of opinion so necessary to the progress of theology.”53 In his theory of doctrinal development, Newman stressed that it was not revelation that was changing, but the way that human beings comprehended revelation and expressed their new comprehension. As he explained, “No sooner do we apprehend than we judge: we allow nothing to stand by itself: we compare, contrast, abstract, generalize, connect, adjust, classify: and we view all our knowledge in the associations with which these processes have invested it.”54 Development is a living process of association, again in parallel with the processes of development found throughout the natural world. As Ian Ker explains, “[Newman’s] thesis was that since a living idea is necessarily a developing idea, and development brings out rather than obscures the original idea, doctrinal development is to be expected and indeed welcomed in Christianity.”55 Walter Ong expressed this understanding in a negative way by showing what Newman was not trying to do in the Essay:

There is not a word about the special problems which the development of supernatural revelation raises, nothing about the special problems of development in a cognition so especially close to the divine, so especially unified as is supernatural revelation compared with natural cognition, no attempt to explain the relations and differences between the way the human mind holds natural truths and the way it holds supernatural mysteries. There is much about the development of ideas, but not a word about anything distinctive of the development of revelation.56

Just as an individual is not expected to understand the fullness of an idea immediately, so too does it take time for the Church to comprehend the fullness of dogma. Within this development,


54 Dev. 33.


Newman found “an alternative hypothesis to the Scylla of dogmatic fundamentalism and the Charybdis of doctrinal fluidity, which he considered the greatest threats to religion of his day.”57 More importantly, “by portraying the process of development as homogeneous, Newman was able to maintain that the Church as custodian of revelation has never lost and will never lose any of the essential teaching of Christ.”58 This understanding of development as homogeneous became a crucial element of Newman’s theology, and in the Essay, as Gerard McCarren observes, he “keenly perceived the distinction between the claim that one doctrine simply comes after another and indeed professes roots in it and the affirmation that one doctrine following upon another preserves the substance of the first even as the new goes beyond the old.”59 Neil Ormerod argues that in this position, Newman stood against both the ahistorical theology as taught in Roman universities, as well as the traditional ecclesiological position in Roman Catholicism that “the unchanging stability of the Catholic Church [was] a sign that it was the one true Church[.] Newman argued that the developments evident in the Catholic Church were markers that it was the one true church. Only the one true church would demonstrate the process of genuine doctrinal development.”60

While thinking theologically is, by its very nature, an intellectual process, it cannot be reduced to the answers derived from that process. Much like the fictional detective Sherlock Holmes, whose use of logical reasoning and scientific processes made him a popular character in

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58 Ibid.


Victorian British literature, Newman’s process of thinking was as important as the results achieved at the end of the process:

Newman frequently invited his readers to journey with him as he attempted to examine various options, evaluate different opinions and test contrasting hypotheses ... In other words, his theological writings usually do not peremptorily present theses to be defended—as was the style with scholastic theologians prior to Vatican II—but map out the process by which he arrived at his “first principles.”

Theology in this journeying model becomes more than a simple intellectual pursuit; it is also a lived experience guided by the intellect, yet never exhausted by it. Within this lived experience, believers motivated by their desire to engage with revelation in meaningful ways are also developing new ways to express revealed truth. It is not activity based on happenstance, coincidence, or luck, nor is it driven by personal glory or desire.

Newman placed both theology and the development of doctrine within the larger spectrum of intellectual enterprises such as astronomy, geology, grammar, and mathematics. As a science along the same lines of those in the natural world, theology likewise “allows of the introduction of new inquiries and theories concerning its sources and its rise.” Newman provided a poetic explanation of development in the Essay by comparing the development of doctrine to the meanderings of an English stream:

It is indeed sometimes said that the stream is clearest near the spring. Whatever use may fairly be made of this image, it does not apply to the history of a philosophy or belief, which on the contrary is more equable, and purer, and stronger, when its bed has become deep, and broad, and full. It necessarily rises out of an existing state of things, and for a time savours of the soil. Its vital element needs disengaging from what is foreign and temporary, and is employed in efforts after freedom which become more vigorous and hopeful as its years increase. Its beginnings are no measure of its capabilities, nor of its scope. At first no one knows what it is, or what it is worth. It remains perhaps for a time quiescent; it tries, as it were, its limbs, and proves the ground under it, and feels its way.

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61 Ibid., 70.

62 Dev. 31. This parallel between the natural sciences and theology will be a theme that is discussed in greater detail in the third section of this chapter, which deals specifically with theology and the university.
From time to time it makes essays which fail, and are in consequence abandoned. It seems in suspense which way to go; it wavers, and at length strikes out in one definite direction. In time it enters upon strange territory; points of controversy alter their bearing; parties rise and around it; dangers and hopes appear in new relations; and old principles reappear under new forms. It changes with them in order to remain the same. In a higher world it is otherwise, but here below to live is to change, and to be perfect is to have changed often.63

With the publication of *An Essay on the Development of Christian Doctrine*, Newman has been rightly recognized as one of the leading Catholic authors on matters of faith and doctrinal development, and respected theologians such as Jan Hendrik Walgrave,64 Ian Ker,65 Terrence Merrigan,66 and Avery Dulles67 have analyzed his writings on this topic in numerous books, journals, and conference papers. Other, more contemporary, yet equally important authors in this field of study include Denis Robinson, President-Rector and Associate Professor of Systematic Theology at Saint Meinrad Seminary and School of Theology in Saint Meinrad, Indiana,68 Kenneth Parker, the Ryan Endowed Chair for Newman Studies at Duquesne University,69 and C. Michael

63 Dev. 40.


69 “Re-visioning the Past and Re-sourcing the Future: The Unresolved Historiographical Struggle in Roman Catholic Scholarship and Authoritative Teaching” in *Studies in Church History* 49 (2013), 389–417.
Shea of Seton Hall University. Numerous doctoral dissertations have focused on Newman’s notion of doctrinal development, and such works have analyzed that notion with finer detail than has been attempted in this brief introduction on the topic.

With this brief introduction in mind, the dissertation can proceed with its investigation of John Henry Newman’s understanding of doctrinal development in three steps. The first step evaluates the concept of private judgment, which is rooted in personal investigation of a concept found in revelation. For Newman, such judgments, guided by human intelligence and the information gathered from numerous fields of expertise, led to innovative theological statements, based on the deposit of revealed truth, which could assist in the development of doctrine. The second step considers Newman’s concept of public discussion and its function in evaluating, correcting, and either accepting or rejecting the result of theological investigations. Special attention will be given here to Newman’s works “On Consulting the Faithful on Matters of Doctrine” and The Idea of a University. The first work will be used to describe Newman’s understanding of the sensus fidelium and consensus fidelium, both of which allowed the lay faithful to play a collective role in theology, while the second work will illustrate how Newman envisioned the role of the community of believers in theological discussions. Walter Ong described ideas under discussion as “propagated after the fashion of material living things. Its development is


71 Recent Catholic University of America doctoral dissertations, for instance, have focused on The Relationship between the Development of Doctrine and the Papal Office according to John Henry Newman and Vladimir Sergeyevich Soloviev (Ján Dolný, 2016) and Ecclesial Themes in the Mediterranean Writings of John Henry Newman (December 1832–July 1833) (Michael Wimsatt, 2016).
initially described in organic terms as ‘the germination and maturation of some truth or apparent truth on a large mental field.’ This implies two correlates: first, germination and maturation in the individual, and secondly, germination and maturation in the community or aggregate of individuals.”72 Finally, in the third step, Newman’s thoughts on the moderating role of the Magisterium will be discussed, particularly how this role does not prevent judgment and discussion from taking place, but instead guides them in the proper direction.

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NEWMAN AND PRIVATE JUDGMENT

As was shown in the description of faith and development presented in the first section of this chapter, John Henry Newman recognized that revelation and faith were the starting points to any theological investigation. These starting points allowed theology to become something more than purely a spiritual or liturgical science. Newman, for instance, often began his investigation of a theological issue by engaging it from a historical perspective, which he thought best suited his judgment and reason. For instance, in March 1831, Newman was commissioned “to contribute a history of Church Councils to a new library of theological works. Newman had himself proposed a study of the Thirty-Nine Articles, but the editors suggested that the history would be a useful introduction to such a work.”73 By that August, Newman realized that the introduction would need to expand to three volumes: one for the Eastern Councils, one for the Western Councils (excepting the Council of Trent), and one for Trent alone. As Ian Ker explains:

It was absurd to separate theology from history: “What light would be thrown on the Nicene Confession merely by explaining it article by article? To understand it, it must be prefaced by a sketch of the rise of the Arian heresy.” But there were obvious problems “in combining history and doctrinal discussion,” and he thought he would reserve detailed discussion of particular theological topics for notes in an appendix.74

While Newman worked on the volumes, he saw them not “as simply a work of research: it was ‘on an extremely important subject,’ and in writing it he was ‘resisting the innovations of the day, and attempting to defend the work of men indefinitely above me (the Primitive Fathers) which is now assailed.’”75 When he submitted the text at the end of July 1832, the work was found “unsuitable for the Theological Library, on the grounds that it was a history of the Arian heresy

73 Ker, John Henry Newman: A Biography, 42.

74 Ibid., 43–44, quoting LD ii. 352–353.

75 Ibid., 45, quoting LD iii. 43.
rather than of the Councils, and that it was too specialized for the general reader.”76 The editor “also complained that some of Newman’s views, particularly on tradition, seemed to be more Roman Catholic than Protestant. There was no question, however, about the distinction of the work, and the publisher Rivington readily agreed to publish it as a book in its own right,”77 which became, as we had seen above, *Arians of the Fourth Century* (1833).

In this work, as we had seen in the previous section of this chapter, Newman wrote of the struggles involved in formulating Church doctrine amidst ecclesial strife. The fact that he saw the possibility for doctrinal development stemmed from his investigation of the judgments that the Church had made about the role of doctrine in its life. As Christopher Cimorelli notes, “One of Newman’s primary theories advanced in *Arians* concerned the *disciplina arcani*, or the idea that catechesis, in the early church, featured the gradual introduction of religious, doctrinal truths to the believer, after a period of time in which the conduct and character of the believer had been sufficiently developed.”78 Within his historical investigation, Newman likewise discovered,

> The idea of disbelieving, or criticizing the great doctrines of the faith, from the nature of the case, would scarcely occur to the primitive Christians. These doctrines were the subject of an Apostolical Tradition; they were the very truths which had been lately revealed to mankind. They were facts, not opinions. To come to the Church was all one with expressing a readiness to receive her teaching; to hesitate to believe, after coming for the sake of believing, would be an inconsistency too rare to require a special provision against the chance of it.79

This willingness to believe stood in contrast to what Newman witnessed in his own time, when

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76 Ibid., 48.

77 Ibid.


79 *Ari.*, 134.
Every one who comes to the Church considers himself entitled to judge and decide individually upon its creed. But in that primitive age, the Apostolical Tradition, that is, the Creed, was practically the chief source of instruction, especially considering the obscurities of Scripture; and being withdrawn from public view, it could not be subjected to the degradation of a comparison, on the part of inquirers and half-Christians, with those written documents which are vouchsafed to us from the same inspired authorities.80

The creed, when seen as the entry into the Church’s mind, was a closely guarded jewel, “And so much of the reluctance of the primitive Fathers to publish creeds, [was] on the ground that the knowledge of Christian doctrines was a privilege reserved for those who were baptized, and in no sense a subject of hesitation and dispute.”81 Newman believed that the early Church Fathers were rightly guarded against allowing the doctrines of the Church to be debated publicly. “If the early Church regarded the very knowledge of the truth as a fearful privilege, much more did it regard that truth itself as glorious and awful; and scarcely conversing about it to her children, shrank from the impiety of subjecting it to the hard gaze of the multitude.”82 The creed was not open for debate, since the doctrines contained within it were not transitory points of argument, but were revealed truths that were well-established and well-understood by the community that professed them.

At the same time, Newman discovered an approach held by “sober-minded and zealous Christians, for venturing to exhibit publicly the great evangelical doctrines, not indeed in the medium of controversy or proof (which would be a still more humiliating office), but in an historical and explanatory form.”83 In explaining this historical and explanatory approach, he

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80 Ari., 134–135.
81 Ari., 135.
82 Ari., 136.
83 Ari., 137.
stressed that a debate over the truthfulness of doctrines was beyond question due to its nature as divinely revealed. This does not mean, however, that divine wisdom prevented an individual believer from questioning what the doctrine meant in his or her lived experience. Instead, Newman saw in the investigation of doctrine, undertaken after proper reflection and even with differences and errors of opinion in mind, the building of a bridge between the past and the present. He believed that this judgment was part of theology, and was not only important for protecting doctrinal truth, but was also essential for the Church’s doctrinal development. Theology became part of the mind’s growth, during which it “cannot refrain from the attempt to analyze the vision which influences the heart, and the Object in which that vision centres.” From that analysis, the mind worked on matters of faith until it can express in words “what has all along been a principle both of its affections and of its obedience.”

Believers, guided by the sacramental grace of baptism and motivated to comprehend as best they could the doctrines articulated in the creeds, were always engaged in some level of theology, even if it was more informal when compared to the more specialized investigations of the theologian. As Cimorelli notes, “Articles of faith could be found throughout scripture, but were taught by the church and through its ‘teachers.’ This interpretation may help explain [Newman’s] insistence that creeds and teachers were always present (i.e., together) as aids in the early church.” These teachers therefore engaged in the study of Scripture and doctrine with the intention to make judgments that, for Newman, “directly assist the acts of religious worship and obedience; fixing and stimulating the Christian spirit in the same way as the knowledge of the One

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84 Ari., 144.

85 Ari., 144.

God relieves and illuminates the perplexed conscience of the religious heathen.”87 Such judgments were allowed within a Church dedicated to the promotion of the faith as its primary obligation, but Newman argued that because the Church did not exist as an intellectual society, it “does not believe that the mysteries of the Christian faith are something to be bruited abroad in a marketplace of ideas that trivializes what is, after all, a matter of personal commitment and pilgrimage.”88 Instead, the Church offers these mysteries that “cannot be understood or communicated until the pilgrim is himself prepared to accept their implications.”89 The strengthening of faith must remain the primary goal of theology, and with it, theology must remain focused on the edification of the community. He stressed that faith was reinforced and strengthened through the preaching and teaching of the Church, where “If the Church would be vigorous and influential, it must be decided and plain-spoken in its doctrine, and must regard its faith rather as a character of mind than as a notion.”90

To be “vigorous,” “influential,” “decided,” and “plainspoken” meant that the Church’s preachers needed to adapt the message to reach their audiences whenever possible while avoiding any abandonment of the intrinsic truth of the Scriptures. For instance, if a Christian preacher could not use an analogy of a horse-drawn carriage in a nineteenth-century sermon because no horse-drawn carriages existed in the time of Moses and Aaron, he would be severely limited in his attempts to make the Scriptures accessible to his congregation. Newman stated, “To deny to

87 Ari., 146.


89 Ibid.

90 Ari., 147.
individual Christians the use of terms not found in Scripture, as such, would be a superstition and
an encroachment on their religious liberty. “ 91 Within that adaptation, however, Scripture itself
could not be altered, and revelation could not be unchanged in its inherent and divine truth, even
when analogies are used. Jesus is a human male, and to preach otherwise is foolish, for “to forbid
the authorities of the Church to require an acceptance of such terms, when necessary, from its
members, is to interfere with the discharge of their peculiar duties, as appointed of the Holy Ghost
to be overseers of the Lord’s flock.” 92

Just as preachers could adapt their presentation of revealed truth in novel ways without
changing the truth of revelation itself, so too could a believer freely accept or reject the novel
presentation made in that preaching. As Newman argued in Arians, “learning is not necessary for
a private Christian, so neither is the full knowledge of the theological system.” 93 He encouraged
full and active participation in the Church’s liturgical life, since the proclamation of the Church’s
creed during the liturgy did not require deep theological investigation by individual believers, only
assent to the doctrines contained in the creed. Such inclusion is a lived example of belief, and does
not mean the believer understands, or needs to understand, every theological nuance. For instance,
believers need not fully comprehend the connections between the sacraments of Baptism and
Reconciliation to avail themselves of the forgiveness of sins that comes from sacramental
confession. With these limitations in mind, Newman rightly warned that the laity’s participation
in the liturgical life of the Church did not mean that they were engaged in its theological life as
well, and he explained that at times in the Church’s history, the laity in their liturgical actions

91 Ari., 149.

92 Ari., 149.

93 Ari., 150.
produced “counter-statements of their own … and that erroneously,” against both revealed Scripture and the creeds developed by the Church over centuries.

Three years after the publication of *Arians of the Fourth Century*, Newman returned to the notion of private judgment at work in the Church’s understanding of doctrine and revelation in his 1837 *Lectures on the Prophetical Office of the Church*. In these lectures, he began expressing his view that theology was part of the larger process of development, and it was in this process of development, with the individual believer bringing something new to the discussion, that the Church came to understand more fully the deposit of faith. “A religion’s principle or idea, however true, before it is found in a substantive form, is but a theory; and since many theories are not more than theories, and do not admit of being carried into effect, it is exposed to the suspicion of being one of these, and of having no existence out of books. The proof of reality in a doctrine is its holding together when actually attempted.” When a new argument explaining doctrine is proven true, it overcomes the natural prejudice “against what is new, on this ground if on no other, that it has not had the opportunity of satisfying this test.” However, when prejudice moves into full rejection of the truth based solely on personal whims, and when thinkers attempt to prove they are

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94 *Ari.*, 150.

95 John Henry Newman, *Lectures on the Prophetical Office of the Church Viewed Relatively to Romanism and Popular Protestantism* (London: J.G. and F. Rivington, 1837). Newman revised *Lectures on the Prophetical Office* in 1877 and gave the revision the title *Via Media: Volume 1*, which produces some confusion when trying to differentiate between this revision and Newman’s discussion of the *via media* in the 1830’s. In subsequent footnotes, *VM i* will be used as the reference, following usual convention for this material.

96 *VM i*, 15–16.

97 *VM i*, 16.
smarter than the masses by “[putting] themselves above existing systems, as if these were suited only to the multitude or to bigoted partisans, they are supercilious and proud.”\textsuperscript{98}

This process of proving doctrine as true developed within the milieu of Church history and the lived experience of past thinkers, but it was also possible that the truth might not be understood or expressed perfectly in theological statements that built upon the well-defined and well-understood doctrines of the Church:

In all greater matters of theology there is no room for error, so prominent and concordant is the witness of our great Masters in their behalf, yet he is conscious that in minor points, whether in questions of fact or of judgment, there is room for difference or error of opinion; and while he has given his best endeavours to be accurate, he shall not be ashamed to own a mistake, nor reluctant to bear the just blame of it.\textsuperscript{99}

Therefore, as Newman wrote in “On the Use of Private Judgment,” the fifth of this Lectures on the Prophetic Office, by private judgment “in matters of religious belief and practice, is ordinarily meant the prerogative, considered to belong to each individual Christian, of ascertaining and deciding for himself from Scripture what is Gospel truth, and what is not.”\textsuperscript{100} Furthermore, a believer gifted with knowledge “must begin religion by faith, not by controversy; he must take for granted what he is taught and what he cannot prove; and it is better for himself that he should do so, even if the teaching he receives contains a mixture of error.”\textsuperscript{101} Newman knew that individuals started theologizing from the perspective of belief, even if their belief contained errors about specific articles of faith. Owen Chadwick saw this starting point as Newman’s conception of “the

\textsuperscript{98} VM i, 22.

\textsuperscript{99} VM i, 25. The “he” referenced in this passage is Newman himself. In the sentence before this one, he admitted that if he were successful in his desire to develop “a first approximation to the required solution in one department of a complicated problem” of theology, it would be “quite a sufficient return for whatever anxiety it has cost the writer to have employed his own judgment on so serious a subject.”

\textsuperscript{100} VM i, 130.

\textsuperscript{101} VM i, 135–136.
‘traditional element’ in the authority of the Church as a kind of thought or principle deep in the Church’s bosom, ‘breathing’ within her, her ‘accustomed and unconscious mode of viewing things’, the body of her assumptions rather than any systematic or explicated structure of dogmas.” 102 The grounding in faith also allowed errors to be corrected over time, for “As the mind expands, whether by education or years, a number of additional informants will meet it, and it will naturally, or rather it ought, according to its opportunities, to exercise itself upon all of these, by way of finding out God’s perfect truth.” 103 In this exercise, Newman held that the believer expanded his or her knowledge and understanding the articles of faith, and this understanding provoked further questions:

The Christian will study Scripture and Antiquity, as well as the doctrine of his own Church; and may perhaps, in some points of detail, differ from its teaching; but, even if eventually he differs, he will not therefore put himself forward, wrangle, protest, or separate from it. Further, he may go on to examine the basis of the authority of Scripture or of the Church; and if so, he will do it, not, as is sometimes irreverently said, “impartially” and “candidly,” which means sceptically and arrogantly, as if he were the centre of the universe, and all things might be summoned before him and put to task at his pleasure, but with a generous confidence in what he has been taught; nay, not recognizing, as will often happen, the process of inquiry which is going on within him. 104

Believers, through their private judgment, still have a role in discovering truth, which begins when we “supplement the information of others by our own knowledge, by our own judgment of probabilities; and, if it be very strange or extravagant, we suspend our assent. This is undeniable; still, after all, there are truths which are incapable of reaching us except on testimony,

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103 VM i, 136.

104 VM i, 136–137.
and there is testimony, which by and in itself, has an imperative claim on our acceptance."¹⁰⁵ For instance, tourists to the District of Columbia lost their chance to climb the Washington Monument after its unexpected closure in 2016. Even so, they still knew that the Washington Monument exists because they have seen pictures of it, can still find information about its observation deck on the National Parks Service website, and have heard stories from those who climbed its nine hundred steps before its closure. When a person shares proof of these things, others can accept the truth contained in that proof: the Washington Monument exists, the observation deck exists, and people have been to the deck.

Besides investigating the strengths of personal judgment in determining the truth of testimony, Newman also addressed its potential abuse, especially in the popular view of his time, “that every Christian has the right of making up his mind for himself what he is to believe, from personal and private study of the Scriptures.”¹⁰⁶ Newman called this notion “so very preposterous, there is something so very strange and wild in maintaining that every individual Christian, rich and poor, learned and unlearned, young and old, in order to have an intelligent faith, must have formally examined, deliberated, and passed sentence upon the meaning of Scripture for himself.”¹⁰⁷ Newman knew it was impossible for every person to have the motivation, knowledge, skill, talent, and time needed to become an expert in Scriptural interpretation. Instead, he held it essential for people to seek out as much information as they could to form as complete and accurate a judgment as possible. As he wrote, “whereas every Christian is bound to have as accurate notions

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¹⁰⁶ VM i, 145.

¹⁰⁷ VM i, 145.
as he can, many a man is capable of receiving more accurate and complete notions than he can gather for himself from the Bible. It is one thing to apprehend the Catholic doctrines; quite another to ascertain how and where they are implied in Scripture.”\(^{108}\) The difference between apprehending Catholic doctrine and finding their implications in the Scriptures does not mean, though, that Scripture is an impenetrable collection of documents, hidden from the eyes and minds of believers.

This clarification did not denigrate the abilities or desire of the average believer, but it was a recognition of the diversity of gifts in the Church: “The qualifications for rightly apprehending [Scripture] are so rare and high, that a prudent man, to say nothing of piety, will not risk his salvation on the chance of his having them; but will read it with the aid of those subsidiary guides which ever have been supplied as if to meet our need.”\(^{109}\) Newman thereby left open the possibility for individuals to find through their own judgment a deeper meaning in the Scriptures. “Neither would I deny that individuals, whether from height of holiness, clearness of intellectual vision, or the immediate power of the Holy Ghost, have been and are able to penetrate through the sacred text into some portions of the divine system beyond, without external help from tradition, authority of doctors, and theology.”\(^{110}\) After all, there are those to whom the interpretation of Scripture comes naturally, while for others, the gift is granted only after years of honing hermeneutical skills that can be used to interpret the Scriptures. Even with these skills, Newman asserted, “None … but a complete and accurately moulded Christian, such as the world has never or scarcely seen,

\(^{108}\) VM i, 149.

\(^{109}\) VM i, 158.

\(^{110}\) VM i, 158–159.
would be able to bring out harmoniously and perspicuously the divine characters in full, which lie hid from mortal eyes within the inspired letter of the revelation.”  

Even with the natural limitations of the human mind at work in theology, Newman never held that a believer engaged in theology was a worrisome meddler, even though judging the truth in theology and doctrinal development could be frustrating. As he wrote in “The Theory of Developments in Religious Doctrine,” the fifteenth of his collected Oxford University sermons, “Surely it is not at all wonderful, that, when individuals attempt to analyze their own belief, they should find the task arduous in the extreme, if not altogether beyond them; or, again, a work of many years; or, again, that they should shrink from the developments, if offered to them, as foreign to their thoughts.”  

Just as he had argued in Lectures on the Prophetical Office, Newman explained here:

[How frequently it happens, that, on first hearing a doctrine propounded, a man hesitates, first acknowledges, then disowns it; then says that he has always held it, but finds fault with the mode in which it is presented to him, accusing it of paradox or over-refinement; that is, he cannot at the moment analyze his own opinions, and does not know whether he holds the doctrine or not, from the difficulty of mastering his thoughts.]

When believers master their thoughts on the doctrine propounded, they still may find it difficult to locate the necessary connection between private judgment and other ideas contained within the larger system of belief. “The difficulty, then, and hazard of developing doctrines implicitly received, must be fully allowed; and this is often made a ground for inferring that they have no

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111 VM i, 159.


proper developments at all.” To overcome these difficulties, Newman advocated for the expansion of the mind through a number of steps, including:

[T]he habitual and devout perusal of Scripture, which gradually acts upon the mind; again, the gradual influence of intercourse with those who are in themselves in possession of the sacred ideas; again, the study of Dogmatic Theology, which is our present subject; again, a continual round of devotion; or again, sometimes, in minds both fitly disposed and apprehensive, the almost instantaneous operation of a keen faith.

The believer thereby discovers “the development of an idea is a deduction of proposition from proposition, these propositions are ever formed in and round the idea itself (so to speak), and are in fact one and all only aspects of it.” For instance, when a believer first reads the story of the disciples on the road to Emmaus and their encounter with the risen Jesus, the focus may be on the disciples’ failure to recognize Jesus until the breaking of the bread and aspects of faith such as the celebration of the Eucharist may be realized. After a second reading of the text, other propositions may be made, such as the significance of Jesus’ explanation of the Scriptures. The deductions from these multiple readings gain further significance when the believer discusses them with other people, learns from their interpretations, and discovers how these interpretations either support or disprove the believer’s original deductions.

Danielle Nussberger argues that this process reflects Newman’s method in sharing his theological findings with his audiences:

In order to communicate the Christian faith effectively, Newman had to be able to hold firm to the integrity of the tradition that he was imparting to his audience. This assurance of the tradition’s faithfulness could not only come from his intellectual arguments on its behalf; it also had to rest in the ways that the faith’s doctrinal content had been subjectively

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115 _US_ 15:25.

experienced by him throughout the internal struggles and external pressures of his own life as theologian and pastor.\textsuperscript{117}

Faith is therefore not only an abstract intellectual concept; it is a lived experience proven correct. Such an experience creates a positive obligation in a believer to accept doctrinal development, for as Newman posited, “If the mind deliberately rejects any portion of the doctrine, this is a proof that it does not really hold even that very statement for the sake of which it rejects the others. Realizing is the very life of true developments; it is peculiar to the Church, and the justification of her definitions.”\textsuperscript{118} Terrence Merrigan believes this obligation to “follow where the trail takes you” allows investigation to breathe new life into old thought:

Theology, in Newman’s view, is “always” notional, since it is the process whereby doctrinal claims are “apprehended for the purposes of proof, analysis, comparison, and the like intellectual exercises.” Newman acknowledges that such “intellectual acts [are] … not necessarily for a real apprehension of the things on which they are exercised,” but he also recognizes that, in the domain of religion, too, the quest for comprehensiveness cannot be restrained.\textsuperscript{119}

As Newman concluded this fifteenth Oxford University sermon, he asserted: “Not even the Catholic reasonings and conclusions, as contained in \textit{Confessions}, and most thoroughly received by us, are worthy of the Divine Verities which they represent, but are the truth only in as full a measure as our minds can admit it.”\textsuperscript{120} In this statement, he repeated the warning to all believers, and to theologians specifically, that their personal observations cannot hope to encompass the vast expanse of Revelation, and that the process of doctrinal development cannot conclude in only


\textsuperscript{118} \textit{US} 15:29.


\textsuperscript{120} \textit{US} 15:43.
limited observations: “The fault, then, which we must guard against in receiving such Divine intimations, is the ambition of being wiser than what is written; of employing the Reason, not in carrying out what is told us, but in impugning it; not in support, but in prejudice of Faith.”

Newman likewise warned against proof-texting, whereby the Scriptures reinforced what we want them to say. Instead of using Scripture in this incorrect way, the theologian must remember that Scriptural communication involves the believer becoming both the audience for the message as well as part of the message for others. As Nussberger explains,

> When we communicate Christian faith, we as communicators would do well to integrate ourselves as givers of the message with the message of faith that we are presenting to the audience and with the listeners in our audience who are receiving the message of faith and committing themselves to it. As the ones doing the communicating, we can never forget that when we communicate a faith—in which we are participating and about which we are still learning—the audience is seeing before them the threefold nature of Christian faith: a reasonable, personal, and communal commitment to the truth of doctrine’s content.

Terrence Merrigan argues that Newman thought communication and integration could be extended further by introducing information from outside theology to the process of doctrinal development, for “It was the task of the theologian to honestly confront whatever data modern scientific and historical research brought to bear on questions of faith, and not to shy away from contemporary challenges to even the most long-cherished convictions and opinions.” Newman emphasized that believers cannot rely on the passive reception of truth, but must actively seek knowledge. Indeed, when confronting matters of faith and doctrine, “Religious men are always learning; but when men refuse to profit by light already granted, their light is turned to

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121 US 15:44.


To refuse the experience and wisdom of those who investigated the same questions in the past was the ultimate expression of hubris, and, in countering this attitude, Newman turned to the image of the thinker who works through, beyond, and sometimes within false claims, only to stumble into the truth in the end. He argued:

What religious opinion can be named which some men or other have not at some time held? All are equally confident in the truth of their own doctrines, though the many must be mistaken … Those who thus proceed, watching, praying, taking all means given them of gaining the truth, studying the Scriptures, and doing their duty; in short, those who seek religious truth by principle and habit, as the main business of their lives, humbly not arrogantly, peaceably not contentiously, shall not be “turned unto fables.”

Private Judgment in Action: The Grammar of Assent

By 1870, Newman had completed what he called his opus on the examination of how a person comes to belief, a work that he admitted took twenty years to complete. This opus, An Essay in Aid of a Grammar of Assent, argued that theology was a rational human activity, and as such, shared similarities to other fields such as literature, science, and mathematics. In explaining this activity, “Newman repeatedly makes the point that, rather than one single unbreachable chain of formal proof, the human mind much more often reaches firm conclusions by multiple strands of thought and evidence, unique to the person himself.” From these strands, he derived two different types of assent: real and notional, where real assent is assent to something concrete, while notional assent is given to something abstract. In other words, real assent involves things, experiences, and objects, which in the context of doctrinal development Newman called “an act of

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124 PS viii, 13, 196.

125 PS viii, 13, 197–198.

religion.” Notional assent involves propositions, inferences, and abstractions, which he described as “a theological act. [Assent] is discerned, rested in, and appropriated as a reality, by the religious imagination; it is held as a truth, by the theological intellect.”

John Caiazza explains the difference well, starting with the concept of notional assent:

It means nothing to us personally whether if A is larger than B and B larger than C, that A is larger than C, or that if all men are mortal and Socrates is a man, that Socrates is mortal, as these are merely an exercise in the classroom. But it does matter to us surely if we believe that since the Bible is the inspired Word of God, and we believe that all things in it are substantially true, that therefore it is true that the Lord God gave Moses the Ten Commandments on the holy mountain or that Jesus came down to earth to die for our sins.

Real assent demands an acceptance of the religion’s tangible and concrete elements, while notional assent ponders the religion’s abstractions. In Caiazza’s example, real assent looks to the teachings contained in the Old Testament for information and inspiration, while notional assent investigates the choice of Moses as lawgiver or the significance of the location of the holy mountain Sinai in prophetic literature. In another example, real assent involves the belief that angels exist, while notional assent debates the number of angels that can dance on the head of a pin. Ryan Marr notes that in the distinction between these two types of assent, “Newman is not saying that real assent somehow constitutes a superior form of assent to notional. Rather, these are simply different types of assent appropriate to different forms of knowledge … each type of assent has its particular strengths and weaknesses, and is therefore fitted for different types of human inquiry.”

It is this distinction between the real and the notional assent that allowed Newman to make the following statement: “As intellect is common to all men as well as

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127 GA, 98.


129 Marr, To Be Perfect Is to Have Changed Often, 105.
imagination, every religious man is to a certain extent a theologian, and no theology can start or thrive without the initiative and abiding presence of religion.”\textsuperscript{130} All believers can give real assent to the elements of their shared religion, but not all believers are theologians, for while they may share in the general powers of human imagination, it is not true that all believers share in the specific theological intellect.

In developing the concept of theological imagination, Newman returned to the recognition that people gather information from a variety of sources: “We get our facts from the witness, first of nature, then of revelation, and our doctrines, in which they issue, through the exercise of abstraction and inference. This is obvious; but it does not interfere with holding that there is a theological habit of mind, and a religious, each distinct from each, religion using theology, and theology using religion.”\textsuperscript{131} For believers, real assent means gathering information through the tangible and concrete to become one who “has a living hold on truths which are really to be found in the world, though they are not upon the surface,” and through this hold on the worldly, “is able to pronounce by anticipation, what it takes a long argument to prove—that good is the rule, and evil the exception.”\textsuperscript{132} In this way, giving real assent does not involve “written records of Revelation; it does not require any knowledge of Scripture, nor of the history or the teaching of the Catholic Church. It is independent of books.”\textsuperscript{133} Some religious thinkers have described this process as approaching the divine through the senses, including through the human imagination provoked by natural wonder or expressed in song and dance. For Newman, however, this

\textsuperscript{130} \textit{GA}, 98.

\textsuperscript{131} \textit{GA}, 98–99.

\textsuperscript{132} \textit{GA}, 117.

\textsuperscript{133} \textit{GA}, 118.
imaginative creativity was the first stage of assent, and “it is obvious how great an addition in fulness and exactness is made to our mental image of the Divine Personality and Attributes, by the light of Christianity.”\(^{134}\)

In the second type of assent, the notional, “the supernatural Dispensations of Religion … [are] carried out in the written Word, with an effectiveness which inspiration alone could secure.”\(^{135}\) This inspiration is apparent in the numerous stages of biblical and apostolic writings, progressing from the histories to the prophets, the psalms, and the other books of the Old Testament, followed by the Gospels, epistles of the New Testament, the history of the early Church, the lives of the saints, and the reasonings of the schola theologorum. From these sources, Newman could “trace the process by which the mind arrives, not only at a notional, but at an imaginative or real assent to the doctrine that there is One God, that is, an assent made with an apprehension, not only of what the words of the proposition mean, but of the object denoted by them.”\(^{136}\) In this movement between the notional and the real, that is, between theology and religion, he explained, “Theology may stand as a substantive science, though it be without the life of religion; but religion cannot maintain its ground at all without theology. Sentiment, whether imaginative or emotional, falls back upon the intellect for its stay, when sense cannot be called into exercise; and it is in this way that devotion falls back upon dogma.”\(^{137}\) Newman thereby makes the argument “that the study of theology normally involves notional apprehension of revealed truths, while religious devotion requires real assent, coming to recognize that these truths have a

\(^{134}\) *GA*, 118.

\(^{135}\) *GA*, 118.

\(^{136}\) *GA*, 119.

\(^{137}\) *GA*, 121.
personal bearing upon one’s life.” He knew, as Thomas Norris states, “the rationality of the act of faith was not that of demonstration, but broader, deeper and more subtle. As such it could not be fitted within the constraints of formal inference.” It is from this position that he answered the charge leveled against the Catholic Church “that she imposes on her children as matters of faith, not only such dogmas as have an intimate bearing on moral conduct and character, but a great number of doctrines which none but professed theologians can understand, and which in consequence do but oppress the mind, and are the perpetual fuel of controversy.” That answer distinguished theology from other necessary elements of religions such as devotions and creeds, and reinforced devotion as part of the experiential life of the Church.

Without downplaying the necessity of grace in bringing a person to faith, Newman sketches a phenomenology of mind in which religious belief is wholly reasonable, though not rationalistic. In defense of his position, Newman shows how the process of reasoning that leads to faith resembles other uses of human reason that we intuitively consider trustworthy – for instance, a peasant who is “weather-wise” and can accurately predict impending storms or “physicians who excel in the diagnosis of complaints.”

By holding firm to his position that theology and religious devotion operated within different spheres of assent, Newman could look to the intellect to explain how the dogmas of the Church are products of continual intellectual activity:

[The intellect] is ever active, inquisitive, penetrating; it examines doctrine and doctrine; it compares, contrasts, and forms them into a science; that science is theology.

Accordingly, the Catholic intellect makes a survey and a catalogue of the doctrines contained in the depositum of revelation, as committed to the Church’s keeping; it locates, adjusts, defines them each, and brings them together into a whole. Moreover, it takes

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138 Marr, To Be Perfect Is to Have Changed Often, 106.


140 GA, 142.

141 Marr, To Be Perfect Is to Have Changed Often, 110. The internal quote is GA, 261.
particular aspects or portions of them; it analyzes them, whether into first principles really such, or into hypotheses of an illustrative character. It forms generalizations, and gives names to them. All these deductions are true, if rightly deduced, because they are deduced from what is true.142

Here, he returned to his earliest observations on private judgment found in *Arians of the Fourth Century* and the *Lectures on the Prophetical Office*. Intellect is continuously investigating, and from its investigation, it creates new observations. Development necessarily takes shape in these intellectual activities, which assist not only dogmatic expressions, but also in devotional or liturgical expressions as well.

The distinction between religious devotion (real assent) and theology (notional assent) does not mean, however, that there are two rules of faith in the Church. Instead, Newman argued there is only one rule of faith, guarded by the “dogma of the Church’s infallibility, and of the consequent duty of ‘implicit faith’ in her word.”143 Within this one rule, even if a person cannot fathom the theological depths of transubstantiation, the mystery of the Trinity, or the full salvific implications of the Incarnation, he or she can take solace in the celebration of the Eucharist, the love of God, and the joy that the liturgical seasons bring to one’s life. For the faithful believer, he or she can participate in a particularly pleasing or fulfilling religious devotion even if he or she does not comprehend that devotion’s theological underpinnings as guaranteed by the Church’s infallible teaching authority. Newman thereby united both the learned and unlearned under the banners of theology and infallibility, since “all of us … believe the whole revealed doctrine in all its parts and in all that it implies according as portion after portion is brought home to our consciousness as

142 *GA*, 147.

143 *GA*, 150.
belonging to it.”\textsuperscript{144} Newman likewise held, “It also stands to reason, that a doctrine, so deep and so various, as the revealed \textit{depositum} of faith, cannot be brought home to us and made our own all at once. No mind, however large, however penetrating, can directly and fully by one act understand any one truth, however simple.”\textsuperscript{145} Therefore, he stressed that all believers, be they theologians or not, “commit ourselves by anticipation to believe truths which at present we do not believe, because they have never come before us;—we limit henceforth the range of our private judgment in prospect by the conditions, whatever they are, of that dogma.”\textsuperscript{146}

Newman reminded his readers that at the conclusion of their investigations, believers must recognize that their private judgment cannot hope to encompass the entirety of truth contained in the deposit of faith. The deposit is too vast, too diverse, and too voluminous to be comprehended completely by everyone. Therefore, the believer must make another assent beyond private judgment, and in that assent, must allow the Magisterium of the Church to fill in the gaps left from the believer’s investigations:

That the Church is the infallible oracle of truth is the fundamental dogma of the Catholic religion; and “I believe what the Church proposes to be believed” is an act of real assent, including all particular assents, notional and real; and, while it is possible for unlearned as well as learned, it is imperative on learned as well as unlearned. And thus it is, that by believing the word of the Church \textit{implicite}, that is, by believing all that that word does or shall declare itself to contain, every Catholic, according to his intellectual capacity, supplements the shortcomings of his knowledge without blunting his real assent to what is elementary, and takes upon himself from the first the whole truth of revelation, progressing from one apprehension of it to another according to his opportunities of doing so.\textsuperscript{147}

Such a position stood in line with Newman’s differentiation of the real assent held by all believers,

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\item \textsuperscript{144} \textit{GA}, 151.
\item \textsuperscript{145} \textit{GA}, 151.
\item \textsuperscript{146} \textit{GA}, 151.
\item \textsuperscript{147} \textit{GA}, 153.
\end{itemize}
and the notional assent held only by some in the Church. The infallibility of the Church as expressed by the community of all believers reinforced real assent by allowing believers to know what they believe is true according to revelation as expressed in Scripture and Tradition. The infallibility of the Church also promoted notional assent by guiding the theologian into recognizing what he or she does not know, and similarly encouraged theologians to overcome that lack of knowledge through a deeper search for the truth. This distinction between the real assent of the believers acting collectively and the notional assent of theologians specifically also serves as a natural transition from the discussion of private judgment in this section to an investigation into the role of the theologian in the public discussion of theology, which will be taken up in the chapter’s next section.

Concluding Remarks

The American journalist and religion commentator Peter Steinfels wrote on the occasion of Newman’s 200th birthday that,

At the core of his religious thinking, Newman was a highly undogmatic anti-dogmatist. He had a strong sense of the limits of pure reasoning. On the one hand, religious truth involved realities infinitely surpassing the human mind – and its words and categories as well. On the other hand, the pursuit of truth was far more a matter of disposition and temperament, critical experiences, moral sensitivities and a million other imponderables, than of syllogistic reasoning.148

Newman might have confirmed Steinfels’ interpretation of his theology by quoting his 1828 letter to the Spanish priest Joseph Blanco White, where he argued that to search for the reasons behind theological investigation would reveal “ten thousand indescribably incommunicable feelings and imaginings. It would be comparatively easy to enumerate the various external impulses which determine the capricious motions of a floating feather or web, and to express in an algebraical

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formula the line it describes.”149 No matter the reason for the investigation, however, the Christian theologian is bound by a system that maintains the absolute truth of Revelation as contained in Scripture and Tradition, while also allowing for doctrinal development.

In the texts that we have examined, Newman presented his argument for the inherent value of personal judgment in theology. Human beings are confronted with truth claims throughout their lives, and with each confrontation, they must decide: Will they accept the thing as true; will they demand more proof to verify the claim, or will they reject the claim entirely? In coming to a decision, individuals rely not only on their previous experiences but also must determine the trustworthiness of the person or thing making the claim, the testimony supplied to support the claim, the research and information included with this claim, and the ramifications for believing the truth purported to exist in the claim. Furthermore, will it bring other “truths” into question, and is the individual ready to deal with these consequences? In the specific engagement with the Church’s Creed, Scripture, and Tradition, the same questions confront theologians. Is any doctrinal development that comes from reflection on Revelation true? What tools can be used to conduct further investigation? From there, the theologian must attempt to discover the meaningfulness of the development. At his or her disposal are several internal and external factors that will help solidify the veracity of the claim contained in the proposed development. If found false, the process ends. If found true, how does this new interpretation alter the understanding of other doctrines? Can the theologian now draw other truths from this investigation? These questions lead to even more searching and more truth claims, at which point the cycle continues.

As the theologian works through this process, he or she discovers that other theologians have faced the same questions, members of the community are currently challenged by the

149 LD ii, 60.
questions, and still others are on a path that will bring them to ask the same questions in the future. Through this process, private judgment takes on a more public and communal character. Eventually, these personal investigations could become what Newman found worthy of acceptance by the Church through the *sensus fidelium* and *consensus fidelium*, both of which worked in conjunction with magisterial authority to help guarantee the truthfulness of claims of doctrinal development. From this shared experience, theological discussions regarding revealed truth emerge, and Newman’s explanation of this public process will become the focus of this chapter’s next section.
NEWMAN AND PUBLIC DISCUSSION

In the previous section, we examined John Henry Newman’s thoughts on private judgment and theology, and by the end of that examination, we concluded that he never argued that the search for truth was a purely intellectual exercise conducted solely in one’s own study. Instead, investigations concerning doctrine and theology were communicated to others by the theologian. For instance, Newman shared his research with others in letters, essays, and lectures, and asked for confirmation of his investigations by opening his works to discussion. His sermons were published after delivery so that the parish community that first heard the sermon, as well as those who encountered the text years later, could return to his thoughts and debate their relevance to their faith and belief at the time of the encounter. The vast catalogue of his correspondence with theologians and other intellectuals indicated his willingness to allow them to make judgments on his thoughts. Through these actions, Newman stressed that the Church had the right to debate the worthiness of his findings and judge their orthodoxy through the acceptance or rejection of his work.

Newman understood that all believers, including the average lay believer, engaged in a process that increased the cultivation of mind:

Mental cultivation, though it does not of itself touch the greater wounds of human nature, does a good deal for these lesser defects. In proportion as our intellectual horizon recedes, and we mount up in the knowledge of men and things, so do we make progress in those qualities and that character of mind which we denote by the word “gentleman;” and, if this applies in its measure to the case of all men, whatever their religious principles, much more is it true of a Catholic.\(^{150}\)

He held that when dealing with matters of faith, whether through cultivation or heated discussion, long-term communal benefits were always possible. In these processes, he found parallels to the

conversations between English Catholics and their opponents outside the Church and encouraged Catholics to participate in theological conversations:

Your opponents, my Brothers, are too often emphatically not gentlemen: but it will be for you, in spite of whatever provocations you may meet with, to be manly and noble in your bearing towards them; to be straightforward in your dealings with them; to show candour, generosity, honourable feeling, good sense, and forbearance, in spite of provocation; to refrain from taking unfair or small advantages over them; to meet them half way, if they show relentings; not to fret at insults, to bear imputations, and to interpret the actions of all in the best sense you possibly can. It is not only more religious, not only more becoming, not only happier, to have these excellent dispositions of mind, but it is far the most likely way, in the long run, to persuade and succeed.151

In this approach, Newman stood in sharp contrast to most Church leaders of the nineteenth century. Where Newman encouraged the laity to participate in theological discussions, many of those in the English Catholic hierarchy viewed the laity as a group to be directed, not consulted. An 1867 letter from Monsignor George Talbot, secretary to Pope Pius IX, to Henry Edward Manning, Cardinal Archbishop of Westminster, represented this position. In his letter, Talbot reacted to Newman’s writings on the laity by warning Manning: “If a check be not placed on the laity of England they will be the rulers of the Catholic Church in England instead of the Holy See and the Episcopate,” describing the laity in the process as “beginning to show the cloven hoof.”152

Finally, in perhaps the most famous quote attributed to Talbot, he stated, “What is the province of the laity? To hunt, to shoot, to entertain. These matters they understand, but to meddle with ecclesiastical matters they have no right at all, and this affair of Newman is a matter purely

151 Ibid.

ecclesiastical … Dr. Newman is the most dangerous man in England, and you will see that he will make use of the laity against your Grace.”\textsuperscript{153}

\textit{The Sensus and Consensus Fidelium}

Part of Newman’s dangerous reputation as it pertained to matters regarding the laity may have also stemmed from the theological positions he presented in an unsigned July 1859 piece in the Catholic periodical \textit{The Rambler} entitled “On Consulting the Faithful in Matters of Doctrine.” In this essay, Newman’s argument, like that presented in \textit{Arians of the Fourth Century} in 1833, centered on historical examples of the faithful Church in the face of heresy, and he argued that at these crucial moments, the laity guaranteed the faithfulness of the Church. Such an observation was consistent with his recognition of doctrine in development, for within this process of development there were times when the Church community saw things clearly and guarded against contrary viewpoints. At other times, the Church possessed cloudier judgments and tensions between positions led to crisis. There were even moments when the bishops were not active in the defense of the faith and that obligation was taken up by the laity instead. In those moments, Newman argued, the Church remained orthodox because of the faith of the laity. As he clarified in his fifth note of the 1871 revised edition of \textit{The Arians of the Fourth Century}:

\begin{quote}
The episcopate, whose action was so prompt and concordant at Nicæa on the rise of Arianism, did not, as a class or order of men, play a good part in the troubles consequent upon the Council; and the laity did. The Catholic people, in the length and breadth of Christendom, were the obstinate champions of Catholic truth, and the bishops were not … [O]n the whole, taking a wide view of the history, we are obliged to say that the governing body of the Church came short, and the governed were pre-eminent in faith, zeal, courage, and constancy.\textsuperscript{154}
\end{quote}

\textsuperscript{153} Ibid.

\textsuperscript{154} \textit{Ari.}, 445.
In his 1859 essay, Newman claimed that while the entire Church remained the guardian of tradition, it was possible that distinct groups within the Church played a more significant role in that guardianship when circumstances required. In the case of the laity as guarantor of proper doctrine during the Arian heresy, they became the active element in the protection of orthodoxy. Therefore, in looking at that historical example, Newman asked, “[W]hether it can, with doctrinal correctness, be said that an appeal to the faithful is one of the preliminaries of a definition of doctrine; and secondly, granting that the faithful are taken into account, still, whether they can correctly be said to be consulted.” In other words, is it possible for the faithful collectively to possess knowledge of a doctrine in such a way that they can guarantee its truthfulness, and if so (or if not), should the risk be taken in consulting the faithful on doctrinal issues when those issues are still unresolved theologically? To support his claim that such action was not only possible, but proper and beneficial for the Church, Newman looked again to Church history, where the example of the lay faithful during the crisis of Arianism were witnesses to doctrinal truth. “Doubtless their advice, their opinion, their judgment on the question of definition is not asked; but the matter of fact, viz. their belief, is sought for, as a testimony to that apostolical tradition, on which alone any doctrine whatsoever can be defined.” The laity became “witnesses to the antiquity of universality of the doctrines which they contain, and about which they are ‘consulted,’” and the consultation of the lay faithful in these matters involved more than using them as a sounding board. In its consultation of the sensus fidelium, Newman claimed that the Church inherently

155 Cons., 199.

156 Cons., 199.

157 Cons., 199.

158 Here, Newman refers to the sensus fidelium, or sense of the faithful, as defined by the Roman theologian Giovanni Perrone, with whom Newman had engaged in several conversations after his conversion to Catholicism. In
understood the laity to be the guardian of living doctrine. As Joseph Palmisano explains, “The *sensus fidelium* is informed through doctrinal ideas that become ‘living ideas of sacred things’ and these ideas become ‘living’ insofar as they excite, enable and deepen a person’s relationship with Christ and the wider *communio*.”159 Through this consultation, therefore, if the interpretation of doctrine as presented to the Church did not deepen an understanding of Revelation, then that interpretation was not effective and should not be accepted as proper development.

By re-emphasizing the laity’s proper place in the Church’s doctrinal process, Newman answered the question of why should the laity be consulted in the first place: “Because the body of the faithful is one of the witnesses to the fact of the tradition of revealed doctrine, and because of their *consensus* through Christendom is the voice of the Infallible Church.”160 Let us recall that

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listing Perrone’s definition of the *sensus fidelium*, Newman highlighted four lines: 1. “He states the historical fact of such *sensus*, and he not only joins together the *pastores* and *fideles*, but contrasts them; I mean (for it will bear on what is to follow), the ‘faithful’ do not include the ‘pastors.’” 2. “He says, that to inquire into the sense of the Church on any question, is nothing else but to investigate towards which side of it she has more inclined. And the *indicia et manifestationes hujus propensionis* are her public acts, liturgies, feasts, prayers, *pastorum ac fidelium in unum veluti conspiratio*”; 3. “These various *indicia* are also the *instrumenta traditionis*, and vary one with another in the evidence which they give in favour of particular doctrines; so that the strength of one makes up in a particular case for the deficiency of another, and the strength of the *sensus communis fidelium* can make up (e.g.) for the silence of the Fathers”; and 4. “He then goes on to speak directly of the force of the *sensus fidelium*, as distinct (not separate) from the teaching of their pastors.” (Cons., 206–207) Newman would contrast the *sensus fidelium* with the *consensus fidelium*, which he defined (borrowing from Gregory of Valencia, through Giovanni Perrone) with the following statement: “In controversy about a matter of faith, the consent of all the faithful has such a force in the proof of this side or that, that the Supreme Pontiff is able and ought to rest upon it, as being the judgment or sentiment of the infallible Church. These are surely exceedingly strong words; not that I take them to mean strictly that infallibility is in the *consensus fidelium*, but that that *consensus* is in *indicium* or instrumentum to us of the judgment of that Church which is infallible.” (Cons., 208) The German theologian Hermann Geissler accurately explained the distinction between the two concepts: “What effectively is the *consensus fidelium* at its core? With great theologians, Newman describes this *consensum* as witness for the Apostolic doctrine, as leadership by God’s Spirit, as an answer to the prayers of the faithful. The *consensus fidelium* may be seen as a fruit and converging manifestation of the *sensus fidelium*, which is a gift of God that enables the faithful, in a profound agreement with the Church and under the guidance of its *Magisterium*, to adhere to the Truth and to apply it faithfully in daily life.” (Hermann Geissler, *The Witness of the Faithful in Matters of Doctrine according to John Henry Newman* [Oxford: International Center of Newman Friends, 2012], 15.)

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160 *Cons.*, 205.
in his earlier writings.\textsuperscript{161} Newman understood that the proper response to development was to recognize it as true, no matter how the development was manifested or which group within the Church was most active in its promotion and protection:

I think I am right in saying that the tradition of the Apostles, committed to the whole Church in its various constituents and functions \textit{per modum unius}, manifests itself variously at various times: sometimes by the mouth of the episcopacy, sometimes by the doctors, sometimes by the people, sometimes by liturgies, rites, ceremonies, and customs, by events, disputes, movements, and all those other phenomena which are comprised under the name of history. It follows that none of these channels of tradition may be treated with disrespect.\textsuperscript{162}

In other words, Newman recognized that the judgments of people in each of those constituencies provided something of merit for development. From that recognition, he emphasized that the lay faithful remained important actors in the exercise of the Church’s prophetic charism. As Lawrence King explains:

The bishops may need to consult the views of the faithful, just as they may need to consult Scripture. The apostolic teaching is preserved in Scripture and also preserved in the Christian faithful. When the faithful are of one accord, they preserve this teaching infallibly. The Church remained infallible at all times, but the subjects by whom this infallibility was exercised had varied.\textsuperscript{163}

Newman could therefore claim in “Consulting” that both the \textit{sensus fidelium} (that is, the sense of the faithful) and the \textit{consensus fidelium} (that is, the consent of the faithful) were not just important for doctrinal development; they were elements of the organic development of the Church as a whole. He had explained previously in his second \textit{Lecture on Anglican Difficulties} (1850), “The Movement of 1833 Foreign to the National Church,” which he quoted in “Consulting”:

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{161} Cf. \textit{Ari.}, 137–144; \textit{VM i}, 15–16, 142–145.
\item \textsuperscript{162} \textit{Cons.}, 205.
\end{itemize}
\end{footnotesize}
We know that it is the property of life to be impatient of any foreign substance in the body to which it belongs. It will be sovereign in its own domain, and it conflicts with what it cannot assimilate into itself, and is irritated and disordered till it has expelled it. ... The religious life of a people is of a certain quality and direction, and these are tested by the mode in which it encounters the various opinions, customs, and institutions which are submitted to it. ... [S]ubmit your heretical and Catholic principle to the action of the multitude, and you will be able to pronounce at once whether it is imbued with Catholic truth or with heretical falsehood.164

To support this position, Newman claimed the consensus was at work in three contemporary examples to his essay, where Catholic principles were submitted “to the action of the multitude.”165 The first was in the promulgation of the dogma of the Immaculate Conception, when the Italian theologian Giovanni Perrone described the working of the consensus fidelium with what Newman thought was “the strong image of a seal. After mentioning various arguments in favour of the Immaculate Conception, such as the testimony of so many universities, religious bodies, theologians, &c., he continues, ‘Hæc demum omnia firmissimo veluti sigillo obsignat totius christiani populi consensus.’”166 Newman combined Perrone’s definition with the approach taken by Pope Pius IX, who in the bull declaring the dogma, “although he already knew the sentiments of the Bishops, still he had wished to know the sentiments of the people also.”167 In that papal declaration, “Conspiratio, the two, the Church teaching and the Church taught, are put together, as one twofold testimony, illustrating each other, and never to be divided.”168 He found a second


165 Cons., 212.

166 Cons., 208. “All of these are ratified by the consensus of the whole Christian people as by the most authoritative seal.” Translation mine.

167 Cons., 210.

168 Cons., 210.
example given by the bishop of Birmingham, Bernard Ullathorne, who wrote concerning the acceptance of the dogma of the Immaculate Conception: “Nor should the universal conviction of pious Catholics be passed over, as of small account in the general argument; for that pious belief, and the devotion which springs from it, are the faithful reflection of the pastoral teaching.”169 In his third example, Newman looked to the schola theologorum, the school of theologians, as an illustration of the active consensus fidelium. He believed that there would be,

[V]arious ways in which theologians put before us the bearing of the Consent of the faithful upon the manifestation of the tradition of the Church. Its consensus is to be regarded: 1. as a testimony to the fact of the apostolical dogma; 2. as a sort of instinct, or [phronema,] deep in the bosom of the mystical body of Christ; 3. as a direction of the Holy Ghost; 4. as an answer to its prayer; 5. as a jealousy of error, which it at once feels as a scandal.170

It is in this move from the sensus et consensus fidelium in general to the schola theologorum in particular where an important distinction must now be made. While Newman was eager to expand the boundaries of personal judgment to allow for the laity’s participation in theological discussions, he did not hold that the study of theology was necessary or possible for everyone. Theology also was not necessary for the laity to be engaged as part of the sensus fidelium, for it would be the task of the theologian within the believing community to engage in the academic debates that ensure the proper development of religious truth for the entire community. As Ian Ker explains,

A passive infallibility belonged to the whole body of the Catholic faithful, who had to determine the force and meaning of these doctrinal teachings, although naturally the chief responsibility for this lay with the theologians, whose discussions and investigations assured a clear distinction between “theological truth” and mere “theological opinion.” The

169 Cons., 210.

170 Cons., 211.
differences between theologists maintained “liberty of thought,” while their consensus on points of dogma was “the safeguard of the infallible decisions of the Church.”

Likewise, as John Ford pointed out, “While Newman emphatically defended the right and duty of the magisterium to define doctrine, he was equally emphatic in assigning to theologists the duty of interpreting doctrines once they were defined.”

Newman did believe that an intelligent, well-instructed laity was important to the Church’s doctrinal development, yet he refused to claim that every member of the lay faithful could assume the role of theologian. Some of this reluctance may have stemmed from Newman’s own hesitancy in defining himself as a theologian. No matter what the reason, he advocated that “Laymen may study the Treatises De Religione and De Ecclesia, but had better keep clear of the high mysteries of faith and the subject of grace,” and in another text, warned, “Caution is to be observed, on the part of private and unauthorized persons, in imposing upon the consciences of others any interpretation of dogmatic enunciations which is beyond the legitimate sense of the words, inconsistent with the principle that all general rules have exceptions, and unrecognized by the Theological Schola.”

In addressing this limitation of the term “theologist” to educated specialists, Edward Miller thinks that Newman’s position gave the layperson who studied religion the task of “exposing [religion] to others and writing about it. Today we could call such efforts teaching religion, at least

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173 LD xix, 544.

in a broad sense of teaching.”\textsuperscript{175} Colin Barr holds that this distinction between the theologian and the religious teacher is also important because in his presentations on university teaching, “Newman even went so far as to excuse a certain amount of theological unsoundness in professors (or potential professors) who were not theologians themselves.”\textsuperscript{176} Owen Chadwick held that such allowances for the “philosopher of religions” granted the philosopher the license to be less than perfect in his or her grasp of theological concepts. However, even these imperfect interpretations have a role to play in theology and doctrinal development:

In Newman’s theory the heretic is a thinker who makes an effort, but a mistaken or one-sided effort, at a statement of true doctrine, and who thus initiates or continues a doctrinal debate valuable for the Church. History seemed to him to show enough examples of the indecision of popes and councils in the face of doctrinal inquiry to prove that the authorities of the Church were frequently ignorant of the true answer to the problem raised by a heretic, and that this true answer had to be thrashed out, debated, and discovered, before the Church could pronounce her mind on the question.\textsuperscript{177}

Newman clearly saw the entire Church as a believing Church, a community that could be consulted about matters of faith and morals because those matters affected the practice of their religion. The believing Church could also be a consulted Church, which would give not only a consultative opinion, but also, and more importantly, its consent on those more important matters on which its views had been heard and its acceptance sought. Such consultation did not mean, however, that Newman thought the sensus or consensus fidelium made all believers experts in theology. He reserved this expertise for the theologian, who is specially educated, trained, and commissioned by the Church, and who works through a special charism within the sensus fidelium


\textsuperscript{177} Chadwick, From Bossuet to Newman, 159.
to help guide discussions, frame debates within their proper historical and theological contexts, and, in the process, foster doctrinal development.

**The Theologian within the Sensus Fidelium**

The Church as a community of believers has the right to use the gifts and talents at its disposal to spread the Good News and deepen its understanding of Revelation. Some of these talents include teaching and theologizing, which Newman recognized as a necessary yet specialized field within the larger process of mental cultivation demanded of all Christians as part of their engagement with Revelation and doctrine. He called upon the Church’s long tradition of establishing universities as the place where the theologian was trained. It was here that the theologian engaged in the study of Scripture and dogma but would also be exposed to the natural sciences and the arts, for “Newman regarded any academic subject as a potentially valuable educational instrument.”

As a person who called himself a historian and poet as often as he resisted the identity of theologian, Newman understood the importance of a well-rounded education, much like the one he received as a student at Oxford. He believed that the university was the primary place where theological academic formation occurred, and in *The Idea of a University*, written when he was gathering support for the Catholic University of Ireland where he had been appointed rector in 1854, he again fostered the role for theology and the theologian in doctrinal development. He placed theology as a parallel field to subjects such as the natural sciences or mathematics: “Is not the being of a God reported to us by testimony, handed down by history, inferred by an inductive process, brought home to us by metaphysical necessity, urged on us by the suggestions of our

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conscience?" This process of interpreting historical testimony parallels the process used in personal judgment. Drew Morgan holds that the theological path to knowledge fits within Newman’s desire to place theology in a larger intellectual context:

[Newman] recognized that Christianity is and has always been in continual dialogue with a world that is often antithetical to its ideas and doctrines. However, Newman also recognized that this contact with the world should not always be viewed negatively. Such involvement helps the idea of Christianity in its process of development by forcing it to think, converse, criticize, defend, accept, judge, and, quite often, change. At times, then, the presence of “Corruption” can be viewed as desirable. Error and even heresy precipitate debate which brings about through conversation new insights into the true and legitimate development of Christian doctrines. This entire process is a purification that leads to recognition and acceptance of new levels of the Christian truth.180

Consistent with this statement, Newman responded to a national inspector of schools who claimed, “Religion is not knowledge, has nothing whatever to do with knowledge, and is excluded from a University course of instruction, not simply because the exclusion cannot be helped, from political or social obstacles, but because it has no business there at all, because it is to be considered a taste, sentiment, opinion, and nothing more.”181 From his perspective as a believer and an intellectual, Newman found such claims preposterous, especially when made by a person holding a mandate from the government to promote the education of its citizens. His counterargument highlighted what he believed was the necessary correlation between faith and the human desire for knowledge. Newman further developed his counterargument to the national inspector by demanding a place for theology in the university system, which, “By its very name professes to teach universal knowledge. Theology is surely a branch of knowledge: how then is it possible to

179 Idea, 1, 2:1.


181 Idea, 1, 2:1.
profess all branches of knowledge, and yet to exclude from the subjects of its teaching one which, to say the least, is as important and as large as any of them? I do not see that either premiss of this argument is open to exception."\(^{182}\) He thought theology could be equated with the knowledge that he found in literature and the arts. As J.M. Roberts observed, “The humanities, properly taught, can still prepare the mind for deployment in the practical world by inculcating such qualities as attention to detail, careful scrutiny of words, rigorousness in argument, an ability to sense and identify relations, and so on.”\(^{183}\)

Newman also argued for the acceptability of theology in a university by describing it with terminology reserved for what most people of his time considered the most intellectual of the branches: science. He called theology “the Science of God, or the truths we know about God put into system; just as we have a science of the stars, and call it astronomy, or of the crust of the earth, and call it geology.”\(^{184}\) It involves the gathering of knowledge through investigation and judgment, and is part of the larger scientific system where “All knowledge forms one whole, because its subject-matter is one. The systematic omission of any one science from the catalogue prejudices the accuracy and completeness of our knowledge altogether.”\(^{185}\) Roberts thought that this extension of theology into the realm of the sciences was a weakness in Newman’s arguments:

The impression with which we are left is that they are useful as a training of rigorous thought through the exercise if the inductive method. He does not conceive that physics may exercise the imagination as profoundly as philosophy (and much more than some styles of philosophy) or literature, or that engineering, a complex of

\(^{182}\) *Idea*, 1, 2:1.

\(^{183}\) Roberts, “*The Idea of a University Revisited*,” 215.

\(^{184}\) *Idea*, 1, 3:4.

\(^{185}\) *Idea*, 1, 3:4.
applied and experimental sciences, can be a broadening and humanizing discipline when imaginatively taught.\(^{186}\)

Newman, however, saw the connections between theology, the humanities, and the sciences as essential to the mission of the theologian, and, as he explained further in his 1875 *Letter to the Duke of Norfolk*, he found a parallel between the work of those engaged in theology and the barristers at the Old Bailey in London or the parliamentarians at Westminster:

> Theology is a science, and a science of a special kind; its reasoning, its method, its modes of expression, and its language are all its own. Every science must be in the hands of a comparatively few persons—that is, of those who have made it a study. The courts of law have a great number of rules in good measure traditional; so has the House of Commons, and, judging by what one reads in the public prints, men must have a noviceship there before they can be at perfect ease in their position. In like manner young theologians, and still more those who are none, are sure to mistake in matters of detail; indeed a really first-rate theologian is rarely to be found.\(^{187}\)

By advocating for the education of the faithful in the university setting, and by including theology as one of the specialized sciences that could be studied by the faithful at the university, Newman hoped to increase the number of first-rate theologians in the Church, while at the same time preventing,

> [T]wo injuries which Revelation is likely to sustain at the hands of the Masters of human reason unless the Church, as in duty bound, protects the sacred treasure which is in jeopardy. The first is a simple ignoring of Theological Truth altogether, under the pretence of not recognising differences of religious opinion. … The second, which is of a more subtle character, is a recognition indeed of Catholicism, but (as if in pretended mercy to it) an adulteration of its spirit.\(^{188}\)

He feared that liberalism would make Catholicism equal to every other religious expression. As Newman had explained in the first of his *Sermons Preached on Various Occasions*, entitled

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\(^{187}\) *Norfolk*, 294.

\(^{188}\) *Idea*, 1, 9:2.
“Intellect, the Instrument of Religious Training,” such attempts by liberal thinkers must be avoided. He condemned the exclusion of theological thought from the intellect, for it is needed in the human experience of faith:

I wish the intellect to range with the utmost freedom, and religion to enjoy an equal freedom; but what I am stipulating for is, that they should be found in one and the same place, and exemplified in the same persons. I want to destroy that diversity of centres, which puts everything into confusion by creating a contrariety of influences. … It will not satisfy me, if religion is here, and science there, and young men converse with science all day, and lodge with religion in the evening. It is not touching the evil, to which these remarks have been directed, if young men eat and drink and sleep in one place, and think in another: I want the same roof to contain both the intellectual and moral discipline.

Terrence Merrigan sees in Newman’s position an acknowledgement of theology’s necessary place in the university and indicated the theologian’s responsibility to contribute in discussions that take place at the university:

It was the task of the theologian to honestly confront whatever data modern scientific and historical research brought to bear on questions of faith, and not to shy away from contemporary challenges to even the most long-cherished convictions and opinions. “A new question needs a new answer,” Newman wrote, and, one may add, new answers can only be developed where there is a degree of flexibility, a willingness to leave well-trodden paths, methodological or otherwise, however serviceable they may have proved themselves to be.

Newman was careful, however, not to tip the scales too far in theology’s favor by claiming that it was the only science necessary for the gathering of truth. Instead, he emphasized that human understanding needed to be well-rounded and thorough, while also recognizing that it was limited and flawed at times. As John Rogers Friday explains:

189 Newman delivered this sermon on the feast of May 4, 1856 (The Feast of St. Monica and the Sunday after Ascension) at the University Church, Dublin, while he served as Rector of the Catholic University of Ireland.

190 OS I, 13.

Just as theology has its own insights to contribute to the other sciences, so too do those sciences make valuable contributions to theology. In this way, Newman avoided any form of theological triumphalism and underlined his belief that theological inquiry is relationally bound to the legitimate scientific inquiry of its sister sciences. As such, there arises the need for a genuinely open dialogue among all scientists, including theologians.

Newman’s defense of theology still stressed, though, its essential place at the university and in intellectual life more broadly. Here, an extended quote from his presentation on the university is helpful in clarifying his perspective:

Theology, as I have described it, is no accident of particular minds … It has had a place, if not possession, in the intellectual world from time immemorial; it has been received by minds the most various, and in systems of religion the most hostile to each other. It has *prima facie* claims upon us, so imposing, that it can only be rejected on the ground of those claims being nothing more than imposing, that is, being false.

If ever there was a subject of thought, which had earned by prescription to be received among the studies of a University, and which could not be rejected except on the score of convicted imposture, as astrology or alchemy; if there be a science anywhere, which at least could claim not to be ignored, but to be entertained, and either distinctly accepted or distinctly reprobated, or rather, which cannot be passed over in a scheme of universal instruction, without involving a positive denial of its truth, it is this ancient, this far-spreading philosophy.

**Concluding Remarks**

John Henry Newman held the theologian’s movement from personal judgment to public discussion to be an easy and natural one. Human beings, united within a community, possess a natural desire to build that community around shared principles or common tasks. These commonalities included intellectual life, with theologians working through questions of faith and theology to make judgments.

According to Newman, there is a valid analogy between the Church’s appropriation of her faith, and the individual Christian’s appropriation of his faith. Just as a converted soul

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grows in the true understanding of the faith which at first he apprehends only in broad outline, so the Church, which at first perceived the content of her faith only in broad outline, grows in the slow understanding of its content.\textsuperscript{194}

It was from this collective judgment that Newman presented the key role of theology in the believing community. The theologian, who is first a believer, has engaged in the specialized study of an element of revelation, and has brought forth a new claim, based on his or her encounter with revelation. In the presentation of the claim, the theologian opens the concept for discussion and debate within the community.

When discussing the theologian as a believer sharing personal judgments with the community, Newman included not only his or her conclusions but also methods. As he had warned in the fifteenth of his \textit{Oxford University Sermons}, “The theologian must be careful to avoid the hazard of developing doctrine implicitly received.”\textsuperscript{195} Instead, the theologian must remember that,

\begin{quote}
One proposition necessarily leads to another, and a second to a third; then some limitation is required; and the combination of these opposites occasions some fresh evolutions from the original idea, which indeed can never be said to be entirely exhausted. This process is its development, and results in a series, or rather a body of dogmatic statements, till what was at first an impression on the Imagination has becomes a system or creed in the Reason.\textsuperscript{196}
\end{quote}

Jan Hendrick Walgrave argued that in this developmental process, Newman combined the demands of religious contemplation with the intellectual rigors of scientific thought, which allowed judgment to move from a personal to a broader communal activity:

\begin{quote}
Thus we see true dogmatic theology growing steadily according as it surrenders itself to loving contemplation of supernatural realities. It draws its life from the principles it carries deep within it, perhaps without awareness of them. It advances along a way which logic is unable to analyse completely or control entirely. Here again, the last word is spoken by the
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\textsuperscript{194} Chadwick, \textit{From Bossuet to Newman}, 151.
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\textsuperscript{195} US 15:18.
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\textsuperscript{196} US 15:20.
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illative sense of the believer, the personal judgment of the Church, in whose possession is
the gift of faith, and which lives by its principles.197

For Newman, the “why” did not matter as much as the “how” these people did something,
and the “what” that something accomplished in the action. Merrigan expounds on this relationship:

Newman’s vision of dogmatic formulae is not of lifeless propositions restraining the
religious impulse or circumscribing rational thought. It is, instead, a vision of religious
truth as truth that finds its initial expression in the concrete life of the believing community,
and is subsequently distilled into articles of faith by the operation of the communal
intellect. Dogmatic formulae are the ripened fruit of the believers’ experience of the
religious object.198

In looking at this position, one might assume that Newman stood firmly on the side of a
faithful and constant laity and the specialized *schola theologorum* within the laity when it came to
doctrinal formulation. Avery Dulles, for instance, believed that Newman’s vision of theology
Church was naïve and unrealistic in the twenty-first century:

The laity are far more educated and more critical than the simple believers Newman has in
mind. Theologians, many of whom are laypeople, do not constitute anything like the
medieval *schola theologorum*. We do not commonly think of theologians as judges of
orthodoxy, as was common in the late Middle Ages, but rather as explorers whose
hypotheses need to be critically assessed by the hierarchical magisterium. As for the Pope
and the bishops, we expect them to be guardians of revealed truth and not to yield to
considerations of expediency.199

Such a reading, however, fails to appreciate Newman’s balanced approach. For instance, he argued
in *The Idea of a University* that the Church’s responsibility of oversight within a Catholic
university, including oversight of theological conversations and investigations, was exercised most
efficiently and effectively by the Magisterium, “lest [the university] should become the rival of the
Church with the community at large in those theological matters which to the Church are

197 Walgrave, *Newman the Theologian*, 130.


He included in that oversight the Magisterium’s proper responsibility to give direction to the *schola theologorum*. “It is no sufficient security for the Catholicity of a university, even that the whole of Catholic theology should be professed in it, unless the Church breathes her own pure and unearthly spirit into it, and fashions and molds its organization, and watches over its teaching, and knits together its pupils, and superintends its action.” While Newman advocated for investigation and discussion as two steps within the intellectual process, he also stressed the need for hierarchical moderation as a stabilizing force. As Donald Wuerl interprets Newman’s thought in *The Idea of a University*, “One of the major cornerstones of Roman Catholic ‘identity’ is the communal character of faith. The Church’s magisterium is a central part of the communal character of the faith and something that is of the very constitution of the Church to provide it direction, stability, self-awareness, and unity.” This tradition of oversight never hindered the development of doctrine, even though theologians who over-stressed their role may have misunderstood the tradition. Wuerl continues, “[Magisterial] Judgment does not mean that there is no discussion or even divergent views during the development of thought on a given subject, but at some point in dialogue, discussion, and even disagreement give way to decision. We cross a line from discussion about various theological conclusions to the approbation and application of the conclusions.”

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203 Ibid.
Through continued discussion and open avenues of dialogue, the Church maintains harmony between the theologian, who advances doctrinal development through new interpretations of centuries-old pronouncements, and the Magisterium, which stands as the guardian of the centuries-old faith. In this harmony, the Magisterium can slow down investigation when it feels theologians are moving too fast, while the theologian can give stalled development some much-needed fuel. As will be shown in the next section, the Magisterium has also served as a referee, delineating the boundaries that could not be crossed, ensuring that the rules of the game were followed, and, when necessary, enforcing penalties for infractions of the rules.
NEWMAN AND HIERARCHICAL MODERATION

The Interplay of the Prophetical and Regal Offices of the Church

As a historian of the patristic Church, Newman was familiar with the theory of the threefold office of the Church, which itself was an offshoot of the depiction of Christ as priest, prophet, and king found in the writings of such Church Fathers as Eusebius of Caesarea. Newman himself had hinted at the threefold office of the Church in his 1837 Lectures on the Prophetical Office of the Church, but as he was focused almost exclusively on the second of the three offices in that work, the concept remained undeveloped in his theology. At the time, Newman stressed that the individual believer was an independent prophetical officeholder and the ultimate authority in the Church over belief. As we read above, “in matters of religious belief and practice, is ordinarily meant the prerogative, considered to belong to each individual Christian, of ascertaining and deciding for himself from Scripture what is Gospel truth, and what is not.” Such a definition allowed Newman great flexibility to move the starting point of theology and development into the realm of individual response to doctrine. “[A]ll parties must be agreed, that without private judgment there is no responsibility; and that in matter of fact, a man’s own mind, and nothing else, is the cause of his believing or not believing, and of his acting or not acting upon his belief.” Furthermore, Newman in 1837 held that the leadership of the Church could not suppress this individual responsibility, for, as he explained, “Even though an infallible guidance be accorded, a

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204 Cf. Eusebius of Caesarea, Historia Ecclesiastica I.iii.8, “And we have been told also that certain of the prophets themselves became, by the act of anointing, Christs in type, so that all these have reference to the true Christ, the divinely inspired and heavenly Word, who is the only high priest of all, and the only King of every creature, and the Father’s only supreme prophet of prophets.” This English translation is taken from Nicene and Post-Nicene Fathers, Series II, Volume 1: Eusebius Pamphilius: Church History, Life of Constantine, Oration in Praise of Constantine, eds. Philip Schaff and Henry Wace (Peabody, MA: Hendrickson, 1996), 3–1039, at 123.

205 VM i, 130.

206 VM i, 130.
man must have a choice of resisting it or not; he may resist it if he pleases, as Judas was traitor to his Master.”\textsuperscript{207} While this is a harsh parallel to make when discussing truth, it is an appropriate one when discussing the human person’s free will to choose truth or falsehood. The individual believer is always free to stop believing, even when presented with the truth as contained in revelation, and no amount of regal authority can force that belief to occur.

Three years after the publication of his \textit{Lectures on the Prophetical Office of the Church}, Newman presented a more developed understanding of the varied offices in the Church when, on Christmas Day 1840, he delivered a sermon entitled “The Three Offices of Christ.” In this sermon, he depicted the offices of prophet, priest, and king as charisms shared by all believers, “kept in a delicate sort of balance, which would not easily be workable in a natural society.”\textsuperscript{208} While a natural society cannot normally have a single person serving simultaneously as prophet, priest, and king (substituting the necessary contemporary equivalent as needed), for the society that is the Church, this is the expectation, not the exception. Newman clarified that in the Church, Christ “left behind Him those who should take His place, a ministerial order, who are His representatives and instruments; and they, though earthen vessels, show forth according to their measure these three characters,—the prophetical, priestly, and regal, combining in themselves qualities and functions which, except under the Gospel, are almost incompatible the one with the other.”\textsuperscript{209} From this ecclesial identification to “Go, therefore, and make disciples of all nations” (Matthew 28:19) and

\textsuperscript{207} \textit{VM i}, 130–131.


\textsuperscript{209} \textit{SD}, 55.
“be my witnesses in Jerusalem, throughout Judea and Samaria, and to the ends of the earth” (Acts 1:8),

All His followers in some sense bear all three offices, as Scripture is not slow to declare. In one place it is said, that Christ has “made us kings and priests unto God and His Father;” in another, “Ye have an unction from the Holy One, and ye know all things.” [Rev. 1:6.; 1 John 2:20.] Knowledge, power, endurance, are the three privileges of the Christian Church; endurance, as represented in the confessor and monk; wisdom, in the doctor and teacher; power, in the bishop and pastor.210

For Newman, those who have followed Christ and have exercised power in the Church in Christ’s name “have been weak personally, without armies, without strongholds, naked, defenceless, yet sovereigns, because they were preachers and teachers, because they appealed to the reason and the conscience; and strange to say, though the arm of force seems as if it could do all things, the sovereignty of mind is higher, and the strong and the noble quail before it.”211 This identification with the offices of Christ has not been reserved only for “those Saints and Fathers to whom we look up” or “mere philosophers or men of letters, but noble-minded rulers of the churches … preachers, missionaries, monastic brethren, confessors, and martyrs.”212 Even more importantly, the same grace that Christ shared with these noble figures as part of the glory of the Church:

[H]as run down even to the skirts of her clothing. Not the few and the conspicuous alone, but all her children, high and low, who walk worthy of her and her Divine Lord, will be shadows of Him. All of us are bound, according to our opportunities,—first to learn the truth; and moreover, we must not only know, but we must impart our knowledge. Nor only so, but next we must bear witness to the truth.213

210 SD, 55–56.
211 SD, 59–60.
212 SD, 62.
213 SD, 62.
Denis Robinson elaborates on Newman’s vision of the three offices of Christ by noting,

The various elements of Church life must exist in a precarious yet productive tension. Ecclesiology is an elaborate tightrope act. The three offices must at some level be in tension with one another for an authentic icon of their source, Jesus Christ, to be manifested. The image of Church life that emerges from this model is one that resembles the paradox of education, namely, that the more one knows the more one knows what remains unknown. In other words, as we enter deeper into the Christian mystery, the greater and more profound the mystery becomes. The horizons continually shift.\textsuperscript{214}

As Newman continued his research into the Church’s intellectual history, he discovered that these three offices did not always exist in harmonious balance, and while the productive tension described by Robinson was a necessary condition for intellectual development, often it leaned towards tension that was more precarious than productive. Newman found that healthy discussion could still take place when theologians disagreed on matters of faith and from those discussions, doctrinal development could still occur. At other times, the need to suppress creative tension was more important or necessary than development, especially when the authoritative proclamation of the bishops curtailed theological discussions in the name of unity. Donald Wuerl explains that the model Newman found during his research on the patristic Church was one where,

The Spirit is recognized to move simultaneously on at least three levels: the study and penetration of faith and morals by theologians (whose authority derives not from their office but from their skills of scholarship and the arguments they put forth to support their positions); the spiritual or almost intuitive grasp of the wholeness of the faith by the faithful; and the authoritative proclamation of the bishops who have the pastoral care of the Church as their ministry. The three realities are not the same and do not function in an identical way. All three are distinct yet complementary. Each can act as a reference point or corrective for the other in the process.\textsuperscript{215}

Such an interpretation corresponds with what was shown in the previous sections of this chapter, while also introducing the role of the Magisterium as authoritative in its ministry.


\textsuperscript{215} Wuerl, “Academic Freedom and the University,” 23.
Newman had not discussed this kingly office with respect to the hierarchy in Anglicanism because of its distinctive character with respect to doctrinal development, but as Newman continued his attempt to create a *via media* of Anglo-Catholicism, the role of the Magisterium would become an increasingly crucial element of the discussion. In “Tract 90,” the most influential of the *Tracts for the Times*, Newman posited, “There was but one authority to whom recourse could be had for such interpretation—the Church Catholic. She had been taught the revealed truth by Christ and His Apostles in the beginning, and had in turn taught it in every age to her faithful children, and would teach it on to the end.”216 The Church, therefore, becomes the medium in which divine testimony gains clarity in expression and interpretation. Newman went even further in stressing the importance of the Church Catholic by describing it as “The visible Church of Christ” and “a congregation of faithful men (*cætus fidelium*), in which the pure Word of God is preached, and the Sacraments be duly ministered, according to Christ’s ordinance, in all those things that of necessity are requisite to the same.”217 The Church becomes a living expression of divine inspiration and human response, and, for Newman, “This is not an abstract definition of a Church, but a description of the actually existing One Holy Catholic Church diffused throughout the world; as if it were read, ‘The Church is a certain existing society of the faithful.’”218

Through these descriptions of the Church, Newman wanted to deepen an individual’s understanding of what it means to be a believer in community. This emphasis on private judgment, as shown above in the second section of this chapter, had become one of the sources for his

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217 Ibid., “§4. – The Visible Church,” 288.

218 Ibid.
understanding of theology and ecclesiology, since the human mind has already started thinking theologically. It is also important to note that in “Tract 90,” Newman offered the first glimpses of his understanding of the “active role of the hierarchy” as a supportive balance to theologians, especially when he looked at the example of the post-exilic Jewish community described in Isaiah 59:21,\(^{219}\) as well as the experiences of the early Church, specifically as described in 1 Timothy 3:15\(^{220}\) and Ephesians 4:11–14.\(^{221}\) Newman knew that the truth could overcome differences in judgment, since “Truth has a force which error cannot counterfeit; and the Church, speaking out that Truth, as committed to her, would cause a corresponding vibration in Holy Scripture, such as no other notes, however loudly sounded, can draw from it.”\(^{222}\) For Newman, authority as the guardian of the truth overcame error by correcting false individual interpretations and leading individuals to the truth through the edification and perfection envisioned by Saint Paul in his Letter to the Ephesians.

Forty years after writing his *Lectures on the Prophetic Office of the Church*, Newman reissued the lectures in a third edition, now with the title *The Via Media of the Anglican Church*, in which he answered some of the charges the younger Newman had leveled against the Catholic

\(^{219}\) Isaiah 59:21: “As for Me, this is My covenant with them, saith the Lord, My Spirit that is upon thee, and My words which I have put in thy mouth, shall not depart out of thy mouth, nor out of the mouth of thy mouth, nor out of the mouth of thy seed’s seed, saith the Lord, from henceforth and for ever.” (*King James Version*). Please note that the *King James Version* is the version and translation Newman quoted in his writings and is therefore used here when citing his thoughts.

\(^{220}\) 1 Timothy 3:15: “The Church of the Living God, the pillar and ground of the Truth.”

\(^{221}\) Ephesians 4:11–14: “He gave some Apostles, and some Prophets, and some Evangelists, and some Pastors and Teachers, for the perfecting of the Saints, for the work of the Ministry, for the edifying of the body of Christ, till we all come in the unity of the Faith, and of the knowledge of the Son of God unto a perfect man, unto the measure of the stature of the fullness of Christ, in order that we henceforth be no more children tossed to and fro, carried about with every wind of doctrine.”

\(^{222}\) *VM* i, 142.
Church. He had been planning to release this revised edition for years, and, as he commented in a letter written in 1874 on the reasons behind the revisions:

As Galileo three centuries ago, we cannot move in matters of speculation, into which the Church has not at all entered, without giving enormous scandal to our people, and thus for the present our arms are tied. I have long wished to write an Essay … on the conflicting interests, and therefore difficulties of the Catholic Church, because she is at once, first a devotion, secondly a philosophy, thirdly a polity. Just now, as I suppose at many other times the devotional sentiment, and the political embarrass the philosophical instinct—however, she has been prospered and has made way, in spite of this, for 1800 years and will still.223

He also hoped that the revised text would help overcome “certain great difficulties” that his readers might be facing in converting to Roman Catholicism, for he recognized that amongst his intended audience are people, much like himself before his conversion in 1845,

Who would be Catholics, if their conscience would let them; for they see in the Catholic Religion a great substance and earnest of truth; a depth, strength, coherence, elasticity, and life, a nobleness and grandeur, a power of sympathy and resource in view of the various ailments of the soul, and a suitableness to all classes and circumstances of mankind; a glorious history, and a promise of perpetual youthfulness; and they already accept without scruple or rather joyfully feed upon its solemn mysteries.224

To assist his readers of this third edition, Newman wrote, now as a Roman Catholic apologist, a new preface to the work in which he confronted the views expounded by his younger self. Of particular importance for the topic of this dissertation was his treatment of the three offices of the Church, where “instead of emphasizing the participation of each Christian in all three offices,” as he did in his 1837 Lectures, “Newman holds that different elements in the Church embody one or another of the offices. As a result Newman here depicts the offices in sharp contrast,

223 LD xxvii, 70.

224 VM i, xxxvi.
if not in mutual separation." He presented Christianity as “at once a philosophy, a political power, and a religious rite: as a religion, it is Holy; as a philosophy, it is Apostolic; as a political power, it is imperial, that is, One and Catholic. As a religion, its special centre of action is pastor and flock; as a philosophy, the Schools; as a rule, the Papacy and its Curia.” Newman did not follow the typical nineteenth-century constructs of the Church, with the laity, the clergy, and the pope divided into three neat categories. Instead, as Ian Ker points out:

The Preface as a whole simply does not consider the Church in terms of the usual clerical-lay description. Even the regal office, which is seen by Newman as belonging preeminently to “the Papacy and its Curia” (no doubt because of Vatican I and the papalism of the nineteenth-century Church), is not regarded as shared by the bishops, let alone the clergy. Of the other two offices, the prophetical is assigned to the theologians, but nothing is said about whether they are clergy or laity.

This novel account of the three offices of the Church allowed Newman to state, “Theology is the fundamental and regulating principle of the whole Church system. It is commensurate with Revelation, and Revelation is the initial and essential idea of Christianity. It is the subject-matter, the formal cause, the expression, of the Prophetic Office, and, as being such, has created both the Regal Office and the Sacerdotal.” Terrence Merrigan believes that in this system, “the kingly office is accorded a markedly ‘supplemental’ role, and is always subject, in some sense, to the

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226 VM i, xl. By this time, Newman had changed the order of the three offices from his 1847 letter to reflect what would become an essential element in the relationship of the three offices, namely that philosophy (theology) was the regulating force of the Church, and thereby had a preeminent place in the offices.


228 VM i, xlvii.
other two offices,”229 while Newman extended this subordination to the priestly office as well, in
that the prophetical office of theology:

Has in a certain sense a power of jurisdiction over those offices, as being its own creations,
thelogians being ever in request and in employment in keeping within bounds both the
political and popular elements in the Church's constitution,—elements which are far more
congenial than itself to the human mind, are far more liable to excess and corruption, and
are ever struggling to liberate themselves from those restraints which are in truth necessary
for their well-being.230

By creating this system with theology serving as the regulating force of the Church,
Newman refused to return to what he viewed as the medieval, Scholastic form of Christendom,
with the kingly office possessing the ability to dominate not only the political sphere, but also the
devotional and prophetical spheres as well. Instead, “Newman unhesitatingly endorses, as a model
of Church government, an ‘impersonal despotism,’ and seems never to have entertained ‘the
pertinent question of whether or not allowable changes in Church polity might improve the
harmony of prophetic, priestly and kingly functioning.’”231 Newman was also quick to admit that
theology, in itself, “cannot always have its own way; it is too hard, too intellectual, too exact, to
be always equitable, or to be always compassionate; and it sometimes has a conflict or overthrow,
or has to consent to a truce or a compromise, in consequence of the rival force of religious
sentiment or ecclesiastical interests.”232 There must exist a healthy balance between the intellectual
exercises of theology and the devotional needs of the community:

229 Merrigan, Clear Heads and Holy Hearts, 245.

230 VM i, xlvii–xlviii.

231 Merrigan, Clear Head and Holy Hearts, 245. The internal quotes are from James Gaffney, “Newman’s
Criticism of the Church: Lessons and Object Lessons,” Heythrop Journal 29 (1988), 1–20, at 18 and 14,
respectively.

232 VM i, xlviii–xlix.
Theology has a regulatory task, to be sure. It must guarantee that revealed truth is never compromised merely for the sake of devotional edification or political expedience. At the same time, however, it must not impede the legitimate pursuit of these ends. It must ever be alert to its own inherent abstractness, its own notional handicap, as it were. It must leave room for the unfathomable aspirations of *homo religiosus*, and for the eminently practical needs of the concrete community of believers. In short, without ceasing to subject both religion and ecclesiastical politics to critical scrutiny, it must learn to live with ambiguity, its own first of all.233

The mutual relationship between theology and devotion (that is, the prophetical and the priestly offices) must therefore also exist between theology and the Magisterium (that is, the prophetical and the kingly offices.) Theology’s regulatory function does not mean that the theologian is the ruler of the Church, while the Magisterium as the ruling office of the Church cannot ignore the demands theology places upon it. As Paul Misner explained, “The ruling function, embodied in the hierarchy, must feel the restraint of theology, but likewise theology must temper its logical reasoning, when it threatens to lose contact with concrete reality, by taking into consideration the needs and capabilities of the church in its other two functions, as a worshipping community organized in a polity.”234 By using events of Church history as both precursor and parallel to his contemporary situation, Newman hoped that devotion, theology, and hierarchical moderation could maintain a healthy relationship, so that theology benefited without abandoning private judgment, and the hierarchy provided proper guidance when needed through its guarantee of infallibility, with both contributing to the belief and devotion of the average member of the Church. It became one of his greatest challenges to illustrate this proper relationship, however,


especially as he confronted changing notions of conscience and authority surrounding the decrees
of the First Vatican Council and the Church’s changing ecclesiastical structures after the Council.

**Theology and Authority**

While Newman’s *Grammar of Assent* was in its first publication run, the First Vatican
Council dogmatically defined papal primacy and infallibility in *Pastor aeternus*, its dogmatic
constitution on the Church of Christ.²³⁵ With the dogmatic constitution’s promulgation, Newman
was confronted by the new challenge of explaining the relationship between theology, authority,
and magisterial pronouncements on infallibility. Within this context, and with the growing
perception that *Pastor aeternus* had limited Catholic freedom of thought, former British Prime
Minister William Gladstone published a pamphlet in 1874 titled *The Vatican Decrees in their
Bearing on Civil Allegiance*. In this work, Gladstone claimed that Catholics in the British Isles
lacked true freedom of thought, and were placed in a position of divided loyalty between their faith
and their country.²³⁶ In choosing to respond to Gladstone’s pamphlet, which he labeled as an
“injurious reproach that [Catholics] are captives and slaves of the Pope,”²³⁷ Newman addressed a
letter to the leading Catholic layman in the United Kingdom (and his former pupil) Henry Fitzalan-
Howard, the 15th Duke of Norfolk. In this 1875 response, formally titled *A Letter Addressed to the
Duke of Norfolk on Occasion of Mr. Gladstone’s Recent Expostulation*, he explained that the
pronouncements of the recent Vatican Council, including on infallibility, did nothing to limit


²³⁶ William Ewart Gladstone, *The Vatican Decrees in their Bearing on Civil Allegiance* (London: John Murray, 1874). Gladstone found, “To speak strictly, the claim now made upon [a member of the Papal Church] by the authority, which he solemnly and with the highest responsibility acknowledges, requires him to surrender his mental and moral freedom, and to place his loyalty and civil duty at the mercy of another.” (23)

²³⁷ *Norfolk*, 346.
intellectual freedom and conscience, even in those “extreme cases in which Conscience may come into collision with the word of a Pope, and is to be followed in spite of that word.”\textsuperscript{238} Instead, the formal definition promulgated in \textit{Pastor æternus} provided new freedom of action, and new freedom of inquiry in personal judgment.

It is important to read Newman’s thoughts carefully to understand how both personal judgment and conscience were supported by the Magisterium. Therefore, the following lengthy quotes are included:

I say, then, that the Supreme Being is of a certain character, which, expressed in human language, we call ethical. He implanted [the very Law of his being, identical with Himself], in the intelligence of all His rational creatures. The Divine Law, then, is the rule of ethical truth, the standard of right and wrong, a sovereign, irreversible, absolute authority in the presence of men and Angels.\textsuperscript{239}

This law, as apprehended in the minds of individual men, is called “conscience;” and though it may suffer refraction in passing into the intellectual medium of each, it is not therefore so affected as to lose its character of being the Divine Law, but still has, as such, the prerogative of commanding obedience.\textsuperscript{240}

Conscience is the aboriginal Vicar of Christ, a prophet in its informations, a monarch in its peremptoriness, a priest in its blessings and anathemas, and, even though the eternal priesthood throughout the Church could cease to be, in it the sacerdotal principle would remain and would have a sway.\textsuperscript{241}

Popes certainly scoff at the so-called “liberty of conscience,” but there is no scoffing of any Pope, in formal documents addressed to the faithful at large, at that most serious doctrine, the right and the duty of following that Divine Authority, the voice of conscience, on which in truth the Church herself is built.\textsuperscript{242}

\textsuperscript{238} \textit{Norfolk}, 246.

\textsuperscript{239} \textit{Norfolk}, 246.

\textsuperscript{240} \textit{Norfolk}, 247.

\textsuperscript{241} \textit{Norfolk}, 248.

\textsuperscript{242} \textit{Norfolk}, 252. The two popes referenced here as “both” are Gregory XVI (1765–1846, reigned 1831–1846) and Pius IX (1792–1878, reigning at the time of the letter’s publication.) Newman made specific reference to Gregory’s encyclical \textit{Mirari vos} (1832), which denounced religious pluralism, and Pius’ encyclical \textit{Quanta cura
So indeed it is; did the Pope speak against Conscience in the true sense of the word, he would commit a suicidal act. He would be cutting the ground from under his feet. His very mission is to proclaim the moral law, and to protect and strengthen that “Light which enlighteneth every man that cometh into the world.” On the law of conscience and its sacredness are founded both his authority in theory and his power in fact.\(^{243}\)

Newman thus reminded his readers that conscience held the same importance as Revelation and authority. Conscience was not just an ethical principle formed over years of proper judgment and action. Indeed, it possessed a divine character implanted by God in human intelligence, and Newman claimed that conscience possessed as much sacred character as the entire Church. As for papal authority, he maintained what was later described as a minimalist approach and one that paralleled authority with doctrinal development, in that “the pope does not receive any new revelation for his teachings. Rather, the pope must use human means to investigate a doctrine before teaching infallibly, to verify that it is ‘referable to the Apostolic depositum, through the channel either of Scripture or Tradition.’”\(^{244}\) Infallibility in this approach is nothing more than the ultimate declaration of proper development of doctrine. It adds no innovation to revelation, nor is it an accretion on tradition. Newman stressed that for a pope to declare an infallible teaching, he must first follow the same process of investigation undertaken by the theologian. “In other words, it would be nonsense for the pope to denigrate conscience, since individuals in following the dictates of their conscience are honoring the truths sown in their nature by the same Law-giver

\(^{243}\) Norfolk, 252.

\(^{244}\) King, “Newman and Gasser on Infallibility: Vatican I and Vatican II,” 34. The internal quote appears in Norfolk, 329.
whom the pope represents.”

Since both conscience and the institution of the papacy share the same divine origin, both must be at work in the Church and complement each other.

By stressing the complementarity of conscience and magisterial authority, Newman provided the theologian an area in which to work within the post-Vatican I ecclesiastical system. Just as believers form a proper conscience through judgment and action, so too is the theologian, as a believer, bound by these same processes of judgment, action, and verification. Within the three offices of the Church, it was not possible to separate the prophetical from the priestly or the kingly, and theology could not be divided from the exercise of authority. While it was true that there would be moments when theological outcomes were found flawed and positions deemed lacking in substance and argument, it was also true that the interaction between private judgment, theological discussion, and the Church’s teaching authority was most needed at those moments. While theology may confuse at times, resulting in authority stepping in to correct such confusion, theology could also determine how the Church moved forward in doctrinal development, which would thereby allow faith to be strengthened. Avery Dulles summarized Newman’s position on the interaction of theology and theology as follows:

Once a thesis or treatise is censured, [Newman] writes, “Theologians employ themselves in determining what precisely it is that is condemned in that thesis or treatise; and doubtless in most cases they do so with success; but that determination is not de fide.” Newman considers this process of theological sifting a necessary safeguard, protecting the faithful against the “fierce and intolerant temper” of those who would brush aside theological distinctions and burden the consciences of the faithful with exorbitant demands.

Neither Dulles nor Newman saw the interactions of authority, personal judgment, and theology as a zero-sum game, where more authority meant less theology, or more theology meant

245 Marr, To Be Perfect Is to Have Changed Often, 116.

246 Avery Dulles, Magisterium: Teacher and Guardian of the Faith (Naples, FL: Sapientia Press of Ave Maria University, 2007), 41–42. The internal quotes are from Norfolk, 333 and 339.
less authority. Authority instead provides theology with room to act, so long as theology recognizes the boundaries that authority delineates. To use a driving analogy, a driver is free to choose the lane in which she drives her car, so long as she drives within the lines painted on the road. When following lawfully established and agreed-upon traffic rules, including speed limits, driving in the proper direction, using turn signals, and sharing the road with others, the driver has nothing to fear from the police officer parked on the side of the highway or driving behind her. It is only when she disregards the rules by speeding, driving erratically, or going against the flow of traffic that she risks a ticket. Otherwise, she is left alone, free to proceed to her destination, all the while driving alongside others who are making their own driving decisions. Although the image of cars on a highway clearly post-dates Newman, the reason for using the analogy may have been evident to him. He held that judgment, discussion, and moderation were needed to be a successful theologian, and by having all three elements working together in harmony, Newman thought that he had found the best way to express faith as a rational endeavor, and a believer’s real assent to this rational endeavor became the logical response to authoritative declarations of faith.

Pope Benedict XVI saw in Newman’s combination of judgment and moderation a necessary recognition that conscience must be obedient to the truth:

For [Newman], “conscience” means man’s capacity for truth: the capacity to recognize precisely in the decision-making areas of his life – religion and morals – a truth, the truth. At the same time, conscience – man’s capacity to recognize truth – thereby imposes on him the obligation to set out along the path towards truth, to seek it and to submit to it wherever he finds it. Conscience is both capacity for truth and obedience to the truth which manifests itself to anyone who seeks it with an open heart.247

In “The Law of Conscience: Catholic Teaching on Conscience from Leo XIII to John Paul II,” Anthony Lusvardi draws a conclusion similar to Pope Benedict’s:

There is nothing creative in Newman’s understanding of conscience; it is not the locus for the creation of values, it is simply our appropriation of the divine law. Newman’s understanding of conscience does not allow for law and conscience to be set in opposition to one another … because to deny one would be to deny the other. Newman speaks of the supremacy of conscience – and invokes centuries of theological discussion to support his position – but he does not do so in a way that diminishes the importance of the Church’s teaching authority. Because, for Newman, obeying conscience means obeying the divine law, his instruction that one should always obey the voice of conscience amounts to the belief that one should never do what one knows to be wrong. Newman never denies the authority of the Church’s magisterium to teach what is right and wrong. This teaching is what Catholics are obligated to use to form their consciences, to appropriate personally the tenets of the divine law.248

Such a position repeated the distinction Newman made between innovation and continuity. Whereas critics of the First Vatican Council believed that its teachings on infallibility and an expansive magisterial authority were innovative, Newman believed that these pronouncements were in continuity with Church history and were therefore proper doctrinal development. Even in his claim of the importance of conscience and private judgment, he did not support the claim with anything that could be described as innovation but approached it from his usual method of historical exposition and theological investigation. Through this investigation, Newman stressed that both infallibility and private judgment were rooted in the same divine gift, with the example of a canonization illustrating how both work in harmony. In this example, Newman returned to his understanding that the entire Church, and not only the Pope acting as the head of the Church, possessed infallibility. When the Pope proclaims infallibly that a person has led a saintly life and should therefore be venerated as a moral and virtuous example of Christian discipleship, the Church must accept the proclamation.

The infallibility of the Church must certainly extend to this solemn and public act; and that, because on so serious a matter, affecting the worship of the faithful, though relating to a fact, the Church, (that is, the Pope,) must be infallible. This is Card. Lambertini’s decision, in concurrence with St. Thomas, putting on one side the question of the Pope’s ordinary infallibility, which depends on other arguments. “It cannot be,” that great author says, “that the Universal Church should be led into error on a point of morals by the supreme Pontiff; and that certainly would, or might; happen, supposing he could be mistaken in a canonization.” This, too, is St. Thomas’s argument: “In the Church there can be no damnable error; but this would be such, if one who was really a sinner, were venerated as a saint.”

In this example, Newman saw theology at work in the infallible pronouncement of sainthood, since canonization as a process involved personal judgment, theological investigation, and magisterial moderation. The cause into a saintly life begins in the local Church, initiated by a person or small group of people who makes the claim that a certain individual has exemplified what it means to be a true believer. From this judgment claim, theologians are called to conduct an evaluation of the candidate’s life, including what beliefs or theological thoughts they espoused, what virtues or vices they exhibited, and how their teaching, preaching, stories, and devotion influenced the community of which this candidate was a part. Through this public investigation, people may agree on the heroic virtues of the individual, at which point the process continues, or they may fail to be persuaded that the individual led a saintly life, at which point the cause may be abandoned. By the end of the process, the results of the theological investigation are deemed valid by the Church’s magisterial authority exercised by the Pope in the formal declaration during the rite of canonization, and supported by the necessary presence of miracles that confirm the community’s judgment that the person was more than simply virtuous that this person and should therefore now be included in the Church’s canon as a saint everywhere and for all time. For Newman, this process makes it impossible to have error creep into the Church’s doctrinal

249 VM i, lxxxiv. The internal quote is from Lambert. *de Canon.* Diss. xxi. vol. i. ed. Ven. 1751.
pronouncements when such a process of private judgment, public discussion, and magisterial authority is used, and no saint has been “uncanonized” after this process was used. He saw in the canonization process an example of how the three offices of the Church work together. The question of whether this or that person is a saint is not only a liturgical question or a question of canonization by legitimate authority, but it is a theological question, in that the Church searches for a saintly life in this person:

Such a mode of resolving a point in theology is intelligible only on the ground laid down above, that a certain quasi-doctrinal conclusion may be in such wise fatal to the constitution, and therefore to the being of the Church, as ipso facto to stultify the principles from which it is drawn, it being inconceivable that her Lord and Maker intended that the action of any one of her functions should be the destruction of another. In this case, then, He willed that a point of theology should be determined on its expediency relatively to the Church’s Catholicity and the edification of her people,—by the logic of facts, which at times overrides all positive laws and prerogatives, and reaches in its effective force to the very frontiers of immutable truths in religion, ethics, and theology.250

By the end of his theological career, Newman found that the connection between authority and conscience exercised through private judgment still needed explanation. He was especially concerned by the continued presumption of both Catholic and non-Catholic thinkers that infallibility rendered the theological sciences unnecessary, as the Magisterium could, at any time, simply proclaim by fiat that which needed to be believed, whether it was theologically sound or not. Newman held that the proper task of theology remained one of developing doctrine and testing new understandings of the truth contained in revelation, and that task did not end with an infallible pronouncement. As Terrence Merrigan interprets Newman’s concerns in this area:

To assert that theology serves to elucidate the depositum is, of course, not to suggest that theology’s task ends once the Church has exercised her power of doctrinal definition. Newman, as a Catholic, was increasingly dismayed by the prevailing theological conservatism, especially in the face of the intellectual crisis generated by nineteenth

250 VM i, lxxxvi.
Newman attempted this reappropriation in one of his last works, “On the Inspiration of Scripture” (1884), where he wrote:

[T]he Catholic Church does “insist” on her children’s acceptance of certain Scripture informations on matters of fact in defiance of criticism and history, [and] … does “insist,” when she speaks dogmatically, nay or rather she more than insists, she obliges … us to an internal assent to that which she proposes to us … in a most forcible and effective manner, that is, by the penalty of forfeiting communion with her, if we refuse our internal assent to her word. “We cannot be real Catholics, if we do not from our heart accept the matters which she puts forward as divine and true. This is plain.”

Such insistence did not mean, however, that the members of the Church had become automatons, believing dogmatic statements simply because they were ordered to do so. Faith still required personal assent and to refuse such assent meant the believer made the personal choice to remove himself or herself from the community. Newman did not hold that all matters of faith forced dramatic choices, yet he also recognized that there were matters of divine significance for the life of the Church whose proclamation in Scripture or development in tradition demanded our assent:

The matters which she can oblige us to accept with an internal assent are the matters contained in that Revelation of Truth, written or unwritten, which came to the world from our Lord and His Apostles; and this claim on our faith in her decisions as to the matter of that Revelation rests on her being the divinely appointed representative of the Apostles and

251 Merrigan, Clear Heads and Holy Hearts, 148–149.

252 John Henry Newman, “On the Inspiration of Scripture,” The Nineteenth Century 15:84 (February 1884), 185–199, at 186. In this work, Newman is responding to the claims by the French historian, philologist, and philosopher (Joseph) Ernest Renan (1823–1892), whose recent “abandonment of Catholicism seems, according to a late article in a journal of high reputation, in no small measure to have come about by his study of the Biblical text, especially that of the Old Testament.” (185) As Renan explained (and Newman quoted), “‘[T]he Roman Catholic Church admits no compromise on questions of Biblical criticism and history’… though ‘the Book of Judith is an historical impossibility. Hence the undoubted fact that the Roman Catholic Church … insists on its members believing … a great deal more in pure criticism and pure history than the strictest Protestants exact from their pupils or flocks.’ ” (185) It was upon this notion of “insistence” that Newman devoted the first section of this essay.
the expounder of their words; so that whatever she categorically delivers about their formal acts or their writings or their teaching, is an Apostolic deliverance.253

Newman believed that the Church could claim this authority because of its founding in the Holy Spirit, its development, and its continuity, for it has maintained the faith while also discerning that faith. Indeed, “the only sense in which the Church ‘insists’ on any statement, Biblical or other, the only reason of her so insisting, is that that statement is part of the original Revelation, and therefore must be unconditionally accepted,—else, that Revelation is not, as a revelation, accepted at all.”254 As for those truths that are less significant, he stated, “We are not bound to accept with an absolute faith what is not a dogma, or the equivalent of dogma, what is not de fide; such judgments, however high their authority, we may without loss of communion doubt, we may refuse to accept.”255 There is a difference, for instance, between assenting to the Incarnation and accepting the penitential practice of abstaining from meat on Fridays. Where the first is an essential part of the Christian faith and must be accepted as such, the second will not lead a person to lose communion with the Church if the penitential practice is not followed closely.

With this ability to refuse certain practices of the faith, Newman remained consistent in the understanding of private judgment he had first developed over half a century prior in *Arians of the Fourth Century*. He argued that, even with private judgment at work, theologians must remain committed to proper development, recognizing that while what they are investigating a certain

253 Ibid.

254 Ibid.

255 Ibid., 187. Walgrave took this position further, and explained, “As long … as the Church has not reached an infallible judgment, a theologian is allowed to argue against any disputable point with no blame being attached to him. In his later works Newman repeatedly says that freedom of thought is the best policy and that the Church should take action only when its inner peace is really endangered.” (Jan Hendrik Walgrave, *Unfolding Revelation: The Nature of Doctrinal Development* (Philadelphia: Westminster Press, 1972), 310–311.)
issue, there are still claims on truth demanded by divinely inspired revelation and infallible teachings:

I asked what obligation of duty lay upon the Catholic scholar or man of science as regards his critical treatment of the text and the matter of Holy Scripture. And now I say that it is his duty, first, never to forget that what he is handling is the Word of God, which, by reason of the difficulty of always drawing the line between what is human and what is divine, cannot be put on the level of other books, as it is now the fashion to do, but has the nature of a Sacrament, which is outward and inward, and a channel of supernatural grace; and secondly, that, in what he writes upon it or its separate books, he is bound to submit himself internally, and to profess to submit himself, in all that relates to faith and morals, to the definite teachings of Holy Church.256

Newman thereby recognized both the divine character of Scripture and the human desire to probe the depths of its meaning. He knew that in the practice of theology, private investigations of Scripture could lead to misinterpretation and confusion, which is why he argued that the responsible theologian always allowed the Church to discuss his or her findings. If these findings were lacking in doctrinal orthodoxy, then they were subject to correction not only by other theologians, but also by the Magisterium if necessary.

**Concluding Remarks**

Throughout his life, Newman remained a champion of the theologian and the judgments made in proper doctrinal development, and he also remained committed to the Catholic Church and its institutions, including the Magisterium in its role as doctrinal referee and stabilizing force. Terrence Merrigan describes Newman’s ecclesiology as rightly building “a thinking Church, a Church engaged in a ceaseless quest to articulate the inexhaustible richness of the Christian idea which is its possession. It fixes its certitudes in the language of dogmatic propositions, after a process of rigorous scientific reflection nourished by a present intuition of that idea.”257 As a

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256 Ibid., 192.

historian of theology, Newman found that a healthy relationship between the theologian as investigator and the Magisterium as proper teachers of faith allowed the Church to benefit from doctrinal development; in those historical events when that relationship was upset, however, disordered extremes took hold. Newman found such disorder in his own time, and, in the Letter to the Duke of Norfolk, he stressed that the idea of personal judgment as equated with conscience advocated in the “popular mind” of 19th century England was misguided and flawed:

When men advocate the rights of conscience, they in no sense mean the rights of the Creator, nor the duty to Him, in thought and deed, of the creature; but the right of thinking, speaking, writing, and acting, according to their judgment or their humour, without any thought of God at all. They do not even pretend to go by any moral rule, but they demand, what they think is an Englishman’s prerogative, for each to be his own master in all things, and to profess what he pleases, asking no one’s leave, and accounting priest or preacher, speaker or writer, unutterably impertinent, who dares to say a word against his going to perdition, if he like it, in his own way.  

He thought that this position was “a counterfeit, which the eighteen centuries prior to it never heard of, and could not have mistaken for it, if they had. It is the right of self-will.” The proper understanding of personal judgment remained “in the high sense … not as a fancy or an opinion, but as a dutiful obedience to what claims to be a divine voice, speaking within us,” both of which the theologian used to judge what is right in theology. As Ian Ker explained:

Theologians would “settle the force of the wording of the dogma, just as the courts of law solve the meaning and bearing of Acts of Parliament.” While it was hardly more than common sense that ultimately the only way in which the solemn teachings of popes and Councils could be authenticated was by the acceptance and recognition by the Church that they were indeed what they purported to be, nevertheless their interpretation involved necessarily the technicalities of theology: the meaning of dogmatic propositions was not

258 Norfolk, 251.
259 Norfolk, 250.
260 Norfolk, 255.
261 LD xxv, 447.
self-evident, but they were “always made with the anticipation and condition of this lawyer-like, or special-pleader-like, action of the intellect upon them.”

Theology as a function of the intellect sought truth in matters of revelation and faith, while conscience as a function of the heart and mind determined proper moral action, so that “conscience cannot come into direct collision with the Church’s or the Pope’s infallibility; which is engaged in general propositions, and in the condemnation of particular and given errors.” To equate theology and conscience was an ideological red herring as the two were not synonymous, even though each functioned with similar freedom and guidance under the protection of infallibility. This standpoint allowed Newman to offer his famous after-dinner toast: “I shall drink – to the Pope, if you please, – still, to Conscience first, and to the Pope afterwards.” Since conscience was formed by the truth safeguarded by the Church and found proper expression both in the believer’s (and, therefore, the theologian’s as well) dutiful obedience to the truth speaking within him or her and in the ethical or moral actions resulting therein, there was no misrepresentation of Catholic doctrine “on the duty of obeying our conscience at all hazards.” Personal judgment as an intellectual activity, conscience as a moral or ethical activity, and infallibility as a moderating and corrective activity each share the same origin in divine truth. In performing ethical actions and making intellectual decisions based on a properly formed conscience, the theologian is making judgments based on his or her interpretation of the information provided by revelation and safeguarded by the Church’s infallible teaching office.

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262 Ker, “Newman, Councils, and Vatican II,” 129–130. The internal quote is from LD xxvi, 35.

263 Norfolk, 256.

264 Norfolk, 261.

265 Norfolk, 259.
CONCLUSION

By the end of his career, John Henry Newman had produced a vast theological corpus, especially for a man who claimed not to be a theologian. He always knew that engaging in theology could be treacherous, and as he stated in an 1866 letter, “to write theology is like dancing on the tight rope some hundred feet above the ground. It is hard to keep from falling, and the fall is great … The questions are so subtle, the distinctions so fine, and critical jealous eyes so many.”266 When combined with his “occasional” writing style and the absence of a systematic tome on theology, such makes Newman’s thought even more difficult. John Ford explained:

Newman is not an author whose thought can be easily summarized; in particular, his view of theology is highly complex and highly interconnected: one aspect always relates to others; thus, any statement about Newman’s thought must always be complemented or modified by some further statement; such balances and counterbalances within Newman’s own theological thought readily justify his description of the writing of theology as “dancing on the tight rope.”267

This chapter has argued that while Newman may not be easily summarized, his understanding of theology can still be clarified. When looking at the role of the theologian in the Church, Newman saw the same patterns of investigation as those engaged by believers, for the theologian was, first, a believer. All investigations into faith therefore begin at the level of the individual, whose faith in revelation produces questions that need to be pursued. From those personal questions and the thought they provoke, the theologian made claims that were meaningful to him or her but may not have been fully understood by the Church of which he or she is a part. Therefore, the results of personal investigations are opened to public discussion, debate, and correction if needed. “This independence is instrumental in the way the church goes about defining

266 *LD* xxii, 215.

doctrine, gradually making more explicit what had been implicit in revelation. The church allows theological disagreements to smolder, to be passed around and reflected on by theological faculties and then judged by lesser authorities. Only then does Rome weigh in.”

Proper theological inquiry does not prevent further judgment from occurring, and the process of development can continue. The truth of future claims can then be built upon the truth already expressed. If, on the other hand, the results of the personal judgment were proven incorrect and the investigative process ended with either fraternal correction or, in the worst case, admonishment by hierarchical authority, that decision does not prevent further investigation from taking place, especially as theologians continue to search for the deeper understanding of doctrine and revelation. “As Newman wrote in Development of Doctrine, ‘There is no one aspect deep enough to exhaust the contents of a real idea.’ The reality of an idea, its life, is inexhaustible. The authority of the church imposed upon theologians does not inhibit rational inquiry into the truths of Christianity. It makes such an inquiry possible precisely by presenting the theologian with something real upon which she can work.” This willingness to open personal judgment to public discussion therefore does not limit the scope of the investigation, nor does it prevent private observations from developing into theological arguments that needed definition or clarification.

By building his conception of theology upon the judgments of believers in general and theologians specifically in their investigation of matters pertaining to faith and divine revelation, Newman opposed liberalism and its “doctrine that there is no positive truth in religion, but that

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269 Ibid. The internal quote is from Dev. 35.
Indeed, as Terrence Merrigan observes, “Newman presumes that the practitioners of Catholic theology are already possessed of that ‘system of first principles’ which he deems requisite to successful inquiry. Chief among those principles would appear to be the conviction that the final arbiter in matters theological is the ‘authoritative keeper’ of ‘revealed truths,’ whose existence is, for Newman, implied in the fact of a revelation being given at all.”

The intellectual pursuit was important to Newman, and Merrigan emphasizes Newman’s understanding, seen at the beginning of the chapter and repeated here in its conclusion, that “theology realizes its true raison d’être in its services to the transmission of the depositum, which can only be elucidated, never augmented.” Therefore, in reflecting on the place of the theologian in the discussion and development of doctrine, Newman built a model where the impetus for doing theology within the prophetical office of the theological schools was not restricted by the kingly office of the Magisterium, but both offices allowed theological definitions to be accepted with the consent of the entire Church. As Michael Hollerich explains, Newman saw theology as a continuous process of “give-and-take” or “back-and-forth.”

This motion—the back and forth of theological extension and magisterial definition—is what gives the church its distinctive dynamism without undermining its original identity. Theologians receive the deposit of faith from the church as an objective reality. They then reason from it, developing and clarifying the Catholic tradition as they go. The church then beats the bounds, so to speak, of this reasoning from faith, discriminating between what is a genuine development of that faith and what is a departure from it. The living authority guarantees that what it will then pass on remains the objective Christian revelation.

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271 Merrigan, Clear Heads and Holy Hearts, 147. The internal quotes are references from Idea, 445–446.


In an admission of humility, Newman ascribed this movement to his own work as a Catholic thinker, historian, and reluctant theologian, stating in 1879:

In a long course of years I have made many mistakes. I have nothing of that high perfection which belongs to the writings of Saints, *viz.*, that error cannot be found in them; but what I trust that I may claim all through what I have written, is this, — an honest intention, an absence of private ends, a temper of obedience, a willingness to be corrected, a dread of error, a desire to serve Holy Church, and, through Divine mercy, a fair measure of success.

He insisted that in his personal investigations it was the promotion of the truth and not personal glory or fame that remained his motivation. He unhesitatingly submitted his personal investigations to the Church under obedience to both the community’s *sensus fidelium* and the hierarchical Magisterium. In his sermons and articles, Newman shared an instrument for historical reflection in the face of contemporary challenges. He also showed a willingness to be corrected where necessary, for to be a member of the Catholic Church is to be faithful, orthodox, and doctrinally submissive when directed. “It is impossible, with the principles and feelings on which I have acted all through life, that I could not have acted otherwise, I never have resisted, nor can resist, the voice of a lawful Superior, speaking in his own province.”

Upon his death in August 1890, John Henry Newman was one of the most influential religious thinkers in Great Britain. In his obituary, *The Times* of London claimed, “Unless it be on some rare occasions and instances, Newman was singularly free from the weaknesses and misfortunes that so often make polemics a plague and literature a grief. There are great and even good men who repel sympathy, and even forfeit it; Newman could not do either. With all his faults...

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275 *LD* xix, 150.
— for all have faults — England has loved him still." 276 Neither the high praise from *The Times*, nor Newman’s elevation in 1879 to the Sacred College of Cardinals by Pope Leo XIII, however, could prevent continued skepticism and distrust of his theological positions as possessing too many Anglican or Protestant ideas to be truly orthodox. Towards the end of his life, Newman watched Catholicism misunderstand the concept of infallibility as an ultramontanist mechanism of papal control, which in turn left little need for theological investigation so long as the pope could pronounce something as true or false *ex cathedra*. By the first decade of the twentieth century, as will be shown in the earliest sections of this dissertation’s third chapter, the death of Pope Leo XIII and the election of Pope Pius X had led the Church into a retrenchment against modernity and liberalism, and Newman’s approach to the interpretation of magisterial documents proved to be a minority position. It would take over seventy years after his death, as well as the convocation of Vatican II, for Newman’s position in the Church to be rehabilitated. In this rehabilitation process, Newman became the champion of both conservative and progressive theological camps, and, in that championing, his system would suffer from misinterpretation and misappropriation.

CHAPTER TWO: THE THEOLOGIAN IN CANON LAW

INTRODUCTION

Since the earliest days of the Christian church, the community has debated topics that held both theological and legal implications. For instance, when the Council of Jerusalem decided on a compromise based on the “Apostolic Decree” issued by James the Just, the community leaders made a theological decision that proved to have far-reaching legal consequences. As Christianity continued to spread throughout the Mediterranean basin, the blending of theological and legal decisions also meant religious leaders began integrating traditional Jewish scholarship into the new religion’s theological premises for education. The Irish American theologian and religious educator Thomas Groome explained:

1 This dissertation research has its roots in two licentiate theses that this author wrote as a graduate student in the Faculty of Theology and Religious Studies and the Faculty of Canon Law, respectively, at the Catholic University of Louvain/Katholieke Universiteit Leuven (Belgium). These theses, titled Subsidiarity in the Teaching Function of the Church: Untapped Potential? The Development of Subsidiarity from Rerum Novarum to the Present (2002) and The Rights and Responsibilities of Bishops and Theologians within the Teaching Function of the Church (2003), respectively, proved to be important milestones in this author’s study of Catholic education. The guidance offered by Prof. Dr. Johan Verstraeten of the Faculty of Theology and Religious Studies and Prof. Dr. Luc De Fleurquin of the Faculty of Canon Law in authoring these theses was invaluable in their development, and this author expresses his deep appreciation for their guidance.

2 Acts 15: 19–21, “It is my judgment, therefore, that we ought to stop troubling the Gentiles who turn to God, but tell them by letter to avoid pollution from idols, unlawful marriage, the meat of strangled animals, and blood. For Moses, for generations now, has had those who proclaim him in every town, as he has been read in the synagogues every Sabbath.” English translation is from the New American Bible.

3 Acts 15: 23–29 represents the action taken to implement the Apostolic Decree, issued in the form of a letter to the growing gentile convert communities: “The apostles and the presbyters, your brothers, to the brothers in Antioch, Syria, and Cilicia of Gentile origin: greetings. Since we have heard that some of our number [who went out] without any mandate from us have upset you with their teachings and disturbed your peace of mind, we have with one accord decided to choose representatives and to send them to you along with our beloved Barnabas and Paul, who have dedicated their lives to the name of our Lord Jesus Christ. So we are sending Judas and Silas who will also convey this same message by word of mouth: ‘It is the decision of the holy Spirit and of us not to place on you any burden beyond these necessities, namely, to abstain from meat sacrificed to idols, from blood, from meats of strangled animals, and from unlawful marriage. If you keep free of these, you will be doing what is right. Farewell.’” English translation is from the New American Bible.
An optimistic but realistic anthropology that recognizes both the brokenness and inherent goodness of human existence, and thus encourages holistic education that promotes people’s potential to be the glory of God as fully alive (cf. the writings of Irenæus); a this-worldly as well as an otherworldly understanding of salvation that recognizes God’s saving action in Jesus Christ as improving the quality and promise of life both here and hereafter, thus recommending humanizing education as an aspect of fulfilling this saving work; and the conviction that reason and revelation are essential partners in the life of Christian faith.4

In the Patristic-era church, theological investigations were an extension of the pastoral magisterium, which in turn consisted of,

Exhibiting Christ before all men as the Truth, and therefore teaching by word and example the truth committed to the Church concerning both doctrine and morals. In some parts of the Church public instruction was formerly given by all the presbyters in succession, the bishop having the last word; in others presbyters gave instruction in morals and discipline, the teaching of doctrine being reserved to the bishop.5

Early Christian “schools” at the time developed around the educated individuals of a local community who worked to instruct their students and transform them into disciples following their mode of thought. These teachers increasingly blended the classical Greco-Roman education with the Christian faith to create an early Christian “humanism.” Augustine of Hippo, for instance, regarded his role as a bishop as essentially the task of a religious philosopher who “explored a spiritual world that was of its very nature ever more marvelous, ever more inaccessible.”6 This approach led him to pray in his Confessions, “Grant me, then, space for my meditations on the

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hidden things of Your Law, nor close them fast against those who knock. Not for nothing have You willed so many pages to be written in veiled secrets.”  

The Dark Ages witnessed a deep threat to education throughout Christian North Africa and Europe as barbarian tribes uninterested in the Greco-Roman educational system swept through the Christian world. The schools of early humanism were threatened by these invasions and their role as the pre-eminent sources of Christian scholarship soon gave way to Celtic monasteries, places of learning that were largely untouched by the barbarian invasions sweeping across continental Europe. These monasteries, including the examples of Iona, Durrow, and Lindisfarne, were successful in maintaining the traditions and techniques of Christian education up until the threat of Viking invasions during the 9th and 10th centuries. They were also indirectly responsible for the future revival of education on the continent by influencing the Anglo-Saxon monk Alcuin of York, chief minister to the emperor Charlemagne and promoter of the Carolingian education system. Alcuin, following a pattern used by the monks under whom he himself had studied at the monastery school of York in northern England, established a palace school in Aachen, the capital of Charlemagne’s empire. This palace school educated many of the civil and ecclesiastical leaders from the Carolingian empire, and soon became the model for all schools during the period of Carolingian dominance. Unlike monastic schools, which were established for the training and education of future monks, palace schools were places open to anyone in the empire who desired a formal education.

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Standing alongside these monastic and palace schools was the cathedral school dedicated primarily to the education of future priests. They first appeared in many of the larger and more influential episcopal sees of Europe, including Canterbury, Seville, Cologne, and Paris. Their direction reflected the role they played in the mission of the Church, as “the schools were originally under the direction of the local bishop and the members of the chapter of canons attached to the cathedral or a collegiate church.” As the desire for education increased throughout Europe, the curriculum of the cathedral schools expanded beyond Sacred Scripture and the patristic literature of the Church to include “a study of the classical texts through grammar, rhetoric and dialectic, and the more advanced courses of music, arithmetic, geometry and astronomy.” These fields of learning, while included within the overall curriculum of the cathedral school, remained ancillary to the courses needed to attain spiritual wisdom and were therefore relegated to a secondary position. Eventually, this division into clerical and non-clerical courses brought about a separation of the institutions into “lower” and “higher” schools. “In time the direction of the lower schools was put in the hands of one of the canons, who was designated scholasticus or magischola, while the emerging higher schools were under the direction of the chancellor of the bishop.”

This creation of “lower” and “higher” schools prompted the development of loosely organized institutes of learning where teachers and students came together to study a specific field. These novel places of learning were originally called, “General schools” because they welcomed all who wished to study, they prepared people to teach the knowledge they acquired, and they were to serve all of

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9 Groome, “Catholicism and Education,” 265.

Christendom. Gradually, [these general schools] organized themselves as juridical corporations with “faculties” of teachers and “nations” of students, [becoming “universities”]. The great universities of Europe came to have four faculties— theology, law, medicine and arts, the last seen as essential preparation for studying the other three.11

While the universities represented a new stage in the progression of education in Europe, they maintained many of the characteristics of the cathedral schools, as seen especially in their relationship to the Church.

Most universities had a rector or chancellor who was ecclesiastically appointed; their power to grant degrees was by papal charter; most of the professors were clerics, especially Dominicans, Franciscans and Augustinians, and likewise many of the students; and Catholicism lent the common faith and language that enabled faculty and students from diverse cultures to work together.12

There were also some innovations to this new university system as could be found for example in the administration and conferral of teaching positions within the university faculties. Where once teachers were appointed from a diocesan college of canons,

The medieval [universities] had a double system of approval of teachers. The approval of the body of masters was given when the candidate had demonstrated competence. Then the *licentia docendi* was granted by the chancellor-who, it should be noted, was not a member of the faculty but an “outsider” to the university. But it should also be noted that the chancellor was forbidden by repeated papal decrees to withhold the *licentia* from any competent person who asked for it. The reason for this demand on the part of the popes was the tendency of the masters to organize themselves into guilds and erect obstacles to the entry of new members to the guild. It was the role of the chancellor to keep open the entryway to teaching status.13

The medieval Church found a balance within the functions of a university between the demands of its teachers and the demands of the local ecclesiastical leaders. Teachers at a university

11 Groome, “Catholicism and Education,” 265.
12 Groome, “Catholicism and Education,” 265.
had the right to decide which members of its student “nation” were competent enough to join the rank of colleague in the “faculty,” while the chancellor, as an official of the local bishop, granted that competent individual the license to teach at the university.

It should be noted in particular that the granting of the license to the holder of a degree from an institution of pontifical right meant acknowledging a right to teach any place in Christendom. The license from other institutions carried with it the right to teach only in the area to which the school’s founder’s authority extended, which meant in most cases the local diocese.¹⁴

With the advent of the medieval university, both canon law and theology moved beyond being instrumentalized in ministerial settings and developed into independent academic and professional fields. Starting in the twelfth century, theology was “being taught in the schools as a separate science related to other sciences. New teaching methods were being used by masters, who formulated problems in a dialectical way and solved them with rational arguments.”¹⁵ Soon theology replaced philosophy as the highest academic pursuit at the university.

It was the most prestigious and most difficult course of study. The doctrines of the church were supremely important; heresy was a serious and possibly fatal mistake in medieval times. Doctrinal errors were potentially so threatening to a man’s career and livelihood that he was well advised, under the threat of having his teaching license and thus his earning power canceled, to make sure that both his peers and the church approved of what he planned to teach students.¹⁶

Alongside the development of theology, canon law became more focused on the practical implications of theological discussions, with the twelfth-century jurist Gratian defining canon law


“as being independent of theology. What this meant in practice was that the jurist, who exemplified human law, was charged with judging only human acts, not human intentions.”17 James Brundage, professor emeritus of history at the University of Kansas, described medieval theology and canon law as initially overlapping in scope, “particularly where moral problems were at issue – marriage and sexual behavior had both canonical and theological dimensions, for example, as did holy orders, the obligations of monks and nuns, and clerical discipline generally. Canon law was to a great extent theology in practice.”18 However, the practical nature of canon law led to greater separation between the two branches of learning, and the disconnection between the practicalities of canon law and the perceived theoreticals of theology influenced the perceived importance and value of each field in the eyes of their counterparts. Where “lawyers confined themselves to deciding what was lawful in a particular situation, and left it to theologians to puzzle out what was right and just … theologians became increasingly disparaging of lawyers, especially canonists.”19 For instance, the thirteenth-century Franciscan scholastic theologian Bonaventure “affirmed theology’s superiority over canon law: he wrote that theology questioned propter quid, whereas canon law enquired into quia. Bonaventure, following Aristotle, asserted that there are higher and lower sciences, and what for the higher science, theology, is the conclusion of its enquiry is for the

17 Ibid., 64.


19 Ibid., 279.
lower science, canon law, its starting point.” On the other hand, the Italian canonist Hostiensis (Henry of Segusio), a contemporary of Bonaventure, made a clear distinction between theology and law, both civil and canonical, in the preface to his *Summa super titulis Decretalium*:

Theology, he declared, centers upon spiritual, one might even say, angelic matters; civil law deals with the mundane needs of mankind; canon law, though, is concerned with all of humanity, because it encompasses both the spiritual and corporeal concerns of people. One might, he continued, compare the three disciplines to the means of land travel common in his day: horses, donkeys, and mules. Thus theology is an equine science, and civil law could be called an asinine science. Canon law, however, is a mulish science because, just as mules result from crossing horses with donkeys, so canon law draws from both theology and civil law.

Hostiensis used a second analogy in his unfinished *Liber Extra* comparing the three disciplines to parts of the body. “Theology, he wrote, is the head, civil law the feet, and canon law the hands, because theologians produce ideas, civilians support the body, while canonists perform the work that needs to be done in the church. Canon law, Hostiensis concluded, was the noblest of all fields of learning.”

With the maturing of the medieval university in the fourteenth century there grew a renewed effort to harmonize canon law and theology, one which often involved incorporating the former into the latter. For instance,

The Dominican theologian Pierre de la Palud’s commentary on Book 4 of Peter Lombard’s Sentences was distinctively legalistic. De la Palud, who was well versed in contemporary canon law, applied it to the corpus of theological

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22 Ibid.
speculation in order to serve practicalities. This work enjoyed huge success and was copied repeatedly.

On the other hand, canonists, too, were attempting to incorporate theology into canon law. In England William of Pagula, a doctor of canon law at Oxford and later vicar of the town of Winkfield, near Windsor, wrote a compilation of canon law and theology in five books with two hundred and fifty-seven chapters providing every cleric, from parish priest to prelate, with an authoritative response to any question that might arise in the course of their ministrations.23

Thus was the relationship between theology and canon law that lasted throughout the late Middle Ages, the Reformation and Counter-Reformation period, and even through the First Vatican Council. While there were natural tensions between the two fields and their practitioners, the theologian and the canon lawyer also found mutual benefits in their occupations. Possessing an advanced degree in either academic field opened possibilities for church office and benefice, while also increasing Church oversight and direction over the degree holders. For instance, at the Council of Trent, the Council Fathers decreed that those who held masters, licentiates, or doctorates in theology or canon law were eligible for promotion to cathedral churches,24 to the office of diocesan penitentiary,25 archdeacon,26 and examiner of those nominated to be the pastor


26 Council of Trent, Session 24, *Decretum de reformatione*, Canon 12, November 11, 1563: Tanner, 2: 766. Here the canon reads, “Archdeacons, too, who are called the eyes of the bishop, should in all churches as far as possible be masters in theology or doctors and licentiate in canon law.” (“Archidiaconi etiam qui oculi dicuntur episcopi sint in omnibus ecclesiis ubi fieri poterit magistri in theologia seu doctores et licentiati in iure canonico.”)
of a parish church. Theologians were required as consultants to the bishop when he asked for advice on the invocation and veneration of the relics of saints and other sacred objects. For those assigned as instructors because of their academic credentials, the bishops and those equivalent by law were obligated to ensure the instructor’s duties were being fulfilled:

In those churches where an allowance or benefice or stipend under any other name exists for dispersal to those who instruct in sacred theology, the bishops, archbishops, primates, and other local ordinaries are to oblige and compel, even by a reduction in this income, those who receive such an allowance, benefice, or stipend, to give explanation and interpretation of sacred Scripture, personally if they are competent and otherwise by a suitable substitute who is to be chosen by the bishops, archbishops, primates, and other local ordinaries.

Perhaps most famously, the Council of Trent instituted rules for the creation of seminaries, and within those rules, the Council Fathers mandated:

Bishops, archbishops, primates, and other local ordinaries shall compel and oblige, even by withholding their salaries, those who occupy lectureships and others to whose office is attached the duty of reading or teaching, to teach those to be instructed in these schools, either personally or by suitable substitutes to be chosen by these instructors and approved by the bishops. And if in the opinion of the bishop, the substitute is unsuitable, they must nominate another who is qualified, if they fail to do so, the bishop is to make the appointment himself. And these instructors are to teach what the bishop regards as appropriate. Further, these posts and offices, which are called lectureships are to be conferred only on doctors, or masters, or licentiates in holy Scripture, or canon law, and on persons otherwise suitable who can fulfill the duty themselves; and any other provision shall be null.

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27 Council of Trent, Session 24, *De reformatione*, Canon 18, November 11, 1563: Tanner, 2: 770–772.


29 Council of Trent, Session 5, *De lectione Sacrae Scripturae. De Verbi Dei concionatoribus, et questoribus eleemosynarum*, Canon 1, June 17, 1546: Tanner, 2: 667–668. “In illis ecclesiis, in quibus præbenda aut præstimonia seu aliud quovis nomine nuncupatum stipendium pro lectoribus sacrae theologiae deputatum reperitur, episcopi, archiepiscopi, primates et alii locorum ordinarii eos qui præbenda aut præstimonium seu stipendium huiusmodi obtinent ad ipsius Sacrae Scripturæ expositionem et interpretationem per se ipsos si idonei fuerint aliqui per idoneum substitutum ab ipsis episcopis archiepiscopis primatibus et aliis locorum ordinariis eligendum etiam per subtractionem fructuum cogant et compellent.”
and invalid and this notwithstanding any privileges whatsoever and customs however immemorial.\textsuperscript{30}

At the Council of Trent, we find the first concerted effort by the Catholic Church to regulate both theologians and canon lawyers as academics, while also making advanced degrees in these fields a requirement for some of the Church’s most important ministerial and leadership positions. This balancing act between requirement and regulation would remain in place for over three hundred and fifty years, until the Church updated canon law through the first organized code in its history.

\textsuperscript{30} Council of Trent, Session 23, \textit{Decretum super reformatione}, Canon 18, July 15, 1563: Tanner, 2: 752–753. “Episcopi archiepiscopi primates et alii locorum ordinarii scholasterias obtinentes et alios quibus est lectionis vel doctrinae munus annexum ad docendum in ipsis scholis instituendos per se ipsos si idonei fuerint alioquin per idoneos substitutos ab eisdem scholasticis eligendos et ab ordinaris approbandos etiam per subtractionem fructuum cogant et compellant. Quodsi iudicio episcopi digni non fuerint alium qui dignus sit nominent omni appellatione remota. Quodsi neglexerint episcopus ipse deputet. Docebunt autem predicti quae videbuntur episcopo expedire. De cetero vero officia vel dignitates illae quae scholasteriae dicuntur non nisi doctoribus vel magistris aut licentiatis in sacra pagina aut in iure canonico et alias personis idoneis et qui per se ipsos id munus explere possint conferantur et aliter facta provisio nulla sit et invalida. Non obstantibus quibusvis privilegiis et consuetudinibus etiam immemorabilibus.”
THE CODEX IURIS CANONICI (1917) AND DEUS SCIENTIARUM DOMINUS (1931)

The *Code of Canon Law* promulgated by Benedict XV “took ecclesiastical discipline from the unwieldy realm of disparate collections and placed it within the confines of a single code.” This single codex,

Represented the most radical revision of law the Church had ever effected. While the Code presented an abstract and distilled version of the Church’s juridic system, a book of principles rather than cases and details, it was rooted in the Church’s lengthy and complex history. Its critical apparatus contained over twenty-five thousand citations of former texts. At the moment of its promulgation, the Code was the most centralized and clearest system of universal legislation the Church had ever known.

While the new collection of canons represented the synthesis of the Catholic Church’s long tradition of legislation, indeed spanning one thousand years of legal texts, it was also a product of its time.

The 1917 *Code of Canon Law* reflects in large measure the dominant political and historical context in which it was promulgated. The doctrine which lies at the root of the law is similarly conditioned culturally. It is concerned with the relations between the Church and civil governments, often in the context of a predominantly Catholic culture. A critical element of this doctrine is the notion that the Church is a perfect society which is endowed with all the rights necessary to achieve its proper ends. It views the Church as having various functions in common with civil societies.

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Among these functions was teaching on matters concerning evangelical doctrine, a mission of the Church reaffirmed by canon 1322, the introductory canon to Book Three (De Rebus – “On Things”), Title Four (De Magisterio Ecclesiatio – “On the Ecclesiastical Magisterium”): 35

Canon 1322 §1. Christ our Lord confided to the church the deposit of faith, in order that she, with the perpetual assistance of the Holy Ghost, might faithfully preserve and expound the revealed doctrine.

§2. Independently of any civil power whatsoever, the church has the right and duty to teach all nations the evangelical doctrine, and all are bound by the divine law to acquire a proper knowledge of this doctrine and to embrace the true church of God. 36

Within this inherent right and duty of the Church to teach all nations, bishops and theologians held specific rights and responsibilities (or obligations) to ensure that the mission of the Church is fulfilled properly.

The Rights and Responsibilities of Bishops in the 1917 Code of Canon Law

Canon 329, the introductory canon to Book Two (De Personis – “On Persons”), Part One (De Clericis – “On Clerics”), Title Eight (De potestate episcopali deque iis qui de eadem participant – “On Episcopal power and those who participate in it”), Chapter One (De Episcopis – “On Bishops”), states, “Bishops are successors of the Apostles and by divine institution are placed over specific churches that they govern with ordinary power under the authority of the


Roman Pontiff.”37 Within this group of successors to the Apostles are certain men who preside over the affairs of the local diocese, namely residential bishops, as defined in canons 334 and 335:

Canon 334 §1. Residential Bishops are ordinary and immediate pastors in the dioceses committed to them.

§2. In the government of the diocese, however, neither personally nor through others nor under any title can they involve themselves before they have first taken up possession canonically of the diocese; but if, before being designated for the episcopate, they have been appointed Vicars Capitulary, officials, or *economes*, these offices they may retain and exercise after designation [as Bishop].

§3. Residential Bishops take up canonical possession of a diocese immediately upon showing the apostolic letters personally or through a procurator to the Chapter of the cathedral church in that diocese in the presence of the secretary of the Chapter or chancellor of the Curia, who records the matter in the acts.38

Canon 335 §1. To them belong the right and duty of governing the dioceses in both spiritualities and temporalities with legislative, judicial and coercive power to be exercised according to the norms of sacred canons.

§2. Episcopal laws begin to oblige immediately upon promulgation, unless provided otherwise in the laws themselves; the manner of promulgation is determined by the Bishop himself.39

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37 Canon 329 §1. “Episcopi sunt Apostolorum successores atque ex divina institutione peculiaribus ecclesiis præficiuntur quas cum potestate ordinaria regunt sub auctoritate Romani Pontificis.” English translation is from Edward N. Peters, The 1917 or Pio–Benedictine Code of Canon Law in English Translation with Extensive Scholarly Apparatus (San Francisco: Ignatius Press, 2001), 132. All subsequent English translations from this code will be taken from this source unless otherwise indicated.

38 Canon 334 §1. “Episcopi residentiales sunt ordinarii et immediati pastores in diœcesibus sibi commissis.” §2. “In regimen tamen diaœcis neque per se neque per alios, nec ullo sub titulo sese ingerere possunt, nisi prius eiusdem diaœcis possessionem canonice ceperint; sed si ante suam ad episcopatum designationem vicarii capitulares, officiales, aeconomi fuerint renuntiati, hac officia etiam post designationem reterire et exercere possunt.” §3. “Canonican diaœcis possessionem capiunt Episcopi residentiales simul ac in ipsa diaœcesi vel per se vel per procuratorem apostolicas litteras Capitulu ecclesiæ cathedralis ostenderint, praesente secretario Capituli vel cancellario Curiae, qui rem in æta referat.”

39 Canon 335 §1. “Ius ipsis et officium est gubernandi diaœcesim tum in spiritualibus tum in temporalibus cum potestate legislativa, iudiciaria, coercitiva ad normam sacrorum canonum exercenda.” §2. “Leges episcopales statim a promulgatione obligare incipiunt, nisi aliud in ipsis caveatur; modus autem promulgationis ab ipsomet Episcopo determinatur.”
Canon 336 paragraph 2 describes episcopal power concerning the sanctifying and the teaching office of the church:

Canon 336 §2. They shall be vigilant lest abuse appear in ecclesiastical discipline, especially concerning the administration of Sacraments and Sacramentals, the cult of God and of the saints, preaching the word of God, sacred indulgences, and the implementation of pious wills; they shall take care that the purity of faith and morals among the clergy and the people is preserved, and that the faithful, especially children and the unlettered, are offered the pabulum of Christian teaching, and that in schools of children and young people instruction is handed on according to principles of the Catholic religion.\(^{40}\)

Canon 1326 describes the participation of all bishops, residential or otherwise, in the teaching office of the Church under the direction and authority of the Roman Pontiff. “Although they do not possess, either individually or when assembled in particular councils, infallibility in their teaching, the bishops also are truly doctors and teachers of the faithful committed to their care under the authority of the Roman Pontiff.”\(^{41}\)

As the chief teacher in his diocese, the residential bishop has the obligation to maintain a vigilant watch over the schools within the territory, with seminaries as the institutions where the future clerics are formed holding primary interest. Diocesan bishops are responsible for ensuring that seminaries are established within the boundaries of the diocese (canon 1354 §§1 and 2) or that the diocese utilizes an inter-diocesan, regional, or another seminary as available (canon 1354 §3).

\(^{40}\) Canon 336 §2. “Advigilent ne abusus in ecclesiasticam disciplinam irrepant, præsertim circa administrationem Sacramentorum et Sacramentaliun, cultum Dei et Sanctorum, prædicationem verbi Dei, sacras indulgentias, implementum piarum voluntatum; curentque ut puritas fidei ac morum in clero et populo conservetur, ut fidelifus, præcipue pueros ac rudibus, pabulum doctrine christianæ præbeatur, ut in scholis puerorum ac iuvenum instituto secundum catholicæ religionis principia tradatur.”

Once the seminary system for the diocese has been established, the norms of canon 1357 take effect:

Canon 1357 §1. It belongs to the Bishop to decide each and every thing that affects the correct governance of the diocesan Seminary, its governance, and what seems opportune for its necessary progress, and to see that these things are faithfully observed, with due regard for the prescriptions of the Holy See given for particular cases.

§2. The Bishop shall apply himself to the utmost in making personal visits to the Seminary, and to being carefully vigilant about how instruction is given to the students, whether in literary, scientific, or ecclesiastical [matters]; and he shall take care to make himself fully aware of the character, piety, vocation and progress [of students], especially on the occasion of sacred ordination.

§3. Every seminary shall have its own laws approved by the Bishop, in which there shall be treated what must be observed and how they, who are the hope of the Church, in the seminary are taught, as well as [rules] for those who are striving after their education.42

The same conditions of vigilance and supervision are required of bishops over Catholic schools of all levels established within the diocese. As the American canonist James Conn illustrates, “The principle of the Church’s competence over religious instruction … is explicitly

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42 Canon 1357 §1. “Episcopi est omnia et singula quæ ad rectam Seminarii diœcesani administrationem regimen, proiectum necessaria et opportuna videantur, decernere, eaque ut fideliter observentur, curare, salvis præscriptionibus a Sancta Sede pro casibus peculiaribus latis. §2. Potissimum studeat Episcopus frequenter Seminarium ipse per se visitare, in institutionem quæ alumnis traditur sive litterariam et scientificam sive ecclesiasticam sedulo vigilare, et de alumnorum indole, pietate, vocacione ac profectu pleniorem sibi comparare notitiam, maxime occasione sacrarum ordinationum. §3. Unumquodque Seminarium suas leges habeat ab Episcopo approbatas, in quibus quid agere, quid observare debeant, doceantur tum qui in eodem Seminario in spem Ecclesiae instituuntur, tum qui in horum institutionem operam suam impendunt.”
stated in canon 1381, with particular respect to the rights and duties of the local ordinary. This canon reads as follows:

Canon 1381 §1. The religious instruction of youth in any schools whatsoever is subject to the authority of and inspection by the Church.

§2. Local Ordinaries have the right and duty of being vigilant about any schools in their territory lest in them something be found or done against faith and good morals.

§3. In a similar way they have the right of approving teachers and books of religion; likewise, for the sake of religion and morals, they can require that either teachers or books be removed.

Conn describes the responsibilities outlined in this canon as both broad and sweeping.

The competence over religious education brings with it the positive right to approve teachers of religion and books of religious instruction. This right is given to the local ordinary by canon 1381 §3. The right and duty to be vigilant over all schools in his territory is assured to the local ordinary by canon 1381 §2. He is to see to it that nothing contrary to faith and morals is taught in the schools or that no activity in the schools is likewise a source of danger to the Catholic students there. The consequence of this right is also included in canon 1381 §3, which entitles the local

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43 Local ordinary is defined in Canon 198 §§1–2. “§1. In law by the name of Ordinaries are understood, unless they are expressly excepted, in addition to the Roman Pontiff, a residential bishop in his own territory, an abbot or prelate of no one and his vicar general, administrator, vicar or prefect apostolic, and likewise those who, in the absence of the above–mentioned, temporarily take their place in governance by prescript of law or by approved constitution, and, for their subjects, major superiors of exempt clerical religious [institutes]. §2. By the name of local ordinary come all those just mentioned with the exception of religious superiors.” (“In iure nomine Ordinarii intelliguntur, nisi quis expresse excipiatur, praeter Romanum Pontificem, pro suo quisque territorio Episcopus residentialis, Abbas vel Prae
tatus nullius eorumque Vicarius Generalis, Administrator, Vicarius et Prefectus Apostolici, itemque ii qui predictis deficientibus interim ex iuris præscripto aut ex probatis constitutionibus sucedunt in regimine, pro suis vero subditis Superiores maiores in religionibus clericalibus exemptis. §2. “Nomine autem Ordinaril loci seu locorum veniunt omnes recensiti, exceptis Superioribus religiosis.”)

44 Conn, Catholic Universities in the United States and Ecclesiastical Authority, 34.

45 Canon 1381 §1. “Religiosa iuventutis institutio in scholis quibuslibet auctoritati et inspectioni Ecclesiae subiectur. §2. Ordinaris locorum ius et officium est vigilandi ne in quibusvis scholis sui territorii quidquam contra fidem vel bonus mores tradatur aut fiat. §3. Eidem similiter ius est approbandi religionis magistros et libros; itemque, religionis morumque causa, exigendi ut tum magistri tum libri removeantur.”
ordinary to demand that teachers or books be removed for the sake of religion or morals. 46

John Alesandro, when reflecting upon the powers of the diocesan bishop under canon 1381, and referring specifically to the oversight duty of diocesan bishops on teachers, commented,

The vigilance of the hierarchy in regard to individual teachers of theology is mainly a negative role, one to be exercised principally by removing theologians from their teaching position if faith or morals calls for it. This role is much more limited, aimed at avoiding and correcting abuses. In a sense, it implies a right on the part of all Christians to teach theology, not an absolute right but one which is conditioned by the right of the hierarchy to supervise and moderate the proclamation of the Word. 47

The Rights and Responsibilities of the Christian Faithful in the 1917 Code

The Catholic faithful hold as an inherent right their education in the faith. The 1917 code listed this as both a right and an obligation, as seen in canon 1372, the introductory canon to De Scholis – “On Schools:”

Canon 1372 §1. All the faithful from childhood are to be instructed so that, not only is there nothing against the Catholic religion and upright life given them, but that religious and moral instruction has the principal place.

§2. Not only parents according to the norm of canon 1113, but also all those who take their place, have the right and grave duty of taking care of the Christian education of children. 48

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46 Conn, Catholic Universities in the United States and Ecclesiastical Authority, 34–35.


48 Canon 1372. “§1. Fideles omnes ita sunt a puerritia instituendi ut non solum nihil eis tradatur quod catholicae religioni morumque honestati adversetur, sed præcipuus institutio religiosa ac moralis locum obtineat. §2. Nnon modo parentibus ad normam can. 1113, sed etiam omnibus qui eorum locum tenent, ius et gravissimum officium est curandi christianam liberorum educationem.”
To understand how it is possible to exercise the rights and obligations of a Catholic education, the link between canon 1372 and the description of the Catholic faith given in canon 1323 must be made explicit:

Canon 1323 §1. By the divine and Catholic faith must be believed all those truths which are contained in the Word of God as written or handed down to us, and which are, either by solemn pronouncement or by the ordinary and universal teaching of the church, proposed for belief as divinely revealed truths.

§2. The solemn judgment in this matter is reserved to an Ecumenical Council and the Roman Pontiff speaking ex cathedra (that is to say, in his capacity of the supreme teaching authority).

§3. No religious teaching is to be understood as dogmatically declared and defined, unless such declaration or definition has clearly been made.49

The instruction of any Catholic student at any level of education springs forth and is nurtured under the leadership of a vigilant diocesan bishop. The 1917 code recognized, however, that the residential bishop could not accomplish the teaching function alone. Provisions were made, therefore, for the inclusion of others within this responsibility, specifically regarding preaching and religious instruction.

Canon 1327 §1. The responsibility of preaching the Catholic faith is committed especially to the Roman Pontiff for the universal Church [and to] Bishops for their dioceses.

§2. Bishops are bound by the office of personally preaching the Gospel, unless they are prohibited by a legitimate impediment; and moreover, besides pastors, they should also take help from other suitable men in pursuing the correct fulfillment of these duties in this sort of teaching.50

49 Canon 1323. “§1. Fide divina et catholica ea omnia credenda sunt quæ verbo Dei scripto vel tradito continentur et ab Ecclesia sive sollemni iudicio sive ordinario et universali magisterio tanguam divinitus revelata credenda proponuntur. §2. Sollemne huiusmodi iudicium pronuntiare proprium est tum Ecumenici Concilii tum Romani Pontificis ex cathedra loquentis. §3. Declarata seu definita dogmatice res nulla intelligitur; nisi id manifeste constiterit.” English translation is from Carlson, “The Rights and Responsibilities of Bishops: A Canonical Perspective,” 34.

50 Canon 1327. “§1. Munus fidei catholicæ predicandæ commissum praecipue est Romano Pontifici pro universa Ecclesia, Episcopis pro suis diœcesibus. §2. Episcopi tenetur officio predicandi per se ipsi Evangelium,
Canon 1333 §1. A pastor can, in the religious instruction of children, and indeed must he if he is legitimately impeded, enlist the help of clerics present in his territory and even, if it is necessary, pious laymen, particularly those who are enrolled in a pious sodality of Christian teaching or something similar erected in the parish. [Emphasis appears in original Latin text]

§2. Priests and other clerics who are not detained by legitimate impediment should be helpers to their pastor in this most holy work, even under penalties to be inflicted by the Ordinary.51

Perhaps the most important right held within the teaching function of the Church was the right granted by the diocesan bishop for a person to teach in any school whatsoever. Canon 1381 gave local ordinaries the duty of vigilance over schools in their territory and the teachers in those schools. When read from the perspective of the teacher, canon 1381 gave that teacher the responsibility to maintain a proper attitude towards the Catholic religion, its faith, and its morals. As Conn illustrates,

The provision [in §3] for the removal of harmful teachers and books assumes that the schools have teachers and books designated under ecclesiastical authority; nevertheless, the vigilance of the ordinary is a right exercised with respect to all schools, including private and state-run institutions. This duty to be vigilant for the spiritual welfare of the faithful is essential to the ordinary’s pastoral office.52

Furthermore, because the teacher falls under the auspices of the local ordinary’s pastoral and teaching office,

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nisi legitima prohibeantur impedimento; et insuper, præter parocho, debent alios quoque viros idoneos in auxilium assumere ad huiusmodi prædicationis munus salubriter exsequendum.”

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51 Canon 1333. “§1. Parochus in religiosa puerorum institutione potest, imo, si legitime sit impeditus, debet operam adhibere clericorum, in parœciæ territorio degentium, aut etiam, si necesse sit, piorum laicorum, potissimum illorum qui in pium sodalitium doctrinæ christianæ aliuve simile in parœcia erectum adscripti sint. §2. Presbyteri alilleque clerici, nullo legitimo impedimento detenti, proprio parocho in hoc sanctissimo opere adiutores sunt, etiam sub pœnis ab Ordinario infligendis.”

52 Conn, Catholic Universities in the United States and Ecclesiastical Authority, 35.
[The office held by teachers at every level] is an ecclesiastical office, at least in the broad sense of canon 145 §1, since it is exercised for a spiritual purpose. This assumes that the teaching office is being exercised in a Catholic context. It can also be said that a teacher of religion holds an ecclesiastical office in the strict sense, namely, one that is stably established by divine or ecclesiastical determination, to be conferred in accordance with the sacred canons, and implying a participation in a formal way in the Church’s teaching mission. When such a mission is performed as a public office, it is done in the name of the Church.

Conn therefore concludes that, even though the granting of the missio canonica is not an obligation imposed upon the bishop, it is still a legal necessity:

The public teaching of religion is a similar function, though of a different grade, to that exercised by a preacher, or even by the pope or bishops, part of whose office is to teach. The hierarchical character of the Church, therefore, is the basis for the assertion that a canonical mission is necessary for anyone who teaches the Catholic religion officially. It is the means used by the hierarchy to depute others to exercise an office which is proper to the hierarchy.

Despite the amounts of canons within the Pio-Benedictine Code and the wealth of canonical information from which the code draws in its own formulations, the 1917 code contained little legislation that directly affected or discussed universities. Building upon canon 1375, which stated, “The Church has the right to found schools of any type, not only at the elementary level,

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53 Canon 145. “§1. Ecclesiastical office in the wide sense is any responsibility exercised legitimately for a spiritual end; in the strict sense, however, it is a divinely or ecclesiastically ordered responsibility, constituted in a stable manner, conferred according to the norms of the sacred canons, entailing at least some participation in ecclesiastical power, whether of orders or of jurisdiction. §2. In law, ecclesiastical office is taken in the strict sense, unless it appears otherwise from the context of the words.” (§1. Officium ecclesiasticum lato sensu est quodlibet munus quod in spiritualem finem legitime exercetur; stricto autem sensu est munus ordinationale sive divina sive ecclesiastica stabiliter constitutum, ad normam sacrorum canonum conferendum, aliquam saltem secumferens participationem ecclesiasticæ potestatis sive ordinis sive iurisdictionis. §2. In iure officium ecclesiasticum accipitur stricto sensu, nisi aliud ex contextu sermonis apparet.)

54 Conn, Catholic Universities in the United States and Ecclesiastical Authority, 37.

55 Ibid.
but at intermediate and superior levels as well, the 1917 code described universities in the two subsequent canons:

Canon 1376 §1. The canonical constitution of any Catholic University or Faculty of studies is reserved to the Apostolic See.

§2. A Catholic University or Faculty, even if it is formed by a religious [institute], must have its statutes approved by the Apostolic See.

Canon 1377. No one can grant academic degrees that have canonical effects in the Church except by faculty granted by the Apostolic See.

Furthermore, the canon that discussed the curial office with responsibility for oversight of Catholic institutes of higher studies showed that seminaries took precedence over universities:

Canon 256 §1. The Congregation for Seminaries and Universities watches over all those things pertaining to the governance, discipline, administration of property, and studies of Seminaries, without harm to the right of the Congregation for the Propagation of the Faith. Likewise committed to it is the moderation of the governance and studies that must be done in those athenæa or what are called Universities or Faculties that are dependent on the authority of the Church, including those that are directed by the members of some religious family. It assesses and approves new institutions; it grants the faculty of conferring academic degrees and gives the norms by which they are to be conferred, and when it concerns an individual man commended for doctrine, it can confer the degrees on him.

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56 Canon 1375. “Ecclesiæ est ius scholas cuiusvis disciplinae non solum elementaris, sed etiam medias et superioris condendi …”

57 Canon 1376. “§1. Canonica constitutio catholicæ studiorum Universitatis vel Facultatis Sedi Apostolicae reservatur. §2. Universitas vel Facultas catholica, etiam religiosis familis quibuslibet concedita, sua debet habere statuta a Sede Apostolica probata.”

58 Canon 1377. “Gradus academicos qui effectus canonicos in Ecclesia habeant, nemo conferre potest, nisi ex facultate ab Apostolica Sede concessa.”

59 Canon 256. “§1. Congregatio de Seminarii et Universitatibus studiorum vigilat super omnibus que ad regimen, disciplinam, temporalem administrationem et studia Seminariorum pertinent, incolumi iure Congregationis de Pro Fide. Eidem pariter commissa est moderatio regiminis ac studiorum, in quibus versari debent athenæa seu quas vocant Universitates vel Facultates quæ ab Ecclesie auctoritate dependent, comprehensis iis quæ a religiosae alicuius familae sodalibus diriguntur. Novas institutiones perpendit approbatique; facultatem
The lack of definition concerning Catholic universities left many schools without a definitive legal status in the Catholic Church. Pontifical universities gained legal definition through the promulgation of a pontifical charter and were recognized by church authorities as having a juridical personality provided by canons 256 §1 and 1376 §1. Other faculties and universities, however, especially those without pontifical approval as provided by canon 1376 §2, seemed to lack juridic personality and therefore it was unclear whether they could enjoy the title “Catholic university” with all the rights and responsibilities therein. An attempt to address this lacuna was begun with the promulgation of the Apostolic Constitution Deus scientiarum Dominus in 1931 by Pope Pius XI, but as will be shown in investigating the document, the questions about juridical personality were not resolved.

Deus scientiarum Dominus

Deus scientiarum Dominus began by repeating the definitions of the 1917 code in its own articles. Article 1 stated, “Universities and faculties of ecclesiastical studies are those which are established by the authority of the Holy See for the teaching and cultivation of sacred disciplines or those connected with the sacred, with the right of conferring academic degrees.” Unfortunately, by using this definition without any inclusions or revision, “Deus scientiarum

concedit academicos gradus conferendi normasque tradit quibus ii conferri debeant, et, ubi agitur de viro singulari doctrina commendato, potest eos ipsa conferre.”

60 Pius XI, Apostolic Constitution Deus scientiarum Dominus, May 24, 1931, AAS 23 (1931) 241–262. All further references to this document will be labeled DsD.

Dominus merely regulates a specific group of institutions which, among others, are subject to canon 256,” and did not resolve a growing identity crisis.

The Italian canonist Guidus Cocchi recognized the deficiencies of the legislation concerning universities within the Church. In his 1937 work *Commentarium in Codicem iuris canonici*, Cocchi became the first canonist to develop the theory that there could be two distinct types of institutions of Catholic higher education, both of which are dependent on the Church. Conn points to this statement that Cocchi offered in his commentary: “We are concerned here with philosophical, theological, and juridical faculties erected and approved by the Church, in which academic degrees and conferred in philosophy, theology and canon law; and also with universities where diverse disciplines are taught with a care for harmony and concord with the Catholic faith.”

Conn continues,

Nothing is said specifically about the erection of the second category of universities. The assumption seems to be that they would require canonical erection if faculties of philosophy, theology or canon law were included within them. Even if such a complete university should be what the Code desired as ideal, it would still be conceivable that a Catholic university, subject to ecclesiastical authority, might exist without those faculties.

While *Deus scientiarum Dominus* did not resolve the confusion concerning the nature and identity of Catholic universities, the constitution did add an innovation in the canonical framework

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62 Conn, *Catholic Universities in the United States and Ecclesiastical Authority*, 25.


64 Cocchi, *Commentarium in Codicem iuris canonici, ad usum scholarum*, 127.
of the teaching function of the Church that would have profound implications in the future, as it was the first document promulgated by the Vatican that contained the *missio canonica*.65

The *missio canonica* first appeared in *Deus scientiarum Dominus* Article 21:

In order for (anyone) to be chosen legitimately as professor, it is necessary that: 1º [has] wealth of knowledge and good morals and prudence shines forth; 2º suitable degrees should be presented; 3º documentary proof of suitability, especially books or dissertations, appropriate to the subject to be taught; 4º [he] recites the profession of faith following the formula approved by the Holy See, according to the norm 1406 §1, 8º of the *Code of Canon Law* and the Decree of the Sacred Congregation of the Holy Office dated 22 March 1918; 5º [he] receives from the Grand Chancellor the canonical mission to teach, after obtaining the Nihil Obstat from the Holy See.66

This article discussed the conditions that must be fulfilled for an individual to assume the post of professor at the university, of which the *missio canonica* is the final requirement in the list. In a further development of the university system, the Grand Chancellor (*Magnus Cancellarius*) is no

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65 The concept of the *missio canonica* first appeared in the 19th century in documents from the German Bishops. For instance, the *Acta et Decreta sacrorum conciliorum recentiorum Collectio Lacensis* (Fribourg: Herder, 1889), V, col. 969b contained the following statement from the Würzburg Conference of 1848: “The Bishops of Germany declare that the charge of teaching the Catholic religion in any kind of school whatsoever can be given to no one who has not been authorized by a proper ecclesiastical mission.” (“Episcopi Germaniae declarant, nemini in ullo omnino scholæ genere docendæ religionis catholicae munus mandari posse, cui hujus rei potestas ecclesiastica missione rite facta non sit.”) The *missio canonica* was different from the *licentia docendi* in that it was not an academic degree but a statement of authorization and worthiness. At the same conference, the bishops explained, “The bishops of Germany, with the confidence which they repose in the professors who publicly teach theology, fully hope that they, not only as priests, but also as teachers of the sacred disciplines, will always think of themselves as sent and authorized to teach by the Church. For that same reason, let them always keep in mind that by divine and ecclesiastical law they are obligated by their role to give an account of their charge to the authority of the Church exercised by the bishops.” (“Episcopi Germaniae, pro ea fiducia, quam in publicis theologiae professoribus collocant, plane sperant fore, ut illi, non solum sacerdotes, sed etiam sanctorum disciplinarum doctores, semper se ab Ecclesia missos et docendi potestate instructos existiment, ob eamdam ipsam rem se, ex divino et ecclesiastico iure, adversus Ecclesiae auctoritatem, qua funguntur Episcopi, reddende munere sui ratione conditione tenere perpetuo recordentur.”) Both English translations are the author’s.

66 *DsD* II, 21, 251. “Ut quis in Professorum Collegium legitime cooptetur, requiritur ut: 1º doctrinæ copia et bonis moribus et prudentia praefulget; 2º Laurea congruenti præditus sit; 3º certis documentis, præsertim libris vel dissertationibus scriptis, se ad docendum idoneum probaverit; 4º professionem Fidei emiserit secundum formulam a Sancta Sede approbatam, ad normam can. 1406 §1, 8º C.I.C. et Decreti Supremæ Sacrae Congregationis S. Officii d.d. 22 Martii 1918; 5º missionem canonicae docendi, post impetratum Nihil obstat Sanctæ Sedis, a Magno Cancellario acceperit.” English translation is this author’s.
longer an official of the residential bishop, as had been the case during the medieval university system. Instead, the Grand Chancellor is the residential bishop of the diocese in which the university or faculty is located.\textsuperscript{67} Furthermore, while the canonical mission continued to be granted by the Chancellor in his role as an official outside the professorial ranks of the university, its conferral occurred only after the \textit{Nihil obstat}, literally meaning, “nothing obstructs,” had been pronounced by the Holy See, thereby introducing an additional step into the process.

Article 22 addressed the reasons why the \textit{missio canonica} could be repealed, and under whose authority this action must take place. “If any professor attacks Catholic doctrine or lacks integrity (abandons a sound life), he is punished according to the norms of the statutes for the seriousness of the fault and, if the matter is unresolved, the canonical mission to teach is to be stripped by the Grand Chancellor.”\textsuperscript{68} The Chancellor, as the university authority who conferred the \textit{missio canonica}, had the added responsibility of revoking it when conditions warranted. This drastic event took place only after punishments had been enforced according to the statutes of the university, and these punishments had proven ineffective in reversing the situation that prompted the crisis. The fact that this responsibility sat with the residential bishop acting as Chancellor remained consistent with the canonical vision of the bishop as the primary teacher of the diocese with broad supervisory powers over teaching within his canonical borders, as granted by canon 1371 of the 1917 code.

\textsuperscript{67} Cf. \textit{DsD} II, 14 §2, 250. “Magnus Cancellarius est Praëlatus Ordinarius a quo Universitas vel Facultas iure pendet, nisi Sancta Sedis expresse alium constituerit.”

\textsuperscript{68} \textit{DsD} II, 22, 251. “Si quis Professor vel doctrinam catholicam læserit vel a vitæ integritate defecerit, pro gravitate culpa ad normam Statutorum puniatur et, si res ferat, missione canonica docendi a Magno Cancellario privetur.” English translation is this author’s.
When Pope John XXIII announced his intention to convocate an ecumenical council in an address on January 25, 1959, he expressed a desire for a council that “would provide the Church an opportunity to undertake an examination of its own life and activity with three purposes in mind: spiritual renewal in the light of the Gospel, updating (aggiornamento) to meet the demands of the modern age, and the promotion and reunion of all Christians.” At its opening three years later, John XXIII urged the bishops in attendance to take a different approach than previous councils. In his view, this Second Vatican Council, 

Was not principally to be concerned with repeating what was already secure Catholic doctrine, not to propose condemnation of errors. The bishops were urged not to indulge in an attitude of gloom towards the modern world but to consider whether God was not introducing a new moment of human history. They should distinguish between the substance of faith and the way in which it had been stated and concern themselves with the question how the ancient faith might best be expressed in the new situations of the day.

By its conclusion in December 1965, the Second Vatican Council had “produced a larger set of documents than any previous council, and it has had a greater impact upon the life of the Catholic Church than any event since the Protestant Reformation.” This impact could be felt especially in the description of the Church’s educational mission and the specific roles each part of the Church played in accomplishing this mission.

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70 Ibid., 1073.

71 Ibid., 1072.
This section will investigate specific documents promulgated by the Council Fathers and the vision these documents presented concerning Catholic education. These specific documents include *Gravissimum educationis*, *Lumen gentium*, *Christus Dominus*, *Gaudium et spes*, *Apostolicam actuositatem*, and *Ad gentes*. *Gravissimum educationis* serves as the starting point for this discussion, giving a general vision of the Church’s understanding concerning education. *Lumen gentium*, the *Dogmatic Constitution on the Church*, is the most important text in this chapter for developing the discussion of the role of bishops within the teaching function of the Church, and therefore will be presented in detail. Likewise, concerning the role of the laity (including the university-based theologians) in the teaching function, reference will be made to *Gaudium et spes*, *Apostolicam actuositatem*, and *Ad gentes*. Through this detailed investigation of conciliar texts, it is hoped that the theological foundation for the legislation introduced after the Council, especially during the pontificate of John Paul II, will be properly understood.

**The Roman Catholic Church and Education: Gravissimum educationis**

The Second Vatican Council reformulated the role of the Catholic Church as an educator both in its institutional character and as the individuals (especially bishops and theologians) who engage in the teaching function of the Church. In this light *Gravissimum educationis*, the conciliar *Declaration on Catholic Education* is an important document because it incorporated different views on the nature and structure of Catholic higher education within the same document while avoiding any definitive statements on how that higher education should be undertaken. For these

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72 Second Vatican Council, Declaration on Christian Education *Gravissimum educationis*, October 28, 1965, *AAS* 58 (1966) 728–739. English translation is from Tanner, 959–968. All subsequent English translations from this document will be taken from this source unless otherwise indicated. All further references to this document will be labeled GE.
statements, readers were directed towards the new Sacred Congregation for Catholic Education created after the Council by the Apostolic Constitution Regimini Ecclesiae universae,73 promulgated by Paul VI to reform the Roman Curia according to the new conciliar vision of Church and community.74 Gravissimum educationis did provide the basis for all discussions surrounding the organization of Christian education within the Church and is a logical starting point for any investigation of the conciliar vision of the teaching function in the Church.

The Council Fathers in the first article of Gravissimum educationis declared that the right to an education, and therefore the right to educate, is universal, transcending all natural and manufactured barriers. “All people of whatever race, condition and age, since they are endowed with the dignity of persons, have an inalienable right to an education corresponding to their proper destiny, suited to their particular talents, sex, culture and inherited traditions, and at the same time conducive to associations as sisters and brothers with other peoples in order to foster true unity


74 The current Congregation for Catholic Education (for Institutes of Study) [in Latin, the Congregatio de Institutione Catholica (de Studiorum Institutis)] developed from the former Sacred Congregation for Seminaries and Universities, a Roman Curial office mentioned in canon 256 §1 of the 1917 code, as mentioned in Article 75 of the Apostolic Constitution Regimini Ecclesiae universae: (“Quæ hactenus Sacra Congregatio de Seminariis et Studiorum Universitatibus nuncupata est, nomen sumit Sacra Congregationis pro Institutione Catholica.”) For a complete description of the functions of the former Sacred Congregation for Seminaries and Universities, see Regimini Ecclesiae universae III–Sacra Congregationes, Chapter VIII–Sacra Congregatio pro Institutione Catholica, Articles 75–80.

On March 19, 2022, Pope Francis promulgated the Apostolic Constitution Predicate Evangelium (https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2022/03/19/0189/00404.html) that will further reform this congregation into the Dicastery for Culture and Education (Dicastero per la Cultura e l’Educazione) through its merger with the current Pontifical Council for Culture. This change, due to take effect on June 5, 2022, will create a dicastery that “works for the development of human values in people within the horizon of Christian anthropology, contributing to the full realization of the following of Jesus Christ” (“... opera per lo sviluppo dei valori umani nelle persone nell’orizzonte dell’antropologia cristiana, contribuendo alla piena realizzazione della sequela di Gesù Cristo.”)
and peace on earth.”75 As a universally held right, members of the Church have an equal claim to access at all levels of education. The education of the members of the Church also has a special and unique character beyond that of universal education since the Holy Spirit guides the community:

Since all Christians have been made a new creation through rebirth from water and the Holy Spirit and are called, and really are, children of God, they have a right to a Christian education. This indeed aims not only at the maturity of the human person just described, but has this object chiefly in view: that, while the baptized are being introduced gradually to the knowledge of the mystery of salvation, they may daily become more conscious of the gift of faith which they have received.76

The Roman Catholic Church has the innate right to organize and support the religious education of its members. This ability also imposes obligations on all these same members, beginning with the family, the building block and basic community within the Church, and more specifically within that family, the parents. “Since parents have conferred life on their children, they are bound by a very serious obligation to educate them. Therefore they are to be acknowledged as their primary and principal educators. Their duty to educate is so important that, whenever it is unfulfilled, it can scarcely be made good … Therefore let parents perceive clearly how important a truly Christian family is for the life and progress of the people of God itself.”77

75 GE 1, 729; Tanner, 2: 960. “Omnibus hominibus cuisis stirpis, condicionis et etatis utpote dignitate personae pollentibus, ius est inalienable ad educationem, proprio fini respondentem, propriae indoli, sexus differentiae, culture patrisque traditionibus accommodatam et simul fraternae cum aliis populis consortioni apertam ad veram unitatem et pacem in terris fovendam.”

76 GE 2, 730; Tanner, 2: 961. “Omnibus christianis, quippe qui, per regenerationem ex aqua et Spiritu sancto nova creatura effecti, filii Dei nominentur et sint, ius est ad educationem christianam. Quae quidem non solum maturitatem humanae personae modo descriptam prosequitur, sed eo principaliter spectat ut baptizati dum in cognitionem mysterii salutis gradatim introducuntur, accepti fidei doni in dies magis consci fiant.”

77 GE 3, 731; Tanner, 2: 961. “Parentes, cum vitam filiis contulerint, prolem educandi gravissima obligatione tenentur et ideo primi et precipui eorum educatores agnoscenti sunt. Quod munus educationis tanti
The duty to ensure the Christian education of children does not cease with the parents but extends to the entire community who are called to assist them. The school, stated the Council Fathers, becomes the first place where this assistance was rendered, including, as was reaffirmed by the document, non-Catholic institutions:

Among all means of education the school has its own special importance ... Therefore all those who help parents to fulfill their duty and represent the community by undertaking the task of education in schools have a noble, and indeed a highly important, vocation. This vocation calls for its own special gifts of mind and heart, most diligent preparation, and a continual readiness for renovation and adaptation.78

Furthermore, keenly aware of its very serious duty of sedulously attending to the moral and religious education of all its children, the Church ought to be present with its own special affection and help those very many children who are being educated in non-Catholic schools.79

The People of God not only have the right to educate their own members in their own schools, but the Council Fathers also reaffirm the vocation that the Church must accept in education. “The Church’s presence in the field of schools is evident in a quite special way through the Catholic school. No less indeed than other schools it pursues cultural aims and the development of the young in all that is human. But it is proper to it to create the atmosphere of the school

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78 GE 5, 733; Tanner, 2: 963. “Inter omnia educationis instrumenta peculiare momentum habet schola ... Pulchra igitur et gravis quidem ponderis est vocatio illorum omnium qui parentes in eorum officio implendo iuvantes et communitatis humane vices gerentes, munus educandi in scholis suscipiunt; quæ vocatio peculares mentis et cordis dotes, diligentissimam praeparationem, continuam renovationis et adaptionis promptitudinem expostulat.”

79 GE 7, 734; Tanner, 2: 964. “Gravissimum praeterea officium persentiens moralem et religiosam educationem omnium suorum filiorum sedulo curandi, ecclesia peculiari suo affectu et adiutorio præsens sit oportet iis plurimus qui in scholis non catholicis instituuntur.”
community, animated by the evangelical spirit of freedom and love.” 80 The Catholic school is imbued with the same charism and character as the Church and is of the utmost importance in preserving the prophetic identity of the Church in the world:

Thus indeed the Catholic school, while it is open to the changing conditions of the age, as it ought to be, educates its pupils to promote efficiently the good of the earthly city, and prepares them for the service of spreading the kingdom of God, so that by the exercise of an exemplary and apostolic life they may become, as it were, the saving leaven of human society. … Consequently, this synod proclaims anew the right of the Church freely to found and direct schools at every level and grade whatever, a right already declared in many documents of the Church’s teaching authority. 81

Within the Catholic school, the mission of teachers and educators was acknowledged as an apostolate. “The synod declares that the ministry of teachers is truly called an apostolate, one which is extremely suitable and necessary for our times, and at the same time a true service offered to society.” 82 “To this image of the Catholic school, all schools dependent on the Church in any way whatsoever ought to conform as far as possible, although the Catholic school can take on various forms according to local circumstances.” 83

80 GE 8, 734; Tanner, 2: 964. “Ecclesiæ præsentia in scholarum campo ostenditur peculiari ratione per scholarum catholicam. Ea quidem non minus quam alie scholæ finas culturales et humanam iuvenum formationem prosequitur. Proprium autem illius est communitatis scholaris ambitum, spiritu evangelico libertatis et caritatis animatum creare.”

81 GE 8, 735; Tanner, 2: 964. “Ita quidem schola catholica, dum progredientis ætatis condicionibus sicut oportet se aperit, suos alunos ad civitatis terrestris bonum efficaciter provehendum educat et ad servitium pro regno Dei dilitando preparat, ut exemplaris et apostolicae vitae exercitio salutare veluti fermentum humanæ communitatis efficiantur … Quare haec s. synodus ius ecclesia scholas cuisvis ordinis et gradus libere condendi atque regendi, in plurimis magisterii documentis iam declaratum, denuo proclamat.”

82 GE 8, 736; Tanner, 2: 965. “Horum magistrorum ministerium veri nominis apostolatum, nostris quoque temporibus maxime congruentem et necessarium s. synodus declarat, simulque verum servitium societati praestitum.”

83 GE 9, 736; Tanner, 2: 965. “Huic scholæ catholicae imagini omnes scholæ ab ecclesia quavis ratione dependentes pro viribus conformentur oportet, licet schola catholica pro locorum adiunctis varias formas induere possit.”
The declaration proceeded to institutions of higher education at the collegiate and university levels, discussing the role played by theologians and other professors in the continuing education of the People of God. At this level, just as the Church asserted the need for primary education, “The Church promotes with assiduous care schools of higher education, especially universities and faculties. Furthermore, indeed, in those which depend on the Church, it tries systematically to ensure that each subject of study should be treated according to its own proper principles, its proper method, and the proper freedom of scientific inquiry,” including theology. The Council Fathers declared,

In Catholic universities in which there exists no faculty of theology, let there be established an institute or chair of theology, where lectures are given which are suitable for lay students as well. Since academic disciplines make progress chiefly by research proper to them of deeper scholarly import, in Catholic universities and faculties let institutes be especially fostered which primarily serve the promotion of scholarly investigations. The Council aspired for not only the education of its faithful, but also for the continual renewal of its professorial and theologian ranks. Church leaders, pastors, and professors should engage in the responsibility of educating and look to increase their ranks. “Moreover, young people of greater ability, whether at Catholic or at other universities, who seem suitable for teaching and research, should receive special, careful attention and be encouraged to undertake a teaching

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84 GE 10, 736–737; Tanner, 2: 966. “Altioris ordinis pariter scholas, præsertim universitates et facultates ecclesia sedula prosequitur cura. Quin etiam in iis quae ab ipsa dependent, organica ratione intendit ut singulæ discipline propris principiis, propria metodo atque propria inquisitionis scientifïciâ libertate ita excolantur.”

85 GE 10, 737; Tanner, 2: 966. “In universitatibus catholicis in quibus nulla facultas s. theologiae exstet, institutum habeatur vel cathedra s. theologiae, in qua lectiones laiciis quoque alumnis accommodatae tradantur. Cum scientiæ per investigationes peculiares altioris scientifïci momenti præcipue proficiant, in universitatibus et facultatibus catholicis instituta maxime foveantur, que primario investigationi scientifïciâ promovendæ inserviant.”
career.” Finally, the declaration affirmed the desire for cooperation and coordination of the various elements of education within the Church, as the teaching function transcends borders and dioceses:

Cooperation at the diocesan, national and international levels is constantly being more strongly urged and is growing. Since it is also extremely necessary in the field of education, every effort must be made to see that suitable coordination is encouraged among Catholic schools, and that collaboration is promoted between them and other schools, which the common good of society requires.

James Conn, in reflecting on the importance of Gravissimum educationis, states,

It may be observed by way of conclusion to this discussion of the Council’s Declaration on Christian Education, that the Council Fathers seemed intent on avoiding juridical controversy in their statement on this subject, even though some juridical issues were raised during the course of their considerations on education. The most convincing reason for such reluctance on their part appears to be their concern for the regional differences in educational institutions and practices which would render universal legislation difficult to apply. Yet the tenor of the discussion at the Council surely did not exclude subsequent legislation. It merely emphasized the need for appropriate regional adaptation of general norms.

The norms and legislation surrounding Christian education were contained in numerous other conciliar texts. Furthermore, upon reading each text, it is evident that more rights and responsibilities than those listed in Gravissimum educationis are included within the broad scope of education.

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86 GE 10, 738; Tanner, 2: 967. “Iuvenes autem melioris ingenii sive catholicarum sive aliarum universitatum, qui ad docendum et investigandum apti videantur, peculiari cura excolantur et ad magisteria suscipienda promoveantur.”

87 GE 12, 738; Tanner, 2: 967. “Cum cooperatio, quæ in ordine diœcesano, nationali et internationali altius in dies urgetur et invalescit, etiam in re scholastica maxime sit necessaria, omni ope curandum est ut inter scholas catholicas apta foveatur coordinatio, atque inter easdem ceterasque scholas provehatur collaboratio, quam universæ hominum communitatis bonum requirit.”

88 Conn, Catholic Universities in the United States and Ecclesiastical Authority, 88.
The Conciliar Vision of the Theologian within Catholic Education

The theologian is a human person endowed with reason and converted by the infused virtue of faith, a member of the Church through baptism, who methodically and critically studies and explains the Christian faith. This is our sparsest description of the theologian from the explanations offered by Rahner and Lonergan. This description from a theological perspective is important for our study since there is no description of the theologian from the canonical perspective. The theologian, specifically as theologian, does not possess an officium ecclesiasticum nor an explicit status ecclesiasticus. The theologian may be a cleric, religious or lay person and may hold any or none of a number of ecclesiastical offices. The rights and responsibilities of the theologian, therefore, can be delineated only by studying the rights and responsibilities attached to the three elements of our theological definition—personhood, Christian identity, academic functions.⁸⁹

While John Alesandro wrote this paragraph regarding the rights and responsibilities of theologians within the entire corpus of canon law and its documents, this statement can also be attributed to the position of theologians within the documents of the Second Vatican Council. The Council issued no text that discussed the specific role played by theologians, yet it is still possible, as Alesandro explained, to present descriptions of the conciliar view of the components that can be combined to create the “definition” of the theologian within the Church.

Even though Lumen gentium was primarily concerned with the role played by the bishop and in specific articles with the teaching office of the bishop, it also extended the teaching function of the Church to allow greater lay participation. Article 35 for example stated,

Christ, the great prophet, who by the witness of his life and the power of his word, proclaimed the Father’s kingdom, continues to carry out his prophetic task, under the full manifestation of his glory, not only through the hierarchy who teach in his name and by his power, but also through the laity whom he constitutes his witnesses and equips with an understanding of the faith and a grace of speech (see Acts 2:17-18, Revelation 19:10) precisely so that the power of the gospel may shine forth in the daily life of family and society.⁹⁰


⁹⁰ Second Vatican Council, Dogmatic Constitution on the Church Lumen gentium, November 21, 1964, AAS 57 (1965) 5–67. English translation is from Tanner, 849–900. All subsequent English translations from this
The role played by the laity as teacher is always exercised in direct relation to the authentic teachers of the Church, namely the bishops as “sacred pastors,” and the laity must remain in that relationship for a proper expression of their teaching role. As *Lumen gentium* 37 explained this synthesis,

The laity have the right, as do all the faithful, to receive abundant help from the sacred pastors out of the spiritual goods of the Church, especially the help provided by the word of God and the sacraments, and they should make known to these pastors their needs and desires with that freedom and confidence which befits children of God and sisters and brothers in Christ. In accordance with the knowledge, competence or authority that they possess, they have the right and indeed sometimes the duty to make known their opinion on matters which concern the good of the Church. If possible this should be done through the institutions set up for this purpose by the Church; and it should always be done with respect for the truth, with courage and with prudence, and in a spirit of reverence and love towards those who by reason of their sacred office represent Christ. The laity, like all the faithful, should be prompt to accept in a spirit of Christian obedience those decisions that the sacred pastors make as teachers and governors of the Church and as representatives of Christ. … [T]he sacred pastors are to acknowledge and promote the dignity and the responsibility of the laity in the Church; they should willingly make use of their prudent counsel; they should confidently entrust to them offices in the service of the Church and leave them freedom and space to act.91

While it does not have the capacity to act as authentic teachers of the Roman Catholic Church, one that is reserved to the bishops by virtue of their ordination as successors of the Apostles, the laity

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91 *LG* 37, 42–43; Tanner, 2: 879. “Laici, sicut omnes christifideles, ius habent ex spiritualibus ecclesiae bonis, verbi Dei præsertim et sacramentorum adiumenta a sacrís Pastoribus abundanter accipienda, hisque necessitates et optata sua ea libertate et fiducia, quæ filios Dei et fratres in Christo decet, paterfaciant. Pro scientia, competencia et præstantia quibus pollent, facultatem, immo aliquando et officium habent suam sententiam de iis quæ bonum ecclesiae respiciunt stabilita, et semper in veracitate, fortitudine et prudentia, cum reverentia et caritate erga illos, qui ratione sacri sui munieris personam Christi gerunt. Laici, sicut omnes christifideles, illa quæ sacri Pastores, utpote Christum representantes, tanquam magistri et rectores in ecclesia statuunt, christianæ obedientia prompte amplectuntur … Sacri vero pastores laicorum dignitatem et responsabilitatem in ecclesia agnoscant et promoveant: libenter eorum prudenti consilio utantur, cum confidencia eis in servitium ecclesiae officia committant et eis agendi libertatem et spatium relinquant, immo animum eis addant, ut etiam sua sponte opera aggreduantur.”
can act within certain offices of the Church. These offices serve as an acknowledgment by the pastors of the Church of the “dignity and responsibility” of the laity, including a responsibility to teach.

*The Pastoral Constitution on the Church in the Modern World Gaudium et spes*

*Gaudium et spes,*\(^92\) the *Pastoral Constitution on the Church in the Modern World,* continued the themes of both *Lumen gentium* and *Gravissimum educationis* concerning the varied roles played by the laity in teaching. Repeating an image first used in *Lumen gentium,* *Gaudium et spes* asserted,

> The laity may expect enlightenment and spiritual help from the clergy. But they should not consider that their pastors always have the expertise needed to provide a concrete and ready answer to every problem which arises, even the most serious ones, or that this is their mission. The laity, as enlightened with Christian wisdom and paying careful attention to the teaching of the Magisterium, have their own part to play.\(^{93}\)

Furthermore, the Pastoral Constitution expanded the role of the theologian, especially as it concerns the place of the Church within modern society. “It is for God’s people as a whole, with the help of the Holy Spirit, and especially for pastors and theologians, to listen to the various voices of our day, discerning them and interpreting them, and to evaluate them in the light of the divine word, so that the revealed truth can be increasingly appropriated, better understood and more

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\(^92\) Second Vatican Council, *Pastoral Constitution on the Church in the Modern World Gaudium et spes,* December 7, 1965, *AAS* 58 (1966) 1025–1115. English translation is from Tanner, 1069–1135. All subsequent English translations from this document will be taken from this source unless otherwise indicated. All further references to this document will be labeled *GS*.

\(^93\) *GS* 43, 1062–1063; Tanner, 2: 1097. “*Asacerdotibus vero laici lucem ac vim spiritualem exspectent. Neque tamen ipsi censeant pastores suas semper adeo peritos esse ut, in omni questione exsurgente, etiam gravi, solutionem concretam in promptu habere queant, aut illos ad hoc missos esse: ipsi potius, sapientia christiana illustrati et ad doctrinam magisterii observanter attendentes, partes suas proprias assumant.*"
suitably expressed.”\textsuperscript{94} It is in this role, that theologians help express the revealed truth of their faith in the light of the “signs of the times.”

To accomplish this task, \textit{Gaudium et spes} stressed the importance of the independence and freedom of cultural development. Specifically,

Since culture flows immediately from the rational and social nature of human beings, it continually requires the just freedom to develop and the legitimate opportunity for independence according to its own principles. It rightly calls for respect and enjoys a certain inviolability, without prejudice to the rights of the person and of the particular and general community within the bounds of the common good.\textsuperscript{95}

The Council Fathers placed academic endeavors within the bounds of the common good, following a pattern of education first begun by the document \textit{Gravissimum educationis}. Article 62 of \textit{Gaudium et spes} is directed specifically towards those who teach the sacred disciplines in colleges, universities, and seminaries and their dialogue with other branches of the sciences. The Fathers wrote that there is a responsibility for researchers to respect the work performed by colleagues in other sciences:

Those who are engaged in the theological disciplines in seminaries and universities should aim to collaborate and cooperate with experts in the other sciences. Theological investigation should pursue a deep knowledge of revealed truth, while not disregarding the connection with its own day, so that it can help those educated in the various disciplines to gain a fuller knowledge of the faith. This shared activity will be of great benefit for the formation of sacred ministers, enabling them to explain the Church’s teaching on God, humanity and the world more appropriately.

\textsuperscript{94} GS 44, 1065; Tanner, 2: 1098. “\textit{Totius populi Dei est, præsertim pastorum et theologorum, adiuvante Spiritu sancto, varias loquelas nostri temporis auscultare, discernere et interpretari easque sub lumine verbi divini diiudicare, ut revelata veritas semper penitius percipi, melius intelligi aptiusque proponi possit.”

\textsuperscript{95} GS 59, 1080; Tanner, 2: 1109. “\textit{Cultura enim, cum ex hominis indole rationali et sociali immediate fluat, indesinenter indiget iusta libertate ad sese explicandam atque legitima, secundum propria principia, sui iuris agendi facultate. Iure merito ergo postulat reverentiam et quadam gaudet inviolabilitate, servatis utique iuribus personæ et communitatis, sive particularis sive universalis, intra fines boni communis.”
to our contemporaries, so that they may be the more willing to receive the word of
God.  

Furthermore, education cannot be reserved for the formation of ordained ministers:

In fact, it is to be desired that more lay people will receive more appropriate
formation in the sacred disciplines and that many of them will devote themselves
in pursuing these studies and developing them. So that they can discharge their task,
it should be recognized that the faithful, clerical as well as lay, have a just freedom
of inquiry, of thought and of humble and courageous expression in those matters in
which they enjoy competence.”  

The Council Fathers were careful to emphasize that the exercise of freedom must be in the context
of communion with the Church, especially through the statements of its hierarchy. Here, the
academic roots of all theology in magisterial teaching are re-emphasized. The footnote appearing
at the end of Article 62 referred back to Lumen gentium 37 and its requirement that “the laity, like
all the faithful, should be prompt to accept in a spirit of Christian obedience those decisions that
the sacred pastors make as teachers and governors of the Church and as representatives of
Christ.”

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96 GS 62, 1084; Tanner, 2: 1112–1113. “Qui theologicis disciplinis in seminariis et studiorum
universitatibus incumbunt, cum hominibus qui in aliis scientiis excellunt, collatis viribus atque consiliis, cooperari
studeant. Theologica inquisitio insimul profundam veritatis revelatæ cognitionem prosequatur et conjunctionem
cum proprio tempore ne negligat, ut homines variis disciplinis excultos ad pleniorem fidei scientiam iuvare possit.
Hæc socia opera plurimum proderit institutioni sacrorum ministrorum qui ecclesiae doctrinam de Deo, de homine et
de mundo aptius coevis nostris explanare poterunt, ita ut verbum illud etiam libentius ab eis suscipiatur. Immo
optandum ut plures laici congruam in disciplinis sacris institutionem adipiscantur, nec pauci inter eos hæc studia,
data opera, colant et altius producant.”

97 GS 62, 1084; Tanner, 2: 1113. “Ut vero munus suam exercere valeant, agnoscatur fidelibus, sive clericis
sive laicos, iusta libertas inquirendi, cogitandi necnon mentem suam in humilitate et fortitudine aperiendi in iis in
quibus peritia gaudent.”

98 LG 37, 43; Tanner, 2: 879. “Laici, sicut omnes christifideles, illa quæ sacri Pastores, utpote Christum
repreäsentatós, tanquam magistri et rectores in Ecclesia statuunt, christianæ oboedientia prompte amplementantur.”
Both of these conciliar decrees addressed the role played by the laity within the teaching function of the Church and specifically manifested in higher education. *Apostolicam actuositatem* placed the diversity of ministry in its proper perspective, using language taken up by *Gaudium et spes*, in describing all ministries of the laity as contained within the baptismal call of members of the Catholic Church:

In the Church, there is diversity in ministry but unity in mission. The office and power of teaching in the name of Christ, of sanctifying and ruling, were conferred by him on the apostles and their successors. Laypeople, sharing in the priestly, prophetic and kingly offices of Christ, play their part in the mission of the whole people of God in the Church and in the world. They truly exercise their apostolate by labors for evangelizing and sanctifying people, and by permeating the temporal order with the spirit of the gospel and so perfecting it; thus their labors in this order bear clear witness to Christ and serve the salvation of humanity.

Perhaps more significant than the description of the various forms of ministry exercised by the laity within the purview of their baptismal character is the possibility of linking their ministry directly to the office and apostolic character of the bishop. As *Apostolicam actuositatem* explained in Article 24,

Some forms of lay apostolate are explicitly recognized by the hierarchy, in various ways.

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99 Second Vatican Council, Decree on the Apostolate of the Laity *Apostolicam actuositatem*, November 18, 1965, *AAS* 58 (1966) 837–864. English translation is from Tanner, 981–1001. All subsequent English translations from this document will be taken from this source unless otherwise indicated. All further references to this document will be labeled AA.

100 AA 2, 838–839; Tanner, 2: 982. “*Est in ecclesia diversitas ministerii, sed unitas missionis. Apostolis eorumque successoribus a Christo collatum est munus in ipsius nomine et potestate docendi, sanctificandi et regendi. At laici, muneris sacerdotalis, prophetici et regalis Christi participes effecti, suas partes in missione totius populi Dei explent in ecclesia et in mundo. Apostolatum reapse exercent sua operositate ad evangelizacionem ac sanctificationem hominum et ad rerum temporalium ordinem spiritu evangelico perfundendum ac perficiendum, ita ut eorum operositatis in hoc ordine testimonium Christi manifeste perhibeat et ad salutem hominum inserviat.*”
Thus, the hierarchy, to put order into the apostolate as circumstances may demand, can unite some form of it more closely to its own apostolic function, while preserving the nature of each and the distinction between them; in this way, the necessary freedom of laypeople to act on their own accord is not lost. This act on the part of the hierarchy is called a mandate in some Church documents.\textsuperscript{101}

The mandate, however, is not the only possibility for establishing a closer link between the laity and the bishop in the realm of teaching. As Article 24 continued, “the hierarchy may entrust laypeople with certain functions closely connected with their own pastoral office, as in teaching Christian doctrine, certain liturgical actions and care of souls.”\textsuperscript{102} \textit{Apostolicam actuositatem} thereby envisioned that the activities of the laity should not be coordinated only through the guidance of the diocesan bishop and a mandate granted by that same bishop. It can also be included into the pastoral office itself when the demands of the diocese warrant such an action. This inclusion is not limited to teaching but could also encompass certain liturgical functions and the salvation of souls, a nebulous and undefined expression that allowed for other tasks as the situation warranted. These possibilities emerged in \textit{Apostolicam actuositatem} Article 30 and \textit{Ad gentes}.\textsuperscript{103} Article 41:

It is also for schools, colleges and other Catholic institutions of education to foster a Catholic sense and apostolic action in young people. If these means of formation

\textsuperscript{101} AA 24, 857; Tanner, 2: 996. “\textit{Quædam laicorum apostolatus formæ, variis quidem modis, ab hierarchia explicite agnoscantur. Ita hierarchia, apostolatum iuxta adiuncta diversimode ordinans, aliquam eius formam cum suo proprio munere apostolico arctius coniungit, servata tamen utriusque propria natura et distinctione, nec proinde laicorum ablata necessaria facultate sua sponte agendi. Qui actus hierarchiæ in variis documentis ecclesiasticis mandatum appellatur.”}

\textsuperscript{102} AA 24, 857; Tanner, 2: 996. “\textit{Denique hierarchia laicis munia quædam committit, quæ propius cum officiis pastorum coniuncta sunt, ut in propositione doctrinæ christianæ, in quibusdam actibus liturgicis, in cura animarum.”}

\textsuperscript{103} Second Vatican Council, Decree on the Missionary Activity of the Church \textit{Ad gentes}, December 7, 1965, \textit{AAS} 58 (1966) 947–990. English translation is from Tanner, 1011–1042. All subsequent English translations from this document will be taken from this source unless otherwise indicated. All further references to this document will be labeled \textit{AG}. 
are lacking because young people do not go to such schools or for any other reason, then parents, pastors and apostolic associations have all the greater responsibility. Teachers and educators, themselves exercising by vocation and office an outstanding form of lay apostolate, should be equipped with the necessary learning and teaching skill to carry out this training effectively.\textsuperscript{104}

Worthy of special praise are those lay people who, in universities and scientific institutes, promote through their historical and scholarly investigations the knowledge of peoples and religions. In this way they are of assistance to the heralds of the gospel and prepare the way for dialogue with non-Christians.\textsuperscript{105}

In order to discharge all these tasks, laypeople are in need of the necessary and spiritual preparation, which should be imparted in institutes set up for this purpose, so that their life may be a witness for Christ among non-Christians, in accordance with the words of the Apostle: “Give no offense to Jews or to gentiles or to the Church of God, just as I try to please everybody in everything I do, not seeking my own advantage, but that of many, that they may be saved. (1 Corinthians 10:32-33)\textsuperscript{106}

Joseph George summarized the placement of these freedoms elaborated in \textit{Apostolicam actuositatem}, \textit{Ad gentes}, \textit{Gaudium et spes}, and \textit{Lumen gentium} as part of the role of the bishop as Apostle within the diocese, but with a necessary caveat. As George wrote,

The freedom which is necessary for laymen to give effective witness is only as complete as the freedom of the bishop to shepherd his flock and to make an honest judgment of the gifts of his people. The right of the bishop to exercise his jurisdiction without unnecessary intervention has, as one of its basic reasons, the

\textsuperscript{104} AA 30, 861; Tanner, 2: 999. “Scholarum quoque, collegiorum aliarumque institutionum catholicarum formationi inservientium est in iuvenibus sensum catholicum et actionem apostolicam fovere. Quæ formatio si deficit, vel quia illas scholas iuvenes non frequentant, vel alia de causa, eo magis de ea curent parentes et animarum pastores et consociationes apostolicae. Magistri vero et educatores qui vocatione sua et officio formam egregiam apostolatus laicorum exercent, doctrina necessaria et arte pædagogica imbuti sint, quibus hanc institutionem efficaciter tradere valeant.”

\textsuperscript{105} AG 41, 989; Tanner, 2: 1042. “Peculiari laude digni sunt illi laici qui, in universitatis vel institutis scientificis, suis investigationibus historicis vel scientifico–religiosis cognitionem populorum et religionum promovent, evangelii praecones adiuvando, et dialogum cum non–christianis preparando.”

\textsuperscript{106} AG 41, 989; Tanner, 2: 1042. “Ad hæc omnia munera obeunda, necessaria indigent laici preparatione technica et spirituali, quæ in institutis ad hoc destinatis dari debet, ut eorum vita testimonium inter non–christianos pro Christo sit, secundum verbum apostoli: “Sine oppositione estote Judaïcis et gentibus et ecclesie Dei; sicut et ego per omnia omnibus placeo, non querens quod mihi utile est, sed quod multis, ut salvi fiant.” (1 Cor 10:32–33)”.

right of the individual to pursue his sanctification and participate in the mission of the Church.  

**Conclusion**

The Second Vatican Council subscribed to two different models of the church: the first based on the People of God as communion, the second as an institutional or hierarchical model, and each of these two models influenced the development of specific roles regarding teaching. The theologian and university professor John Boyle maintained a negative perspective as to the “institutional” model, while the communion model reflected an organizational system that produced the most efficiency and effectiveness. As he wrote,

> The institutional model suffers from its view which places grace and truth first in the hands of the episcopal college and views their function as that of dispensing this grace and truth to the rest of the church. It also suffers from a kind of unreality, because it ignores the fact that popes and bishops regularly use the work of theologians in the development and dissemination of their teaching.

> The communion model, on the other hand, respects the role of bishops, their special gifts and their needs as members of the community of faith, while placing greater emphasis on their bonds to other members of the community, including theologians.

Boyle developed a working relationship between bishop and theologian that closely resembled subsidiary function, where the bishop allowed the theologian to work as an assistant in the teaching office, thereby recognizing his unique role within the People of God and giving him a level of freedom and independence necessary for the successful accomplishment of his baptismal

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vocation. Writing in 1980, Boyle pointed out that, in the fifteen years after the Second Vatican Council,

Preaching and teaching are not the principal function of bishops today. They are much more caught up in the problems of administering their diocese than they are in preaching. Most theology is done not by bishops but by scholars specially trained for that work and carrying on their work in seminaries, colleges or universities. Indeed it illustrates nicely the diversity of role relationships that the communion model illuminates as integral to the life of the Church. 109

The *communio* model, Boyle concluded, demands further development and modification concerning the principles of “diversity, subsidiarity and shared responsibility that leave intact the church’s concern for the integrity of doctrine, the special duties of bishops, and respect for the rights and professional competence of theologians.” 110

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110 Ibid., 25.
While the Second Vatican Council promulgated the document *Gravissimum educationis*, it did not seek to reform the Catholic higher educational system. The Council Fathers called for improvements in Catholic colleges and universities so that they could respond to the challenges of the time, while also continuing to reflect an authentic Catholic identity. In the meantime, the Apostolic Constitution *Deus scientiarum Dominus* continued to govern institutions of higher education. The problem with this document, however, was that because of the uncertainty surrounding the scope of the constitution as it concerned colleges and universities throughout the world, some of its tenets were not enforced in the universities themselves.

After the close of the Council, the Holy See in May 1968 took the temporary measure of introducing the document *Normæ Quædam ad Constitutionem Apostolicam “Deus scientiarum Dominus” de Studiis Academicis Ecclesiasticis Recognoscendam*. This document served as a set of experimental guidelines for Catholic universities that combined the content of *Deus scientiarum Dominus* with the theological framework expressed in *Gravissimum educationis* and *Gaudium et spes*. Under this document, Catholic colleges and universities could create special statutes and bylaws for their pontifical schools. It also reasserted the idea contained in *Deus scientiarum Dominus* that university professors do not act as teachers under their own authority and in their own name, especially in the case of the disciplines of theology, philosophy and canon law, but rather act through the mission they received from the Magisterium.

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In the meantime, Pope Paul VI intended to continue the work of the Council by developing an apostolic constitution that built upon the conciliar declaration *Gravissimum educationis*. The regulations in development for this constitution, however, remained focused on ecclesiastical faculties and universities, following the models of both the *Codex Iuris Canonici* and *Deus scientiarum Dominus*. The Sacred Congregation for Catholic Education dialogued with Catholic universities throughout the world, listened to their concerns, raised concerns held in Rome, and moved towards an acceptable working definition for what it called a “Catholic university.” In 1979, following closely upon the deaths of both Paul VI and his successor John Paul I the previous year, the recently elected John Paul II published the Apostolic Constitution *Sapientia Christiana* addressed specifically to ecclesiastical faculties and universities whose degrees are bestowed by pontifical authority. Accompanying this document was a set of norms published by the Sacred Congregation for Catholic Education spelling out the application of the document for these faculties and universities. While this constitution, like its predecessor *Deus scientiarum Dominus*, concerned itself with a minor segment of the Catholic higher education institutions worldwide, *Sapientia Christiana* represented the beginning of a process that would touch all Catholic colleges and universities.

**Sapientia Christiana**

*Sapientia Christiana* abrogated both *Deus scientiarum Dominus* and the *Normæ Quedam* but retained some elements that John Paul II believed remained valid in higher education. The

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purpose of the document is simply stated in its foreword. Quoting *Gravissimum educationis*, John Paul II reaffirmed the necessity in ecclesiastical faculties and universities

To explore more profoundly the various areas of the sacred disciplines so that day by day a deeper understanding of sacred revelation will be developed, the heritage of Christian wisdom handed down by our ancestors will be more plainly brought into view, dialogue will be fostered with our separated brothers and sisters and with non-Christians, and solutions will be found for problems raised by doctrinal progress.113

The theologians who engage in this work at a university,

Are also encouraged to seek a more suitable way of communicating doctrine to their contemporaries working in other various fields of knowledge, for “the deposit of faith, or the truths contained in our venerable doctrine, is one thing; quite another is the way in which these truths are formulated, while preserving the same sense and meaning.” This will be very useful so that among the People of God religious practice and uprightness of soul may proceed at an equal pace with the progress of science and technology, and so that, in pastoral work, the faithful may be gradually led to a purer and more mature life of faith.114

Furthermore, in keeping with the mission of the Church to teach and evangelize, the Holy See,

Is clearly aware of its right and duty to erect and promote Ecclesiastical Faculties dependent on itself, either with a separate existence or as parts of universities, Faculties destined for the education of both ecclesiastical and lay students. This See is very desirous that the whole People of God, under the guidance of their Shepherds, should cooperate to ensure that these centers of learning contribute effectively to the growth of the faith and of Christian life.115

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113 *SC Proœmium* III, “varias sacrarum disciplinarum regiones altius pervestigare ita ut profundior in dies Sacrá Revelationis intellectus obtineatur, dialogus cum fratribus seiunctis et cum non christianis promoveatur atque questionibus a doctrinarum progressu exortis respondeatur.”

114 Ibid. “Ipsis consuetudine incitantur quoque theologi ad aptiorem modum inquirendum doctrinam communicandi cum coevis hominibus in diversis culturis versantibus; etenim “aliud est ipsum depositum fidei, seu veritates quae veneranda doctrina nostra continentur, aliud modus quo eadem enuntiantur, eodem tamen sensu eademque sententia.”Quod valde iuvabit ut in populo Dei religionis cultus animique probitas pari gressu procedant cum scientiarum et technicarum artium progressu, atque in cura pastorali fideles ad purorem et matuorem fidei vitam gradatim ducantur.”

115 Ibid. “Ius et officium persentit Facultates Ecclesiasticas erigendi ac promovendi, qua ex ipsa pendeant, sive separatim existentes sive in Universitates insertae, ad sacrorum alumnos necnon ad laicos studentes destinatae,
Within the Church’s varied ministries of evangelization, John Paul II emphasized the role of teachers in universities:

Teachers are invested with very weighty responsibility in fulfilling a special ministry of the word of God and in being instructors of the faith for the young. Let them, above all, therefore be for their students, and for the rest of the faithful, witnesses of the living truth of the Gospel and examples of fidelity to the Church. It is fitting to recall the serious words of Pope Paul VI: “The task of the theologian is carried out with a view to building up ecclesial communion so that the People of God may grow in the experience of faith.”

Therefore, with the importance of ecclesiastical universities and faculties thus explained, John Paul II presented the reforms of Sapientia Christiana as a necessary stage in the renewal of Catholic education:

Since however there exists ecclesiastical faculties throughout the world, which are erected and approved by the Holy See and which grant academic degrees in its name, it is necessary that a certain substantial unity be respected and that the requisites for gaining academic degrees be clearly laid down and have universal value. Things which are necessary and which are foreseen as being relatively stable must be set down by law, while at the same time a proper freedom must be left for introducing into the statutes of the individual faculties further specifications. In this way, legitimate progress in academic studies is neither hindered nor restricted, but rather is directed through right channels towards obtaining better results. Moreover, together with the legitimate differentiation of the faculties, the unity of the Catholic Church in these centers of education will also be clear to everyone.

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116 SC Proemium IV, “Docentes imprimis, graviore responsabilitate instructi, utpote qui peculiariter Verbi Dei ministerium obeant sintque iuvenibus magistri fidei, sint pro studentibus ceterisque Christi fidelibus vivae veritatis evangelicae testes necnon fidelitatis erga Ecclesiam exempla. Expedit quidem ad rem graviora Pauli Papæ VI verba memorare: 'Theologi munus exercetur ad communionis ecclesialis adficationem, ut populus Dei in fidei experientia crescat.’”

117 SC Proemium VI, “Attamen, cum ubique terrarum Facultates Ecclesiasticæ habeantur, quæ a Sancta Sede erectæ vel approbata sint, et nomine eiusdem Apostolicae Sedis gradus academicos conferant, necesse est ut Quedam substantialis unitas servetur et res requisitæ ad gradus academicos consequendos clare determinantur et ubique vigant. Curandum sane est, ut ea, quæ necessaria sint queaque satis stabilia fore prævideatur, lege statuantur, simulque congrua relinquitur libertas ut in propris singularum Facultatum Statutis ulterius res definiantur, ratione habita regionum adiunctorum et universitatum usus in unaquaque regione vigentis. Hoc modo legitimus studiorum academicorum progressus non impeditur nec coarctatur, sed potius recta semita dirigitur quo..."
Many of the rules on academic governance set down in *Sapientia Christiana* are taken directly from *Deus scientiarum Dominus*, such as those referring to the officials of the ecclesiastical university and their obligations. Extensive material is devoted to the studies at the university, including academic degrees, study programs, teaching materials and student enrollment. Most importantly for the scope of this dissertation remains Section II, “The Academic Community and its Government,” and Section III, which addresses the function of teachers in the ecclesiastical faculty.

Articles 10 to 21 discuss the administration of the ecclesiastical university or faculty. Following the example of *Deus scientiarum Dominus*, *Sapientia Christiana* grants the Chancellor an important function within the university, as “The Chancellor represents the Holy See to the university or faculty and equally the university or faculty to the Holy See. He promotes the continuation and progress of the university or faculty and he fosters its communion with the local and universal Church.”\(^{118}\) The Chancellor is normally “the Prelate Ordinary on whom the university or faculty legally depends, unless the Holy See established otherwise,”\(^{119}\) and in these latter cases, “If the Chancellor is someone other than the local Ordinary, statutory norms are to establish how the Ordinary and the Chancellor carry out their respective offices in mutual

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\(^{118}\) *SC* I, II, 12, “*Magnus Cancellarius Sanctam Sedem representat apud Universitatem vel Facultatem parterque hanc apud Sanctam Sedem, eius conservationem atque progressum promovet, communionem foveat cum Ecclesiae particulari et universalis.*”

\(^{119}\) *SC* I, II, 13 §1. “*Praelatus Ordinarius e quo Universitas vel Facultas iure pendent, nisi Apostolica Sedes aliter statuerit.*”
This position of Chancellor differs from Rector or President in that the Rector (rector) or President (præses), after being “named, or at least confirmed, by the Sacred Congregation for Catholic Education” “has the duty to govern the entire university and to promote, in a suitable way, its unity, cooperation and progress.”

Articles 22 through 30 deal with the role of the teacher in the university, describing not only the important function they play in the life of the academic institution, but also the qualifications necessary to assume that position. Article 25 lays the academic and educational groundwork for professorial candidates, which include a “wealth of knowledge, witness of life and a sense of responsibility,” “a suitable doctorate or equivalent title or exceptional and singular scientific accomplishment,” “documentary proof of suitability for doing scientific research, especially by a published dissertation,” and perhaps most importantly, the ability to “demonstrate teaching ability.”

Furthermore, Article 26 states,

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120 SC I, II, 14, “Si Magnus Cancellarius sit alius ab Ordinario loci, normæ statuantur, quibus uterque proprium munus concorditer implere valeat.”


122 SC I, II, 18, “a Sacra Congregatione pro Institutione Catholica nominantur vel saltem confirmantur”

123 SC I, II, 19 §2. “quippe qui officium totam Universitatem moderandi habeat atque aptis modis eius unitatem, cooperationem, progressum promovendi.”

124 SC I, III, 25 §1, 1º, “doctrinae copia, vitæ testimonio et responsabilitatis sensu perspectus sit;”

125 SC I, III, 25 §1, 2º, “doctoratu congruenti vel æquipollenti titulo aut prorsus singularibus meritis scientificis præditus sit;”

126 SC I, III, 25 §1, 3º, “certis documentis, speciatim dissertationibus publici iuris factis, ad investigationem scientifica, idoneum se probaverit;”

127 SC I, III, 25 §1, 4º, “pædagogicam habilitatem ad docendum demonstrat.”
§1. All teachers of every rank must be marked by an upright life, integrity of doctrine, and devotion to duty, so that they can effectively contribute to the proper goals of an ecclesiastical faculty.

§2. Those who teach matters touching on faith and morals are to be conscious of their duty to carry out their work in full communion with the authentic Magisterium of the Church, above all, with that of the Roman Pontiff.128

To guarantee that full communion between Magisterium and professors, Sapientia Christiana re-introduced a tool overlooked by the Normæ Quædam of 1968, namely the canonical mission. The missio canonica, following upon the requirements for professorial suitability given in Article 26 §1, became the final condition for entrance into an established ecclesiastical office. After judging the worthiness of an individual to engage in this ministry within the Church, the missio canonica is the formal recognition by the Magnus Cancellarius of the professor’s participation within the teaching mission of the Church. Such recognition is formalized through a juridical document granted by that same competent ecclesiastical authority giving the responsibility to fulfill a specific task in the name of the Church.

If one used the description given by James Conn,129 Sapientia Christiana in its Article 27 repeated the actions taken by Deus scientiarum Dominus, and the professor thereby gained an ecclesiastical office.130

128 SC I, III, 26 §1. “Omnes cuiusvis generis docentes vitæ probitate, doctrinæ integritate ac muneris diligentia iugiter præditi sint ut ad finem Facultatis Ecclesiasticae proprium efficaciter conferre valeant. §2. Qui docent res ad fidei vel mores spectantes, conscii sint oportet hoc munus excludendum esse in plena communione cum authentico Magisterio Ecclesiae, imprimis Romani Pontificis.”

129 For the definition used by Conn, see Catholic Universities in the United States and Ecclesiastical Authority, 35.

130 This definition of ecclesiastical office considers the Pio–Benedictine Code as its source since this code was in force at the promulgation of Sapientia Christiana. For a detailed description of ecclesiastical office and its juridic nature in the 1983 Code of Canon Law, see Juan Ignacio Arrieta, Governance Structures within the Catholic
§1. Those who teach disciplines concerning faith or morals must receive, after making their profession of faith, a canonical mission from the Chancellor or his delegate, for they do not teach on their own authority but by virtue of the mission they have received from the Church. The other teachers must receive permission to teach from the Chancellor or his delegate.

§2. All teachers, before they are given a permanent post or before they are promoted to the highest category of teacher, or else in both cases, as the statutes are to state, must receive a declaration of nihil obstat from the Holy See.131

At the end of the constitution, and in following the directives found in Article 10,132 the Sacred Congregation for Catholic Education included its norms of application for the correct implementation of Sapientia Christiana. Article 8 of these norms includes a detailed description of the duties of the university Chancellor:

The duty of the Chancellor is:

1º to promote continually the progress of the university or faculty, to advance scientific progress, to ensure that Catholic doctrine is integrally followed, and to enforce the faithful implementation of the statutes and prescriptions of the Holy See;

2º to help ensure close relationships between all the different ranks and members of the community;

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131 SC I, III, 27 §1–2. “Those who teach disciplines concerning faith or morals must receive, after making their profession of faith, a canonical mission from the Chancellor or his delegate, for they do not teach on their own authority but by virtue of the mission they have received from the Church. The other teachers must receive permission to teach from the Chancellor or his delegate.” §2. “All teachers, before they are given a permanent post or before they are promoted to the highest category of teacher, or else in both cases, as the statutes are to state, must receive a declaration of nihil obstat from the Holy See.” (“§1. Missionem canonicam a Magno Cancellario, vel ab eius delegato, accipere debent, professione fidei peracta, qui disciplinas ad fidel vel mores spectantes docent; non enim propria auctoritate docet, sed vi missionis ab Ecclesia acceptae. Ceteri vero docentes a Magno Cancellario, vel ab eiusmodi delegato, veniam docendi accipere debent. §2. Docentes omnes, antequam munetis stabilis collationem accipient vel antequam ad superum ordinem didacticum promoveantur, vel in utroque casu, prout in Statutis definiatur, declaratione “Nihil obstat” Sanctae Sedis indigent.”)

132 SC I, I, 10. “For the correct carrying out of the present Constitution, the Norms of Application issued by the Congregation for Catholic Education (for Institutes of Study) must be observed.” (“Ad hanc Constitutionem rite exsequendam serventur Ordinationes Sacrae Congregationis pro Institutione Catholica.”)
3° to propose to the Sacred Congregation for Catholic Education the names of those who are to be nominated or confirmed as Rector and President, as well as the names of the teachers for whom a nihil obstat is to be requested;

4° to receive the profession of faith of the Rector and President;

5° to give to or take away from the teachers the canonical mission or permission to teach, according to the norms of the Constitution;

6° to inform the Sacred Congregation for Catholic Education about more important matters and to send to that Congregation every three years a detailed report on the academic, moral, and economic condition of the university or faculty. ¹³³

In addition, in those universities where the diocesan bishop does not hold the title of Chancellor, he still maintains vigilance over the university:

The local Ordinary, if he is not the Chancellor, since he has the pastoral responsibility for his diocese, is, whenever something in the university or faculty is known to be contrary to doctrine, morals, or ecclesiastical discipline, to take the matter to the Chancellor so that the latter may take action. In case the Chancellor does nothing, the Ordinary may have recourse to the Holy See, without prejudice to his own obligation to provide personally for action in those cases which are more serious or urgent and which carry danger for his diocese. ¹³⁴

¹³³ Congregation for Catholic Education (for Institutes of Study), Ordinationes ad Constitutionem Apostolicam ‘Sapientia Christiana’ Rite Exsequendam, AAS 71 (1979), 500–521 (henceforth Ordinationes) I, II, 8, “Ad Magni Cancellarii munus pertinent: 1º Universitatem vel Facultatem constanter provehere, scientificam navitatem promovere et curare, ut doctrina catholica integra servetur atque Statuta et præscripta Sanctæ Sedis fideliter impleantur; 2º communionem iovere inter omnia communiiatis membra; 3º proponere Sacræ Congregationi pro Institutione Catholica nomina sive illius, qui Rector vel Prases nominandus vel confirmandus sit, sive docentium, pro quibus declaratio “Nihil Obstat”postuletur; 4º professionem fidei Rectoris vel Præsidis accipere; 5º veniam docendi vel missioniem canonicam docentibus conferre vel auferre ad normam Constitutionis; 6º Sacram Congregationem pro Institutione Catholica de rebus gravioribus certiorem facere, eique singulis trienniis accuratam relationem de statu academico, moralii et economico Universitatis vel Facultatis mittere.” English translation is from the Holy See website, https://www.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp–ii_apc_15041979_sapientia–christiana.html. All subsequent English translations from this document will be taken from this source unless otherwise indicated.

¹³⁴ Ordinationes I, II, 10, “Ordinarius loci, qui non sit Magnus Cancellarius, eo quod vita pastoralis in sua dioecesi responsabilitatem habet, cum commeret quedam in Universitate vel Facultate fieri contra doctrinam vel mores vel ecclesiasticam disciplinam, Magnum Cancellarium certiorem faciat ut provideat; si Magnus Cancellarius non providerit, patet recursus ad Sanctam Sedem, salva obligatione per se providend in casibus gravioribus et urgentioribus, qui periculum afferent dioecesi ipsius”
Articles 18 and 19 are concerned with the canonical mission and the *nihil obstat*. Article 18 states that “Non-Catholic teachers, co-opted according to the norms of competent ecclesiastical authority, require permission to teach from the Chancellor.” Since these professors are not in full communion with the Magisterium or the Roman Pontiff, a true *nihil obstat* cannot be granted. Furthermore, these non-Catholics, because they cannot participate in the mission of a Church to which they do not belong, cannot gain the juridical link of an ecclesiastical office established by the *missio canonica*. The *venia docendi* was still necessary, however, and remained in the sole purview of the Chancellor to grant. Article 19 dealt with the *nihil obstat*, but interestingly, the canonical mission is not mentioned.

§1. The statutes [of the ecclesiastical university or faculty] must establish when a permanent status is conferred in relationship with the obtaining of the *nihil obstat* that must be procured in accordance with article 27 of the Constitution.

§2. The *nihil obstat* of the Holy See is the declaration that, in accordance with the Constitution and the special statutes, there is nothing to impede a nomination which is proposed. If some impediment should exist, this will be communicated to the Chancellor who will listen to the teacher in regard to the matter.

§3. If particular circumstances of time or place impede the requesting of the *nihil obstat* from the Holy See, the Chancellor is to take counsel with the Sacred Congregation for Catholic Education to find a suitable solution.

§4: In faculties which are under special concordat law the established norms are to be followed.136

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135 *Ordinationes I, III, 18, “Docentibus acatholicis, cooptatis secundum normas competentis Auctoritatis Ecclesiasticae, datur a Magno Cancellario venia docendi.”*

136 *Ordinationes I, III, 19 §1. “§1. Statuta indicent quando habeatur collatio munerei stabilis, respectu declarationis “Nihil obstat” obtinendae ad normam art. 27 Constitutionis. §2. “Nihil obstat” Sanctæ Sedis est declaratio nullum officere impedimentum, ad normam Constitutionis atque peculiarem Statutorum, nominationi propositae. Cum vero aliquod impedimentum sit, id cum Magno Cancellario communicetur, qui docentem de eo audiet. §3. Si peculiaria adiuncta temporis vel loci impediant, ne declaratio “Nihil obstat” Sanctæ Sedis petatur, Magnus Cancellarius cum Sacra Congregatione pro Instituizione Catholica consilia ineat de opportuna solutione invenienda. §4. In Facultatibus sub peculiari iure concordatio positis serventur normæ pro tempore vigentes”*
Finally, in cases where suspension or dismissal of a teacher may be necessary,

§1. The statutes are to set out with care the procedure in regard to the suspension or dismissal of a teacher, especially in matters concerning doctrine.

§2. Care must be taken that, first of all, these matters be settled between the rector or president or dean and the teacher himself. If they are not settled there, the matters should be dealt with by an appropriate council or committee, so that the first examination of the facts be carried out within the university or faculty itself. If this is not sufficient, the matters are to be referred to the Chancellor, who, with the help of experts, either of the university or the faculty or from other places, must consider the matter and provide for a solution. The possibility remains open for recourse to the Holy See for a definitive solution, always allowing the teacher to explain and defend himself.

§3. However, in more grave or urgent cases for the good of the students and the faithful, the Chancellor can suspend the teacher for the duration of the regular process.\( ^{137} \)

Even though the Apostolic Constitution *Sapientia Christiana* re-introduced the *missio canonica* and the *nihil obstat* contained in *Deus scientiarum Dominus*, as well as introducing the new element of the *venia docendi* (permission to teach) for non-Catholic teachers, the application of these juridical relationships by the Sacred Congregation for Catholic Education was haphazard and, in some cases, non-existent. While the granting of the *missio canonica* was mentioned as the prerogative of the Chancellor,\( ^{138} \) the procedure for granting such a mission, and with this mission an ecclesiastical office, is never expressed. The canonical mission never appeared in the Norms of

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137 *Ordinationes I, III, 22* §1. *In Statutis accurate definitur ratio procedendi cum de suspensione vel dismissione docentis agatur, praesertim ob causas doctrinam respicientes.* §2. *Curandum est ut imprimis res privatim componatur inter Rectorem vel Præsidem vel Decanum et ipsum docentem. Si non componatur, res opportuniter tractetur a Consilio vel Commissione competenti, ita ut prima facti examinatio in ipso Universitatis vel Facultatis gremio fiat. Si non sufficiat, res deferatur ad Magnum Cancellarium, qui cum viris peritis, sive Universitatis vel Facultatis sive externis, rem consideret, ut opportune provideat. Patet vero recursus ad Sanctam Sedem, ut res definitiva solvatur, data semper docenti facultate causam suam explicandi et defendendi.* §3. *Attamen, in casibus gravioribus vel urgentioribus, ut studentium et fidelium bono provideatur, Magnus Cancellarius docentem ad tempus suspendat, donec ordinaria ratio procedendi concludatur.*

138 Cf. *Ordinationes I, II, 8, 6º.*
Application concerning teachers, even though both the permission to teach \(^{139}\) and nihil obstat\(^{140}\) are discussed. The first Appendix to the Norms of Application, a document listing the norms for drawing up university or faculty statutes, also did not include the procedure for granting a missio canonica. Rather, number three of the appendix stated that the statutes concerning teachers must include “what the minimum number of teachers is in each faculty; into which ranks the permanent and nonpermanent are divided; what requisites they must have; how they are hired, named, promoted, and how they cease functioning; their rights and duties.”\(^{141}\) The granting of the missio canonica was left either to the universities as part of what the norms feel is appropriate in “leaving to their own internal regulations what is of a particular or changeable nature,”\(^{142}\) or to the Chancellor under the norms of granting and rescinding an ecclesiastical office as provided by the Pio-Benedictine Code of Canon Law.

**Theology and Theologians in the 1983 Code of Canon Law\(^{143}\)**

Canon 747 §1. The Church, to which Christ the Lord has entrusted the deposit of faith so that with the assistance of the Holy Spirit it might protect the revealed truth reverently, examine it more closely, and proclaim and expound it faithfully, has the duty and innate right, independent of any human power whatsoever, to preach the gospel to all peoples, also using the means of social communication proper to it.

\(^{139}\) Cf. Ordinationes I, III, 18.

\(^{140}\) Cf. Ordinationes I, III, 19, 1º –3º.

\(^{141}\) Ordinationes, Appendix I Ad Art. 6 “Ordinationem”: Normæ Ad Universitatis vel Facultatis Statuta Conficienda 3, “Quot saltem esse debeant in unaquaque Facultate; in quos ordines docentes sive stabiles sive non stabiles distinguantur; quibus dotibus præditi esse debeant; quomodo cooptentur, nominentur, promoveantur et a munere cessent; de eorum officiis et iuribus.”

\(^{142}\) Ordinationes, Appendix I Ad Art. 6 “Ordinationem”: Normæ Ad Universitatis vel Facultatis Statuta Conficienda, “relinquendo propriis internis ordinationibus ea, que magis particularia et mutuabilia sunt.”

§2. It belongs to the Church always and everywhere to announce moral principles, even about the social order, and to render judgment concerning any human affairs insofar as the fundamental rights of the human person or the salvation of souls requires it. ¹⁴⁴

Canon 748 §1. All persons are bound to seek the truth in those things which regard God and his Church and by virtue of divine law are bound by the obligation and possess the right of embracing and observing the truth which they have come to know.

§2. No one is ever permitted to coerce persons to embrace the Catholic faith against their conscience. ¹⁴⁵

These two canons, found at the beginning of Book III (De Ecclesiæ Munere Docendi – “The Teaching Function of the Church”) presently form the canonical basis for all teaching activities in the Church. It is important to see, though, that the reliance on the Second Vatican Council, as seen for example in canon 747 and its basis in Gaudium et spes Article 76, does not ensure an absolute integration of content and context. GS 76 reads in part,

There is a close connection between the things of earth and what is greater than this world in the human condition, and the Church makes use of temporal things so far as is required for its mission. It does not put its hope in privilege tendered by civil authority, and it will even renounce its exercise of some rights which it has lawfully required where it has decided that their exercise casts doubt on the sincerity of its witness or that new conditions of life call for a different arrangement. But it should be always and everywhere permitted genuine freedom to preach the faith, to teach its social doctrine, to discharge its task among people unimpeded, and to pass moral judgment even on matters belonging to the political order when this is demanded

¹⁴⁴ Canon 747 §1. “Ecclesiæ, cui Christus Dominus fidei depositum concredidit ut ipsa, Spiritu Sancto assistente, veritatem revelatam sancte custodiret, intimius perscrutaretur, fideliter annuntiaret atque exponeret, officium est et ius nativum, etiam mediis communicationis socialis sibi propriis adhibitis, a qualibet humana potestate independens, omnibus gentibus Evangelium prædicandi.” §2. “Ecclesiæ competit semper et ubique principia moralia etiam de ordine sociali annuntiare, necnon judicium ferre de quibuslibet rebus humanis, quatenus personæ humanae iura fundamentalia aut animarum salus id exigat.”

¹⁴⁵ Canon 748 §1. “Omnes homines veritatem in iis, quæ Deum eiusque Ecclesiam respiciunt, querere tenetur eamque cognitam amplectendi ac servandi obligatione vi legis divinae adstringuntur et iure gaudent.” §2. “Homines ad amplectendum fidem catholicam contra ipsorum conscientiam per coactionem adducere nemini umquam fas est.”
by the fundamental rights of the person or the salvation of souls, using all and only those means which are appropriate to the Gospel and the good of all according to different times and conditions.\footnote{GS 76, 1099–1100; Tanner, 2: 1124. “Res quidem terrenæ et ea, quæ in hominum condicione hunc mundum exsuperant, arcte inter se iunguntur, et ipsa ecclesia rebus temporalibus utitur quantum propria eius missio id postulat. Spem vero suam in privilegiis ab auctoritate civili oblatis non reponit; immo quorundam iurium legitime acquisitorum exercitio renuntiabant, ubi constiterit eorum usum sincritatem suæ testimonii vocari in dubium aut novas vitæ condiciones alien exigere ordinationem. Semper autem et ubique ei fas sit cum vera libertate fidem prædicare, socialem suam doctrinam docere, munus suum inter homines expedite exercere neconon iudicium morale ferre, etiam de rebus quæ ordinem politicum respiciunt, quando persone iura fundamentalia aut animarum salus id exigent, omnia et sola subsidia adhibendo, que evangelio et omnium bono secundum temporum et condicionem diversitatem congruent.”}

In this article, \textit{Gaudium et spes} asserted that the Church has the freedom and liberty to proclaim the faith, teach its social doctrine, carry out its tasks without interference, and make moral judgments when the fundamental rights of the individual or the salvation of souls demands such a judgment. The \textit{Code of Canon Law}, though, adjusts the Church’s liberty:

Proclamation of the faith is presumably stated in canon 747 §1; teaching social doctrine has become “enunciating moral principles even about the social order”—a broader formulation than the “political” order mentioned by the council; reference to carrying on the Church’s function has been dropped, perhaps as too broad in the immediate context of the teaching office; making moral judgments has become “making judgments on any human affairs,” and in place of \textit{when} the fundamental rights of the person demand it has become \textit{to the extent that} the fundamental rights of the person or the salvation of souls demands it.\footnote{Boyle, \textit{Church Teaching Authority: Historical and Theological Studies}, 103.}

Rather than reflecting the theological developments of the Council, “the claim of canon 747 §2 is indeed strongly put and its appeal to the human person as the basis of the Church’s competence to teach the moral law is a recent development. But in substance the canon does not seem to go beyond the preconciliar teaching of Pius XII in its claims for the competence of Church teaching authority.”\footnote{Ibid., 104.} Therefore, in order to understand fully the roots of the present canonical relationship...
between the Church and its *munus* of teaching, it is necessary to place Book III of the 1983 *Code of Canon Law* in its proper context, including its development from the norms of the 1917 code.

**The Rights and Responsibilities of All the Christian Faithful**

To understand the specific rights and responsibilities of those engaged in the teaching function of the Church, it is beneficial to start with the description of the Christian faithful as presented in the introductory canons of Book II, *De Populo Dei* – “The People of God.” The image of the People of God, as seen in the above section, is taken from the vision of the Second Vatican Council and, more specifically, *Lumen gentium*:

Canon 204 §1. The Christian faithful are those who, inasmuch as they have been incorporated in Christ through baptism, have been constituted as the people of God. For this reason, made sharers in their own way in Christ’s priestly, prophetical, and royal function, they are called to exercise the mission which God has entrusted to the Church to fulfill in the world, in accord with the condition proper to each.

§2. This Church, constituted and organized in this world as a society, subsists in the Catholic Church governed by the successor of Peter and the bishops in communion with him.\(^\text{149}\)

As the People of God, there is true equality amongst all the baptized members of the Church. Canon 208 states that “From their rebirth in Christ, there exists among all the Christian faithful a true equality regarding dignity and action by which they all cooperate in the building up of the Body of Christ according to each one’s own condition and function.”\(^\text{150}\) This equality in dignity

\(^{149}\) Canon 204 §1. “*Christifideles sunt qui, utpote per baptismum Christo incorporati, in populum Dei sunt constituti, atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo particeps facti, secundum propriam cuiusque condicionem, ad missinem exercendam vocantur, quam Deus Ecclesiae in mundo adimplendum concredit.*” §2. “*Hæc Ecclesia, in hoc mundo ut societas constitueta et ordinata, subsistit in Ecclesia catholica, a successore Petri et Episcopis in eius communione gubernata.*”

\(^{150}\) Canon 208. “*Inter christifideles omnes, ex eorum quidem in Christo regeneratione, vera viget quoad dignitatem et actionem aequalitas, qua cuncti, secundum propriam cuiusque condicionem et munus, ad adificationem Corporis Christi cooperantur.*”
does not mean equality in role within the Church, thereby reaffirming a statement first made in canon 96.\textsuperscript{151} Canon 212 builds upon this distinction and explains the specific part the faithful may play concerning their own spiritual needs and the needs of the Church in general:

Canon 212 §1. Conscious of their own responsibility, the Christian faithful are bound to follow with Christian obedience those things which the sacred pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rulers of the Church.

§2. The Christian faithful are free to make known to the pastors of the Church their needs, especially spiritual ones, and their desires.

§3. According to the knowledge, competence, and prestige which they possess, they have the right and even at times the duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the Christian faithful, without prejudice to the integrity of faith and morals, with reverence toward their pastors, and attentive to common advantage and the dignity of persons.\textsuperscript{152}

This statement did not mean that the Christian faithful could be limited in their own apostolic activity. As canon 216 states, “Since they participate in the mission of the Church, all the Christian faithful have the right to promote or sustain apostolic action even by their own undertakings, according to their own state and condition. Nevertheless, no undertaking is to claim the name

\textsuperscript{151} Canon 96. “By baptism one is incorporated into the Church of Christ and is constituted a person in it with the duties and rights which are proper to Christians in keeping with their condition, insofar as they are in ecclesiastical communion and unless a legitimately issued sanction stands in the way.”(“\textit{Baptismo homo Ecclesiae Christi incorporatur et in eadem constituitur persona, cum officiis et iuribus quae christianis, attenta quidem eorum condicione, sunt propria, quatenus in ecclesiastica sunt communione et nisi obstet lata legitima sanctio.”)

\textsuperscript{152} Canon 212 §1. “Quæ sacri Pastores, utpote Christum repreäsentantes, tamquam fidei magistri declarant aut tamquam Ecclesiae rectores statuunt, christifideles, propriæ responsabilitatis conscii, christianæ obœdientia prosequi tenetur. §2. Christifidelibus integrum est, ut necessitates suas, præsertim spiritualæ, suaque optata Ecclesiae Pastoribus patefaciant. §3. Pro scientia, competentia et præstantia quibus pollent, ipsis ius est, immop et aliando officium, ut sententiam suam de his quae ad bonum Ecclesiae pertinent sacris Pastoribus manifestent eamque, salva fidei morumque integritate ac reverentia erga Pastores, attentisque communi utilitate et personarum dignitate, ceteris christifidelibus notam faciant.”
Catholic without the consent of competent ecclesiastical authority."\(^{153}\) Furthermore, “Since they are called by baptism to lead a life in keeping with the teaching of the gospel, the Christian faithful have the right to a Christian education by which they are to be instructed properly to strive for the maturity of the human person and at the same time to know and live the mystery of salvation.”\(^{154}\)

The right to an education was extended to the right of free investigation and inquiry within that field of education. All of these rights must be protected within the Church, as guaranteed by Gaudium et spes, so long as they did not obscure the responsibilities that the faithful must maintain within the framework of the Church. This interplay of rights and responsibilities is mentioned in canon 218, which reads, “Those engaged in the sacred disciplines have a just freedom of inquiry and of expressing their opinion prudently on those matters in which they possess expertise, while observing the submission due to the Magisterium of the Church.”\(^{155}\)

Within Book II, there is one canon that appears under Title II-The Obligations and Rights of the Lay Christian Faithful that can be applied to the role of the laity in education. It appears in the Code of Canon Law as follows:

Canon 229 §1. Lay persons are bound by the obligation and possess the right to acquire knowledge of Christian doctrine appropriate to the capacity and condition of each in order for them to be able to live according to this doctrine, announce it themselves, defend it if necessary, and take their part in exercising the apostolate.

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\(^{153}\) Canon 216 “Christifideles cuncti, quippe qui Ecclesiae missionem participent, ius habent ut propriis quoque inceptis, secundum suum quisque statum et condicionem, apostolicam actionem promoveant vel sustineant; nullum tamen inceptum nomen catholicum sibi vindicet, nisi consensus accesserit competentis auctoritatis ecclesiasticæ.”

\(^{154}\) Canon 217 “Christifideles, quippe qui baptismo ad vitam doctrinæ evangelicæ congruentem ducendam vocentur, ius habent ad educationem christianam, qua ad maturitatem humanae personæ prosequendum atque simul ad mysterium salutis cognoscendum et vivendum rite instruuntur.”

\(^{155}\) Canon 218 “Qui disciplinis sacris incumbunt iusta liberate fruuntur inquirendi necnon mentem suam prudentur in iis aperiendi, in quibus peritia gaudent, servato debito erga Ecclesiae magisterium obsequio.”
§2. They also possess the right to acquire that fuller knowledge of the sacred sciences which are taught in ecclesiastical universities and faculties or in institutes of religious sciences, by attending classes there and pursuing academic degrees.

§3. If the prescripts regarding the requisite suitability have been observed, they are also qualified to receive from legitimate ecclesiastical authority a mandate to teach the sacred sciences.\(^{156}\)

This canon allows the laity to engage in the profession of theologian. The Church recognizes, in fact, that engaging in the study of the sacred disciplines is so important that any person who successfully completes the studies has the right to receive a *mandatum* to teach these sacred sciences to others. This right to the *mandatum*, however, while guaranteed by canon 229 §3, “is the most restricted of the rights mentioned in this canon,”\(^{157}\) as will be shown later in this section.

*Rights and Responsibilities in Catholic Education*

The canonical understanding of Catholic education appears in Book III, Title III of the 1983 Code. Within this title, “The first three canons in the revised code’s treatment of Catholic education clearly reflect the conciliar teaching of *Gravissimum educationis* in asserting the rights and responsibilities of parents regarding the education of their children in general and their Catholic education in particular.”\(^{158}\)

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\(^{156}\) Canon 229 §1. *Laici, ut secundum doctrinam christianam vivere valeant, eandemque et ipsi enuntiare atque, si opus sit, defendere possint, utque in apostolatu exercendo partem suam habere queant, obligatione tenetur et iure gaudent acquirendi eiusdem doctrinae cognitionem, propriæ uniuscuiusque capacitati et condiöioni aptatam. §2. Iure quoque gaudent pleniorem illam in scientiis sacris acquirendi cognitionem, quæ in ecclesiasticis universitatibus facultatibusve aut in institutis scientiarum religiosarum traduntur, ibid.em lectiones frequentando et gradus academicos consequendo. §3. Item, servatis præscriptis quoad idoneitätam requisitam statutis, habiles sunt ad mandatum docendi scientias sacras a legitima auctoritate ecclesiastica recipiendum."


Canon 793 §1. Parents and those who take their place are bound by the obligation and possess the right of educating their offspring. Catholic parents also have the duty and right of choosing those means and institutions through which they can provide more suitably for the Catholic education of their children, according to local circumstances.

§2. Parents also have the right to that assistance, to be furnished by civil society, which they need to secure the Catholic education of their children.

Canon 794 §1. The duty and right of educating belongs in a special way to the Church, to which has been divinely entrusted the mission of assisting persons so that they are able to reach the fullness of the Christian life.

§2. Pastors of souls have the duty of arranging everything so that all the faithful have a Catholic education.

Canon 795. Since true education must strive for complete formation of the human person that looks to his or her final end as well as to the common good of societies, children and youth are to be nurtured in such a way that they are able to develop their physical, moral and intellectual talents harmoniously, acquire a more perfect sense of responsibility and right use of freedom, and are formed to participate actively in social life.

These canons serve as the steppingstone for the remainder of the title and contain the basic principles for how to understand the regulation of schools (canons 796-806), universities and other institutes of higher studies (canons 807-814), and ecclesiastical universities and faculties (canons 815-821).

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159 Canon 793 §1. “Parentes, necnon qui eorum locum tenent, obligatione adstringuntur et iure gaudent prolem educandi; parentes catholici officium quoque et ius habent ea eligendi media et instituta quibus, iuxta locorum adiuncta, catholicæ filiorum educationi aptius prospicere queant. §2. Parentibus ius est etiam iis fruendi auxiliis a societate civili præstandis, quibus in catholica educatione filiorum procuranda indigeant.”

160 Canon 794. “§1. Singulare ratione officium et ius educandi spectat ad Ecclesiam, cui divinitus missio concredita est homines adiuvandi, ut ad christianæ vitæ plenitudinem pervenire valeant. §2. Animarum pastoribus officium est omnia disponendi, ut educacione catholica omnes fideles fruantur.”

161 Canon 795. “Cum vera educatio integrum persequi debeat personæ humanae formationem, spectantem ad finem eiusmodi ultimum et simul ad bonum commune societatum, pueri et iuvenes ita excolantur ut suas dotes physicas, morales et intellecutales harmonice evolvare valeant, perfectiorem responsabilitatis sensum libertatisque rectum usum acquirant et ad vitam socialem active participandum conformentur”
The responsibility for the establishment and maintenance of Catholic schools is a common responsibility shared by the bishops and the laity. Neither party can shy away from their responsibilities within the field of Catholic education, as shown by the role played by schools and the importance of their erection by bishops, by teachers who work within these schools, and the need for these teachers and Catholic parents to foster a relationship of collaborative education. This dual teacher-parental obligation is illustrated in canon 796, especially in its second paragraph. “Parents must cooperate closely with the teachers of the schools to which they entrust their children to be educated; moreover, teachers in fulfilling their duty are to collaborate very closely with parents, who are to be heard willingly and for whom associations or meetings are to be established and highly esteemed.”

To establish schools where the collaborative relationship between teacher and parent thrives is a right held by the entire Church. Canon 800 reinforces this right, stating, “§1. The Church has the right to establish and direct schools of any discipline, type and level” and “§2. The Christian faithful are to foster Catholic schools, assisting in their establishment and maintenance according to their means.” As the American canonist Sharon Euart explains,

The first paragraph [of canon 800] contains a strong assertion of the Church’s right to establish and conduct any type of school at any grade level. Based on this claim the Church, i.e. the People of God, has the freedom to initiate and control educational ventures across a broad range that includes, for example, elementary and secondary schools, colleges and post-graduate schools, with academic,

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162 Canon 796 §2. “Cum magistris scholarum, quibus filios educandos concredant, parentes arce cooperentur oportet; magistri vero in officio suo persolvendo intime collaborent cum parentibus, qui quidem libenter audiendi sunt eorumque consociationes vel conventus instaurentur atque magni existimantur.”

163 Canon 800, “§1. Ecclesiae ius est scholas cuiusvis disciplinae, generis et gradus condendi ac moderandi. §2. Christifideles scholas catholicas foveant, pro viribus adiutricem operam conferentes ad easdem condendas et sustentandas.”
professional or vocational curricula. The importance of the exercise of this right on the part of the Church, as expressed in *Gravissimum educationis* 8, the source for this canon along with canon 1375 of the 1917 code, is threefold: to preserve freedom of conscience, to protect the rights of parents, and to provide for the advancement of culture.\(^{164}\)

The diocesan bishop is given the responsibility and obligation in canon 802 to ensure that schools with a “Christian spirit” are established and available within his particular church.

§1. If schools which offer an education imbued with a Christian spirit are not available, it is for the diocesan bishop to take care that they are established.

§2. Where it is expedient, the diocesan bishop is to make provision for the establishment of professional schools, technical schools, and other schools required by special needs.\(^{165}\)

Not every school can be described properly as Catholic, however, but they must meet the criteria presented in canon 803 to gain that designation:

Canon 803 §1. A Catholic school is understood as one which a competent ecclesiastical authority or a public ecclesiastical juridic person directs or which ecclesiastical authority recognizes as such through a written document.

§2. The instruction and education in a Catholic school must be grounded in the principles of Catholic doctrine; teachers are to be outstanding in correct doctrine and integrity of life.

§3. Even if it is in fact Catholic, no school is to bear the name *Catholic school* without the consent of competent ecclesiastical authority.\(^{166}\)

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\(^{164}\) Euart, “Book III, Title III, Chapter I: Schools; Establishment and Promotion of Catholic Schools: Canon 800,” *New Commentary on the Code of Canon Law*, 956.

\(^{165}\) Canon 802. “§1. *Si præsto non sint scholae in quibus educatio tradatur christiano spiritu imbuta, Episcopi diœcesani est curare ut condantur. §2. Ubi id expediat, Episcopus diœcesanus provideat ut scholæ quoque condantur professionales et technicæ necnon alæ quæ specialibus necessitatibus requirantur*”

\(^{166}\) Canon 803. “§1. *Schola catholica ea intelligitur quam auctoritas ecclesiastica competens aut persona iuridica ecclesiastica publica moderatur, aut auctoritas ecclesiastica documento scripto uti talem agnoscit. §2. Institutio et educatio in schola catholica principiis doctrinae catholicae nitatur oportet; magistri recta doctrina et vita probitate præsent. §3. Nulla schola, etsi reapse catholica, nomen ‘scholæ catholicae’ gerat, nisi de consensu competentis auctoritatis ecclesiasticae.”
James Coriden, in commenting on canon 803 for the 1985 commentary of the Canon Law Society of America, wrote,

Among the many possible criteria of a school’s Catholicity, e.g. name, recognition, origin, stated purpose, ownership, operating authority, faith commitment of teachers or students, spirit and atmosphere, orthodox teaching, or actual inculcation of gospel values, the Code has chosen what is perhaps the simplest and most verifiable criterion: operation of recognition by church authority (either directly, or indirectly exercised in the establishment of a public juridic person).167

He also reflected on the canon’s final paragraph by asking,

Who is the competent ecclesiastical authority whose permission is required for a school to call itself Catholic? Certainly the Holy See, diocesan bishops, and other local ordinaries (cf. c. 134)168; nothing prevents the authority from being delegated, e.g., to a superintendent of schools (cf. c. 137).169 It can be argued in the case of


168 Canon 134 defines the term ordinarius (“ordinary”). §1. “In addition to the Roman Pontiff, by the title of ordinary are understood in the law diocesan bishops and others who, even if only temporarily, are placed over some particular church or a community equivalent to it according to the norm of can. 368 as well as those who possess general ordinary executive power in them, namely, vicars general and episcopal vicars; likewise, for their own members, major superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right who at least possess ordinary executive power.” (“Nomine Ordinarii in iure intelleguntur, præter Romanum Pontificem, Episcopi diececsani alilique qui, etsi ad interim tantum, prepositi sunt alicui Ecclesiae particulari vel communitati eidem æquiparate ad normam can. 368, necnon qui in isidem generali gaudent potestate executiva ordinaria, nempe Vicarii generales et episcopales; itemque, pro sui sodalibus, Superiores maiores clericalium institutorum religiosorum iuris pontificii et clericalium societatum vite apostolice iuris pontificii, qui ordinaria saltem potestate executiva pollent”) §2. “By the title of local ordinary are understood all those mentioned in §1 except the superiors of religious institutes and of societies of apostolic life.” (“Nomine Ordinarii loci intelleguntur omnes qui in §1 recensentur, exceptis Superioribus institutorum religiosorum et societatum vitae apostolicae.”) §3. “Within the context of executive power, those things which in the canons are attributed by name to the diocesan bishop are understood to belong only to a diocesan bishop and to the others made equivalent to him in can. 381 §2, excluding the vicar general and episcopal vicar except by special mandate.” (“Quæ in canonibus nominatim Episcopo diececsano, in ambitu potestatis executivæ tribuuntur, intelleguntur competere dumtaxat Episcopo diececsano alisque ipsi in can 381, §2 æquiparatis, exclusis Vicario generali et episcopali, nisi de speciali mandato.”)

169 Canon 137 defines the delegation of executive power. §1. “Ordinary executive power can be delegated both for a single act and for all cases unless the law expressly provides otherwise.” (“Potestas executiva ordinaria delegari potest tum ad actum tum ad universitatem casuum, nisi aliud iure expresse caveatur.”) “§2. Executive power delegated by the Apostolic See can be subdelegated for a single act or for all cases unless the delegate was chose for personal qualifications or subdelegation was expressly forbidden.” (“Potestas executiva ab Apostolica Sede delegata subdelegari potest sive ad actum sive ad universitatem casuum, nisi electa fuerit industria personæ aut subdelegatio fuerit expresse prohibita.”) “§3. Executive power delegated by another authority who has ordinary
schools owned and operated by clerical religious communities, the major religious 
superiors of those groups as possessors of ordinary power are also competent 
authorities for their own schools (cf. c. 801). However, the bishop, as coordinator 
of apostolic works within each diocese, is the higher authority.\textsuperscript{170}

This coordination of apostolic works can be seen in action in canons 804 and 805. In the 
first of these two canons, the diocesan bishop has the responsibility for ensuring the Catholic nature 
and character of the Catholic school, a responsibility he also shares with the episcopal conference, 
which has issued general norms on the actions described in the canon.

Canon 804 §1. The Catholic religious instruction and education which are imparted 
in any schools whatsoever or are provided through the various instruments of social 
communication are subject to the authority of the Church. It is for the conference 
of bishops to issue general norms about this field of action and for the diocesan 
bishop to regulate and watch over it.

§2. The local ordinary is to be concerned that those who are designated teachers of 
religious instruction in schools, even in non-Catholic ones, are outstanding in 
correct doctrine, the witness of a Christian life, and teaching skill.\textsuperscript{171}

Sharon Euart wonders how three canons could be practically enforced:

The extension of this norm to any school whatsoever raises the issue of control and 
supervision of institutions and situations not subject to the governance of the diocesan 
bishop. Catholic religious education, however, is subject to church authority, in 
virtue of its teaching mission, and to those entrusted with responsibility for carrying 

\begin{quote}
\textit{“Potestas exsecutiva delegata ab alia auctoritate potestatem ordinariam habente, si ad universitatem casuum delegata sit, in singulis tantum casibus subdelegari potest; si vero ad actum aut ad actus determinatos delegata sit, subdelegari neguit, nisi de expressa delegantis concessione.”}\textsuperscript{4}
\textit{“Nulla potestas subdelegata iterum subdelegari potest, nisi id expresse a delegante concessum fuerit.”}\end{quote}

\begin{flushleft}

\textsuperscript{171} Canon 804. “§1. Ecclesiæ auctoritati subicitur institutio et educatio religiosa catholica quæ in quibuslibet scholis impertitur aut variis communicationis socialis instrumentis procuratur; Episcoporum conferentiae est de hoc actionis campo normas generales edicere, atque Episcopi dioecesani est eundem ordinare et in eum invigilare. §2. Loci Ordinarius sollicitus sit, ut qui ad religionis institutionem in scholis, etiam non catholicis, deputentur magistri recta doctrina, vitae christianæ testimonio atque arte pædagogica sint praestantes.”
\end{flushleft}
out this mission. Religious education carried out in Catholic schools or in other educational settings, including a home-schooling setting, falls within the scope of this canon.\textsuperscript{172}

Canon 805 likewise emphasizes the role played by the diocesan bishop in ensuring the Catholic character of the schools through his right to appoint, approve, and even remove teachers if necessary for reasons of religion and morals. “For his own diocese, the local ordinary has the right to appoint or approve teachers of religion and even to remove them or demand that they be removed if a reason of religion and morals requires it.”\textsuperscript{173}

Finally, canon 806 presents the right of the diocesan bishop to visit schools in his diocese, and to remain vigilant over the activities of Catholic schools in his particular church.

Canon 806 §1. The diocesan bishop has the right to watch over and visit the Catholic schools in his territory, even those which members of religious institutes have founded or direct. He also issues prescripts which pertain to the general regulation of Catholic schools; these prescripts are valid also for schools which these religious direct, without prejudice, however, to their autonomy regarding the internal direction of their schools.

§2. Directors of Catholic schools are to take care under the watchfulness of the local ordinary that the instruction which is given in them is at least as academically distinguished as that in the other schools of the area.\textsuperscript{174}

\textsuperscript{172} Euart, “Book III, Title III, Chapter I: Schools; Vigilance for Catholic Religious Formation and Education: Canon 804,” \textit{New Commentary on the Code of Canon Law}, 958.

\textsuperscript{173} Canon 805. “\textit{Loci Ordinario pro sua diecesi ius est nominandi aut approbandi magistros religionis, itemque, si religionis morumve ratio id requirat, amovendi aut exigendi ut amoveantur.”

\textsuperscript{174} Canon 806. “\textit{§1. Episcopo diœcesano competit ius invigilandi et invisendi scholas catholicas in suo territorio sitas, eas etiam quae ab institutionis religiosorium sodalibus condita sint aut diriguntur; eidem item competit prescripta edere quae ad generalem attinent ordinationem scholarum catholicarum: quae prescripta valent de scholis quoque quae ab iisdem sodalibus diriguntur, salva quidem eorundem quoad internum earum scholarum moderamen autonomia. §2. Curent scholarum catholicarum Moderatores, advigilante loci Ordinario, ut institutio quae in iisdem traditur pari saltem gradu ac in aliis scholis regionis, ratione scientifica sit præstans.”
This vigilance did not extend to universities and institutes of higher studies, and ecclesiastical universities and faculties, since these were governed by their own canons, canons that were grouped in two chapters immediately following those on schools in general.

**Catholic Universities and Other Institutes of Higher Studies (canons 807-814)**

While all of the canons in the second chapter of Book III are concerned with Catholic universities and other institutes of higher studies, canons 807, 808, 810, 811 and 812 address the role played by theologians and bishops within the teaching function of the Church. Canon 807 serves as the introductory canon to this chapter, and reasserts the right of the Church, based on those expressed in canon 800 §1, to establish and govern universities. “The Church has the right to erect and direct universities, which contribute to a more profound human culture, the fuller development of the human person, and the fulfillment of the teaching function of the Church.”

Canon 808 states, “Even if it is in fact Catholic, no university is to bear the title or name of Catholic university without the consent of competent ecclesiastical authority.”

This canon, while “similar to canon 803 §3 on elementary and secondary schools, does not describe precisely what a Catholic university is in the same way that canon 803 §3 describes a Catholic school.”

Here, the consent of competent ecclesiastical authority helps define the character of a university as Catholic.

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175 Canon 807 “Ius est Ecclesie erigendi et moderandi studiorum universitates, quæ quidem ad altiorem hominum culturae et pleniorem personæ humanae promotionem necnon ad ipsius Ecclesie minus docendi implendum conferant.”

176 Canon 808. “Nulla studiorum universitas, etsi reapse catholica, titulum seu nomen ‘universitatis catholicae’ gerat, nisi de consensu competentis auctoritatis ecclesiasticae.”

177 Euart, “Book III, Title III, Chapter II: Catholic Universities and Other Institutes of Higher Studies; Use of the Title ‘Catholic’: Canon 808,” *New Commentary on the Code of Canon Law*, 963.
This “competent ecclesiastical authority” also has the responsibility to exercise vigilance over the appointment of teachers and the observance of Catholic doctrine, as explained in canon 810:

Canon 810 §1. The authority competent according to the statutes has the duty to make provision so that teachers are appointed in Catholic universities who besides their scientific and pedagogical qualifications are outstanding in integrity of doctrine and probity of life and that they are removed from their function when they lack these requirements; the manner of proceeding defined in the statutes is to be observed.

§2. The conferences of bishops and diocesan bishops have the duty and right of being watchful so that the principles of Catholic doctrine are observed faithfully in these same universities.  

As the first paragraph of canon 810 illustrates, the competent authority through this role of vigilance does not operate as an officer of the university. Rather, this canon “is intended to respect the legitimate autonomy of the academic institution, the Catholic character of the university, and the responsibility of competent ecclesiastical authority for the correct faithful observance of Catholic teaching in these same universities.” The statutes of the university and the special procedures developed by the administration to apply the statutes are also necessary within the framework of this canon “so as to avoid arbitrariness of judgment about the scholarship and personal witness of individual members of the faculty.”

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178 Canon 810, “§1. Auctoritati luxta statuta competenti officium est providendi ut in universitatibus catholicis nominentur docentes qui, preterquam idoneitate scientifica et pedagogica, doctrinæ integritate et vitae probitate præstent utque, deficientibus his requisitis, servato modo procedendi in statutis definito, a munere removeantur. §2. Episcoporum conferentiae et Episcopi diœcesani, quorum interest, officium habent et ius invigilandi, ut in iisdem universitatibus principia doctrinæ catholicæ fideliter serventur.”

179 Euart, “Book III, Title III, Chapter II: Catholic Universities and Other Institutes of Higher Studies; Responsibility for the Appointment of Teachers and Observance of Catholic Doctrine: Canon 810,” New Commentary on the Code of Canon Law, 964.

180 Ibid.
The second paragraph of the canon mentions that both the national episcopal conference and individual diocesan bishops “have the duty and right of being watchful so that the principles of Catholic doctrine are observed faithfully.” This dual responsibility could create tension between the diocesan bishop, who possesses all ordinary power in his diocese, and the episcopal conference, which is given a share of vigilance over Catholic universities within the territory of the conference. This tension is left unresolved, and,

The canon provides neither procedures for intervention by the episcopal conference nor procedures for the resolution of possible conflicts that could arise between the bishop and the episcopal conference. Presumably, such procedures would have to be developed at the levels of the episcopal conference and approved by the bishops of the territory.\textsuperscript{181}

Canon 811 has its roots in both \textit{Gravissimum educationis} 10 and \textit{Gaudium et spes} 62. This canon states that,

Canon 811 §1. The competent ecclesiastical authority is to take care that in Catholic universities a faculty or institute or at least a chair of theology is erected in which classes are also given for lay students.

§2. In individual Catholic universities, there are to be classes which especially treat those theological questions which are connected to the discipline of their faculties.\textsuperscript{182}

Three options are listed in paragraph one in providing for theological studies: a faculty of theology, an institute of theology, or a dedicated chair of theology. While the competent ecclesiastical authority has the duty to take care that such an action is taken, it is not the responsibility of the

\textsuperscript{181} Ibid., 965–966.

\textsuperscript{182} Canon 811. “§1. Curet auctoritas ecclesiastica competens ut in universitatibus catholicas erigatur facultas aut institutum aut saltem cathedra theologiae, in qua lectiones laicis quoque studentibus tradantur. §2. In singulis universitatibus catholicis lectiones habeantur, in quibus eae praecipee tractentur qustiones theologicae, quae cum disciplinis earundem facultatum sunt conexae.”
authority to decide which option will be pursued. That decision is left in the hands of the university administration. Paragraph two is concerned with preventing theology from becoming an isolated field, as the effort to harmonize faith and culture advocated in *Gaudium et spes* “challenges Catholic colleges and universities to seek new and more suitable means of communicating theological reflection and Catholic doctrine to the men and women of this age.”

**Canon 812 and the Mandatum**

Canon 812 and its understanding of the terms “mandate” and “theological disciplines” would prove to be the source of controversy, confusion, and increased conflict between bishops and theologians. The term “mandate” (*mandatum*) differs from the concept of “canonical mission” (*missio canonica*), the words used in *Deus scientiarum Dominus* and *Sapientia Christiana*. The concept of mandate does not entail delegation of powers or jurisdiction. Some canonists, including John Alesandro, believed that the term *mandatum* expressed a strong juridical link between authentic teacher (bishop) and delegated teacher (theologian) introduced by *Sapientia Christiana*.

The right to teach theology in a formal academic setting rests not only on one’s faith commitment and scholarly expertise but on hierarchical deputation as well. In this way, the theologian-teacher officially exercises the *munus docendi* on behalf of the Church. This hierarchical concept suggests that one teaches theology as an agent commissioned by the Church’s juridically recognized leaders.

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Alesandro continued his interpretation of the *mandatum* by stating,

> From a theoretical point of view, the requirement of a *mandatum* represents an extremely significant shift in the canonical articulation of the relationship between hierarchy and theologian. At best it is a questionable experiment in directing Christian behavior which skirts perilously close to regimentation and opens the Church to charges of institutionalized indoctrination. The 1917 canonical system of negative vigilance seems the wiser theoretical approach.\(^{186}\)

Ladislas Örsy agrees with Alesandro’s interpretation and believes that the mandate of canon 812 “is a commission to teach. It is less weighty than a canonical mission (*missio canonica*), which is needed for obtaining an ecclesiastical office, but it is more than a mere permission, because ‘mandate’ includes an element of acting in the name of someone else.”\(^{187}\)

It seems that amongst canonical commentators and scholars, however, Alesandro and Örsy hold a minority position concerning the *mandatum*. Most commentators and canonists believe that the *mandatum*, unlike the canonical mission of *Sapientia Christiana*, does not entail delegation of powers or jurisdiction. As James Coriden explains in the 1985 commentary on the *Code of Canon Law*, “the mandate is simply a recognition that the person is properly engaged in teaching the theological discipline. It is disciplinary, not doctrinal. It does not grant approval of what is taught nor is it a formal association with the Church’s mission or ministry of teaching.”\(^{188}\) James Provost stated that the mandate “does not establish the one who is mandated in a position of disciplinary

\(^{186}\) Ibid., 109.


authority over others in the Church. It does not confer an ecclesiastical office.” Furthermore, as Sharon Euart writes,

In terms of the purpose of canon 812, namely, to uphold the orthodoxy of Catholic teaching, it would seem that the mandate signifies that the theologian is within the full communion of the Catholic Church and possesses the qualities set forth in canon 810 for teachers in Catholic colleges and universities, namely ‘integrity of doctrine and probity of life’ (canon 810 §1).

Secondly, who are those who “teach theological disciplines?” This is another change from earlier schema, which used “those who give courses in theology or courses related to theology” for those professors required to seek ecclesiastical authorization. To understand the meaning of the phrase, it is helpful to refer back to Article 51 of the norms for the correct implementation of Sapientia Christiana introduced by the Sacred Congregation for Catholic Education. Here, under the heading of “theological disciplines,” the following areas are listed: scripture, fundamental, dogmatic, moral, spiritual and pastoral theology, liturgy, church history, patrology, archeology, and canon law. Both the commentaries of 1985 and 2000 caution against a broad interpretation of the term, with the latter stating that,

In looking to parallel places for the meaning of “theological disciplines,” care should be taken not to broaden the notion beyond the academic disciplines that are

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192 Congregation for Catholic Education (for Institutes of Study), Ordinationes ad Constitutionem Apostolicam ‘Sapientia Christiana’ Rite Exsequendam, II, I, 51.
formally theological. Programs of study focusing on pastoral ministry, methodology of religious education, comparative religion, and history and sociology or religion, for example, would seem not to be considered “theological disciplines” in the strict sense and, therefore, would be beyond the scope of canon 812.  

**Ecclesiastical Universities and Faculties (canons 815-821)**

The closing chapter of Title III is concerned specifically with ecclesiastical universities and faculties. Canon 815 reasserts the right of the Church to establish such institutions, stating that “Ecclesiastical universities or faculties, which are to investigate the sacred disciplines or those connected to the sacred and to instruct students scientifically in the same disciplines, are proper to the Church by virtue of its function to announce the revealed truth.”  

Also, as contained within this function of the Church to announce the revealed truth, “To the extent that the good of a diocese, a religious institute, or even the universal Church itself requires it, diocesan bishops or the competent superiors of the institutes must send to ecclesiastical universities or faculties youth, clerics and members, who are outstanding in character, virtue and talent.”  

Thirdly, just as the diocesan bishop and the conference of bishops shared responsibilities concerning Catholic universities, canon 821 affirms, “The conference of bishops and the diocesan bishop are to make provision so that where possible, higher institutes of the religious sciences are established, namely,

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194 Canon 815. “Ecclesiæ, vi muneris sui veritatem revelatam nuntiandi, propriae sunt universitates vel facultates ecclesiasticæ ad disciplinas sacras vel cum sacrīs conexas pervestigandas, atque studentes in iisdem disciplinis scientifice instituendos.”

195 Canon 819. “Quatenus diœcesis aut instituti religiosi immo vel ipsius Ecclesiæ universae bonum id requirat, debent Episcopi diœcesani aut institutorum Supériores competentes ad universitates vel facultates ecclesiasticas mittere iuvenes et clericos et sodales indole, virtute et ingenio præstantes.”
those which teach the theological disciplines and other disciplines which pertain to Christian culture." 196 Finally, the Code extends the regulations of canons 810, 812 and 813 regarding Catholic universities to the realm of the ecclesiastical universities and faculties in canon 818, thereby attempting to harmonize the law on Catholic higher education. This canon reads, “The prescripts established for Catholic universities in canons 810, 812, and 813 are also valid for ecclesiastical universities and faculties.” 197

In 1989, the National Conference of Catholic Bishops released a pastoral letter in the light of the new Code of Canon Law and in anticipation of a soon-to-be-released apostolic constitution on Catholic colleges and universities that the American bishops hoped would assist in the development of a positive relationship between bishops and theologians. Entitled Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving Misunderstanding Between Bishops and Theologians, the pastoral letter was the conference’s attempt “to foster collaboration between bishops and theologians for the good of the entire Church, recognizing the vocation of theologians to study, clarify and mediate the truth of the Gospel which the Magisterium authoritatively proposes.” 198 While the document contained a set of procedures to be used when theologians and bishops disagreed over theological issues, the tone of the letter was one of

196 Canon 821. “Provideant Episcoporum conferentia atque Episcopus diœcesanus ut, ubi fieri possit, condantur instituta superiora scientiarum religiosarum, in quibus nempe edoceant disciplinæ theologiae aliæque quæ ad culturam christianam pertineant.”

197 Canon 818. “Quæ de universitabus catholicis in cann. 810, 812 et 813 statuuntur præscripta, de universitatibus facultatibusque ecclesiasticis quoque valent.”

cooperation and mutual assistance between bishop and theologian. The National Conference of Catholic Bishops recognized that the bishop as part of the Magisterium holds a different role in the Church than the theologian as a member of the academic community. Even so,

Authoritative teaching and theological inquiry are distinct but inseparable tasks. For this reason, bishops and theologians need to cooperate with one another in accordance with their respective responsibilities to enhance the quality of their diverse service to the Church. This cooperation is intended to realize the ideals of mutual encouragement, support and assistance which are proposed by Vatican II, as well as to promote the efficacy of the episcopal office, the soundness of theological scholarship and that unity without which the Church’s mission in the world becomes weak and diffuse.\(^{199}\)

A closer working relationship would not only benefit the bishops of the country who could “draw on [theologians] as one necessary resource for their own ongoing theological study,”\(^ {200}\) but also assist the Church as “bishops look to theologians for aid in scrutinizing the signs of the times and in evaluating new issues and questions.”\(^ {201}\) Therefore, there is a true need for a working relationship, where “bishops have a right to require in the name of the Church that theologians faithfully discharge their own responsibility for the integrity of the Gospel.”\(^ {202}\)

To protect the integrity of the theology presented, “to the extent that theologians accept more specifically ecclesiastical activities, such as the formation of future priests, they must accept reasonable canonical ordering of their work.”\(^ {203}\) Through these activities, “[the relationship of

\(^{199}\) Ibid., 103.

\(^{200}\) Ibid., 102.

\(^{201}\) Ibid.

\(^{202}\) Ibid.

\(^{203}\) Ibid., 102.
theologians to the Church[,] which is an essential element in their identity and work as Catholic theologians, may take a further vital form in the course of collaboration with bishops.”

The pastoral letter thus presented two steps in the relationship between bishop and theologian. The first was a working model of cooperation where the theologian is an advisor and supporter of the ministry of the bishop and the statements where bishops can “require” and “canonically order” show the difference in ministerial authority. Collaboration was presented as the second possible but not necessary part of the relationship.

**Donum veritatis**

The first of two documents released by the Apostolic See in 1990 addressing Catholic education dealt specifically with the role of the theologian in relation to the Magisterium. This Instruction\(^\text{205}\) from the Congregation for the Doctrine of the Faith entitled *Donum veritatis or The Ecclesial Vocation of the Theologian*\(^\text{206}\) reminded the theologian that while they are engaged in

\[^{204}\text{Ibid.}, 103.\]

\[^{205}\text{The legal definition of an Instruction can be found in canon 34 of 1983 CIC. Canon 34 §1. “Instructions clarify the prescripts of laws and elaborate on and determine the methods to be observed in fulfilling them. They are given for the use of those whose duty it is to see that laws are executed and oblige them in the execution of the laws. Those who possess executive power legitimately issue such instructions within the limits of their competence.” (“Instructiones, quae nempe legume præscripta declarant atque rationes in iisdem exsequendis servandas evolvunt et determinant ad usum eorum dantur quorum est curæ ut leges exsecutioni mandentur, eosque in legume executione obligant; eas legitime edunt, intra fines suae competentiae, qui potestate executiva gaudent.”) §2. “The ordinances of instructions do not derogate from laws. If these ordinances cannot be reconciled with the prescripts of laws, they lack all force.” (“Instructionum ordinations legibus non derogant, et si quæ cum legum præscriptis componi nequeant, omni vi carent.”) §3 “Instructions cease to have force not only by explicit or implicit revocation of the competent authority who issued them or of the superior of that authority but also by the cessation of the law for whose clarification or execution they were given.” (“Vim habere desinunt instructions non tantum revocatione explicita aut implicita auctoritate competentiis, quæ eas edidit, eiuve superioris, sed etiam cessante lege ad quam declarandam vel exsecutioni mandandam data sunt.”) The Code of Canons of the Eastern Churches does not contain a definition of an Instruction.\]

scientific research and operate under the auspices of academic integrity and freedom, they must also remember their service to the Church. As this servant, “the theologian must foster respect for them and be committed to offering them a teaching which in no way does harm to the doctrine of the faith.”

Furthermore,

The freedom proper to theological research is exercised within the Church’s faith. Thus while the theologian might often feel the urge to be daring in his work, this will not bear fruit or "edify" unless it is accompanied by that patience which permits maturation to occur. New proposals advanced for understanding the faith "are but an offering made to the whole Church. Many corrections and broadening of perspectives within the context of fraternal dialogue may be needed before the moment comes when the whole Church can accept them.” Consequently, "this very disinterested service to the community of the faithful," which theology is, "entails in essence an objective discussion, a fraternal dialogue, an openness and willingness to modify one's own opinions.”

Academic freedom, therefore, must be adapted to meet the needs of the believing community of which the theologian is an integral part:

Freedom of research, which the academic community rightly holds most precious, means an openness to accepting the truth that emerges at the end of an investigation in which no element has intruded that is foreign to the methodology corresponding to the object under study.

In theology this freedom of inquiry is the hallmark of a rational discipline whose object is given by Revelation, handed on and interpreted in the Church under the
authority of the Magisterium, and received by faith. These givens have the force of principles. To eliminate them would mean to cease doing theology. In order to set forth precisely the ways in which the theologian relates to the Church's teaching authority, it is appropriate now to reflect upon the role of the Magisterium in the Church.\textsuperscript{209}

A major portion of this document is concerned with this relationship between the theologian and the Magisterium. Here, the theologian serves the Magisterium in a hierarchical relationship, whereby the theologian gains his position of teaching by the local bishop who gives him the right to participate in the teaching office of the Church through a specific grant of jurisdiction.

Collaboration between the theologian and the Magisterium occurs in a special way when the theologian receives the canonical mission or the mandate to teach. In a certain sense, such collaboration becomes a participation in the work of the Magisterium, linked, as it then is, by a juridic bond. The theologian's code of conduct, which obviously has its origin in the service of the Word of God, is here reinforced by the commitment the theologian assumes in accepting his office, making the profession of faith, and taking the oath of fidelity.\textsuperscript{210}

This language has its roots in Sapientia Christiana and will be echoed later in the Apostolic Constitution Ex corde Ecclesie. Through this language, Donum veritatis placed the theologian in a direct relationship with the bishops, drawing their office from a grant by the bishop to that office.

\textsuperscript{209} DVert II, 12, 1555. “Libertas investigationis, quæ iure tamquam pretiosissimum bonum omnibus viris doctis cordi est, signifcat animum promptum ad excipiendam veritatem sicuti est, post investigationem factam, cui nulium elementum se immiscuerit extraneum exigentiis methodi, quæ rei, de qua agitur, respondeat. In scientia theologica hæc libertas investigationis inscribitur intra cognitionem rationalem, cuius obiectum prebetur Revelatione, transmissa et explicata in Ecclesia sub Magisterii auctoritate, et per fidem excepta. Neglegere hæc elementa, quæ ut principia habenda sunt, idem est ac desistere a theologia exercenda. Ut satis hanc rationem inter theologiam et Magisterium explicemus, nunc opportunum ducimus munus considerare, quo Magisterium fungitur in Ecclesia.”

\textsuperscript{210} DVert IV, A, 22, 1559. “Cooperatio inter theologum et Magisterium peculiari modo efficitur, cum theologus recipit missionem canonicam vel mandatum docendi. Quæ cooperatio tunc fit quodammodo participatio operis Magisterii, cui quidem vinculo iuris consociatur. Normæ deontologiae, quæ per se ipsas atque manifesto a Verbi Dei servitio proficiscuntur, tunc corroborantur obligatione, quam theologus sumit, dum officium recipit ac Professionem fidei et Iusiurandum fidelitatis emittit.”
Here, the term “collaboration” is misleading. Technically, by following the position taken in *Donum veritatis*, the theologian is not engaged in a collaborative relationship but one of *subsidiarium*. The theologian derives his office within the context of delegation.

It became clear in *Donum veritatis* that a continuing area of concern for the Congregation for the Doctrine of the Faith was that of dissent, especially public dissent. This is a natural area of attention for the Congregation, as they are charged in the Apostolic Constitution *Pastor bonus* to “promote and safeguard the doctrine on faith and morals in the whole Catholic world; so it has competence in things that touch this matter in any way.” The Congregation, by helping bishops “individually or in groups, in carrying out their office as authentic teachers and doctors of the faith, an office that carries with it the duty of promoting and guarding the integrity of that faith,” concentrates on the working relationship between bishop and theologian:

Even when collaboration takes place under the best conditions, the possibility cannot be excluded that tensions may arise between the theologian and the Magisterium. The meaning attributed to such tensions and the spirit with which they are faced are not matters of indifference. If tensions do not spring from hostile and contrary feelings, they can become a dynamic factor, a stimulus to both the Magisterium and theologians to fulfill their respective roles while practicing dialogue.214


212 *PB* 48, 873. “… doctrinam de fide et moribus in universo catholico orbe promovere atque tutari; proinde ipsi competunt ea, quae hanc materiam quoquo modo attingunt.”

213 *PB* 50, 873. “… sive singularis sive in catibus adunatis, auxilio est in exercitio muneres, quo ipsi authentici fidei magistri atque doctores constituuntur, quoque officio integritatem eiusdem fidei custodiendi ac promovendi tenentur.”

214 *DVert* IV, A, 25, 1561. “Etiam cum cooperatio optimis condicionibus procedit, non excluditur dari posse tensiones inter theologum et Magisterium. Significatio, que iis tribuitur, et animus qui ad easdem solvendas geritur, non est quidem parvi momenti; nam tensiones, si non e quodam sensu infensi aut adversi animi orientur,
Tensions within the relationship between bishop and theologian, however, cannot be accompanied by a blatant disregard for the place of the theologian in the Church:

In any case there should never be a diminishment of that fundamental openness loyally to accept the teaching of the Magisterium as is fitting for every believer by reason of the obedience of faith. The theologian will strive then to understand this teaching in its contents, arguments, and purposes. This will mean an intense and patient reflection on his part and a readiness, if need be, to revise his own opinions and examine the objections which his colleagues might offer him.\(^{215}\)

Within this scheme, the theologian must remember the bonds of communion that tie him not only to the Magisterium, but also to the Church itself, and the task that theologian has within the Church:

Certainly, it is one of the theologian's tasks to give a correct interpretation to the texts of the Magisterium and to this end he employs various hermeneutical rules. Among these is the principle which affirms that Magisterial teaching, by virtue of divine assistance, has a validity beyond its argumentation, which may derive at times from a particular theology.\(^{216}\)

Finally, this task does not allow the theologians to set themselves as a complementary teaching office within the Church, or as *Donum veritatis* names it, a “parallel Magisterium.”

As to the “parallel Magisterium,” it can cause great spiritual harm by opposing itself to the Magisterium of the Pastors. Indeed, when dissent succeeds in extending its influence to the point of shaping a common opinion, it tends to become the rule of

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\(^{215}\) *DVert* IV, A, 29, 1561–1562. “Utemque res se habet, numquam deficiet fundamentalis animi disposito ad sincere amplectendam doctrinam Magisterii, ut addect quenlibet fidelem ob fidei obedientem. Theologus ergo conabitur hanc doctrinam in suis rebus, quas continet, in suis rationibus et in suis causis intellegere. Ad hoc ille accuratam patientemque considerationem devovedited, promptus ad recognoscendas suas ipsius opiniones et ad obiectiones examinandas, quas eius collegæ ipsi attulerint.”

\(^{216}\) *DVert* IV, B, 34, 1564. “Proprium unum sane munus theologi est recte interpretari Magisterii documenta, quam ad rem normis hermeneuticis utitur, inter quas principium illud reperitur, vi cuius doctrina Magisterii, assententiae divinae virtute, ultra argumentationes valet, interdum haustas ex quadam theologia particulari, quam ipsis adhibet.”
conduct. This cannot but seriously trouble the People of God and lead to contempt for true authority.\textsuperscript{217}

This statement reinforced the interpretation presented above, namely that the term “collaboration” is misused and even inappropriate. Theologians are not on an equal footing with the bishops, but work through \textit{subsidiun} in reference to the true authority. The fact that \textit{Donum veritatis} warned against the establishment of a “parallel Magisterium” underlines this position of authority held by the bishop.

In his summary description of \textit{Donum veritatis}, Ladislas Örsy writes the following:

There can be little doubt that the instruction leans heavily toward a tight control of the theologians and does not promote a climate favorable to creativity. It asks for submission to the Magisterium’s interventions in questions under discussion where issues of principle intermingle with “contingent and conjectural elements.”

The instruction gives a code of conduct for the theologians. It is substantially a disciplinary document. The balance that it intends to establish between the Magisterium and the theologians is different from the one that proved so successful during Vatican II.\textsuperscript{218}

Avery Dulles, in discussing \textit{Donum veritatis} from his point of view as a theologian, offered a distinct perspective from Örsy in describing the Instruction. Dulles wrote:

The Church is quite properly concerned to assure that its official teaching is credibly passed on to those who will have the responsibility of instructing others in faith and morals, for otherwise the faithful would be deprived of their right ‘to receive the message of the Church in its purity and integrity and not to be disturbed by a particularly dangerous opinion.’

\textsuperscript{217} \textit{DVirt IV}, B, 34, 1565. “\textit{Quod autem attinet ad ‘magisterium parallelum,’ permagna damna spiritualia afferre potest, quoties illud magisterio Pastorum obsistit. Etenim quotiescumque dissensio extendere valet suam vim efficacitatemque usque ad gignendam publicam opinionem, proclivis fit ut ipsa agendi norma evadat; et id non potest non perturbare graviter Populum Dei, illumque inducere ad vera auctoritatis contemptionem.”

Some restrictions on the freedom of theologians [therefore] may be acceptable in order to prevent the authentic teaching of the Church from being ignored or obscured.\textsuperscript{219}

\textit{Ex corde Ecclesiae}

The Apostolic Constitution \textit{Ex corde Ecclesiae},\textsuperscript{220} the second of two documents released in 1990 to deal specifically with Catholic education, was promulgated, as was \textit{Sapientia Christiana} before it, by an educator and a philosophy professor who admitted to being “deeply enriched by the beneficial experience of university life: the ardent search for truth and its unselfish transmission to youth and to all those learning to think rigorously, so as to act rightly and to serve humanity better.”\textsuperscript{221} Unlike \textit{Sapientia Christiana}, this constitution was addressed to Catholic colleges, universities, and institutes of higher education that do not possess a pontifical charter, a group of institutions that represented the vast majority of higher education institutions throughout the world.

For Pope John Paul II, the Catholic university continued to serve an important purpose in the life of the Church.

\begin{quote}
It is the honor and responsibility … to consecrate itself without reserve to the cause of truth. This is its way of serving at one and the same time both the dignity of man and the good of the church, which has ‘an intimate conviction that truth is (its) real ally … and that knowledge and reason are sure ministers to faith.’\textsuperscript{222}
\end{quote}


\textsuperscript{220} John Paul II, Apostolic Constitution \textit{Ex corde Ecclesiae}, August 15, 1990, \textit{AAS} 82 (1990) 1475–1509. English translation is from the Holy See website, \url{http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp–ii_apc_15081990_ex–corde–ecclesiæ_en.html}. All subsequent English translations from \textit{Ex corde Ecclesiae} will be taken from this source unless otherwise indicated. Another English translation appears in \textit{Origins} 20:17 (October 4, 1990), 265–276. All further references to this document will be labeled \textit{ECE}.

\textsuperscript{221} \textit{ECE} 2, 1476. “\textit{… videlicet id quod vitae est proprium universitatis: flagrantem veritatis inquisitionem liberalemque eiusmodem participationem cum iuvenibus et iis omnibus qui stricte discunt ratiocinari ut recte agant quo melius hominum serviant societati.”

\textsuperscript{222} \textit{ECE} 4, 1477–1478. “\textit{Sese autem veritatis causæ sine ulla condicione devovere et decus Catholicæ Universitatis est et officium. Hec namque ratio ipsius propria est qua tum hominis dignitati inservit tum Ecclesiae}
Scientific and technological discoveries create enormous economic and industrial growth, but they also inescapably require a corresponding search for meaning to guarantee that the new discoveries are used for the authentic good of society. If it is the responsibility of every university to search for such meaning, a Catholic university is called in a particular way to respond to this need. Its Christian inspiration enables it to include the moral, spiritual, and religious dimension in its research and to evaluate the attainments of science and technology in the perspective of the totality of the human person.

In this context, Catholic universities are called to a continuous renewal, both as “universities” and as “Catholic.” Such renewal requires a clear awareness that, by its Catholic character, a university is made more capable of conducting an impartial search for truth, a search that is neither subordinated to nor conditioned by particular interests of any kind.223

In using these characteristics, Pope John Paul II showed how the universal Church utilizes its universities in its mission to “integrate faith and reason. Integration of this sort would be commonplace in a community that was simultaneously and equally intellectual, moral and ecclesial.”224 The Catholic university is a place of research, and therefore a place of effective

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223 ECE 7, 1479–1480. “Inventa enim scientiarum et technologiae, si ex altera parte secum inferunt ingens rei aeconomicae et fabrilis augmentum, ex altera imponunt necessario respondentem inquisitionem significationis, ut reperta nova in verum singularum hominum societatisque humanae totius simul sumpta bonum usurpentur. Si vero cuiusque est Universitatis officium talem conquirere significationem, Catholica insigniter vocatur Universitas ut huic respondeat necessitati: animus enim christianus eius sint propria in studia eam inferre rationem moralem et spiritalem et religiosam necnon fructus scientiae technicaeque artis aestimare ex integrae personae humanae prospectu. His in condicionibus incitantur Universitates Catholicae continuatam ad renovationem tum quia sunt universitates tum quia sunt catholicae. Postulat tamen huius generis renovatio luculentam omnino conscientiam: nemepe ex indole sua catholica posse iam Universitatem investigationem veritatis melius perficere sine factioso studio eamque ideo inquisitionem nec subdi nec affici ullis particularibus quibuslibet utilitatibus.”

witness where knowledge holds “intrinsic value,” as is stated in Article 15. The university is immersed in human society, and therefore “it is called on to be an effective instrument of cultural progress for individuals as well as for society.”225 Most importantly, the university serves the Church as a medium of evangelization. “It is a living institutional witness to Christ and his message, so vitally important in cultures marked by secularism, or where Christ and his message are still virtually unknown.”226

To accomplish this task, *Ex corde Ecclesiae* included seven norms of implementation227 that were the minimum requirements for those institutions that freely chose to be called Catholic colleges or universities. Alongside these norms, national or regional episcopal conferences were responsible for developing regional ordinances for universities and institutes of higher studies in their region,228 while Catholic universities needed to develop mission statements concerning their

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225 *ECE* 32, 1493. “… incitatur ut efficacioris usque tum singulis tum societati culturalis progressionis instrumentum sit.”

226 *ECE* 49, 1501. “Agitur enim vitale testimonium Instituti proprium, Christo dandum eiusque nuntio tam necessario in culturis sæcularismo, qui dicit, notatis, aut ubi Christus eiusque nuntius nondum noti sunt.”

227 *ECE* Pars Altera: Normæ Generales (henceforth referred to as *ECE* II).

228 *ECE* II, 1 §2, 1502. “Normas Generales in singulis locis et regionibus applicare debent Conferentiae Episcopalæ et cetera Consilia Hierarchicae Catholicae conveniunt cum Codice Iuris Canonici cumque legibus ecclesiasticis additiis, ratione habita Statutorum cuiusque Universitatis vel Instituti et—prout fieri potest et opportunum est—etiam iuris civilis. Post inspectionem Sancte Sedis, ha locorum aut regionum ‘Ordinationes’ valebunt in omnes Universitates Catholicas et in Instituta Catholica Studiorum Superiorum regionis, exceptis Universitatibus et Facultatibus Ecclesiasticis: quæ quidem, partier ac Facultates Ecclesiasticæ ad Universitatem Catholicam pertinentes, normis reguntur Constitutionis Apostolicae ‘Sapientia Christiana.’” (“The general norms are to be applied concretely at the local and regional levels by episcopal conferences and other assemblies of Catholic hierarchy43 in conformity with the *Code of Canon Law* and complementary Church legislation, taking into account the statutes of each university or institute and, as far as possible and appropriate, civil law. After review by the Holy See44, these local or regional "ordinances" will be valid for all Catholic universities and other Catholic institutes of higher studies in the region, except for ecclesiastical universities and faculties. These latter institutions, including ecclesiastical faculties which are part of a Catholic university, are governed by the norms of the apostolic constitution *Sapientia Christiana.*”) Footnote 43 in the text states, “Episcopal Conferences were established in the Latin Rite. Other Rites have other Assemblies of Catholic Hierarchy.” Footnote 44 is a reference to *CIC* 455 §2, and
Catholic identity.229 “Catholic teaching and discipline are to influence all university activities, while the freedom of conscience of each person is to be fully respected.”230 Also, A Catholic university possesses the autonomy necessary to develop its distinctive identity and pursue its proper mission. Freedom in research and teaching is recognized and respected according to the principles and methods of each individual discipline, so long as the rights of the individual and of the community are preserved within the confines of the truth and the common good.231

The most contentious norms in the constitution proved to be those concerning the relationship between the university and the Church.

The responsibility for maintaining and strengthening the Catholic identity of the university rests primarily with the university itself. While this responsibility is entrusted principally to university authorities, it is shared in varying degrees by all members of the university community. The identity of a Catholic university is essentially linked to the quality of its teachers and to respect for Catholic doctrine. It is the responsibility of the competent authority to watch over these two fundamental needs in accordance with what is indicated in canon law.232

footnote 45 explains, “Ecclesiastical Universities and Faculties are those that have the right to confer academic degrees by the authority of the Holy See.”

229ECE II, 2 §3, 1503. “Quælibet Universitas Catholica debet suam catholicam indolem significare vel sui munere enuntiature, vel alio apto instrumento publico, nisi aliter concessum sit a competenti Auctoritate ecclesiastica. Quærere sibi debet, præsertim per suam structuram suasque leges, instrumenta ad illam naturam exprimendam atque servandam iuxta §2”. (“Every Catholic university is to make known its Catholic identity, either in a mission statement or in some other appropriate public document, unless authorized otherwise by the competent ecclesiastical authority. The university, particularly through its structure and its regulations, is to provide means which will guarantee the expression and the preservation of this identity in a manner consistent with Section 2.”)

230 ECE II, 2 §4, 1504. “Institutio catholica et disciplina catholica debent vim habere ad omnes actions Universitatis, cum tamen cuiusque personæ libertas conscientiæ sit omnino reverenda.”

231 ECE II, 2 §5, 1504. “Universitas Catholica autonomiam possidet necessarium ad propriam sui naturam excolendam suumque munus persequeundum. Pervigitationis et institutionis libertas agnoscenta et observanda est pro principiis et methodis cuiusque disciplinae propriis, dummodo personarum et Communitatis iura protegentur, intra postulata veritatis et boni communis.”

232 ECE II, 4 §1, 1505. “Onus tuendi et confirmandi Universitatis indolem catholicam spectat imprimis ad ipsam Universitatem. Quamvis hoc onus impositor sit imprimis Universitatis Auctoritatibus (additis, ubi sint, Magno Cancellario et aut Consilio rebus administrandis praeposito vel Corpore alio idem valente), participatur diverso gradu etiam ab omnibus Communitatis sodalibus, ideoque postulat ut conquiritur aptae ad Universitatem personae, praecipe professores et administratores, que promptae sint et idoneæ ad hanc indolem fovendam. Universitatis Catholicae indoles intime coniuncta est cum professorum qualitate et doctrinae catholicae observantia.”
This regulation specifically referred to canon 810 and the magisterial duty of oversight. The same article also numerated the duties of the teachers.

In ways appropriate to the different academic disciplines, all Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfill a mandate received from the church, are to be faithful to the Magisterium of the church as the authentic interpreter of sacred Scripture and sacred tradition. \(^{233}\)

Here, Pope John Paul II referred to an idea already explained in canon law, in this case, canon 812. This implicit connection between *Ex corde Ecclesiae* and canon law continued in Article 5 of the apostolic constitution, which reads,

Each bishop has a responsibility to promote the welfare of the Catholic universities in his diocese and has the right and duty to watch over the preservation and strengthening of their Catholic character. If problems should arise concerning this Catholic character, the local bishop is to take the initiatives necessary to resolve the matter, working with the competent university authorities in accordance with established procedures and, if necessary, with the help of the Holy See. \(^{234}\)

The “established procedures” of this norm refer to either the statutes instituted by the competent ecclesiastical authority at the university’s founding, or by episcopal conferences for universities within their jurisdiction. No matter who is referred to in the norms, however, it remains important

\(^{233} \) *ECE* II, 4 §3, 1505. “*Modis, diversis academicis disciplinis congruentibus, omnibus catholicis docentibus fideliter accipiendae sunt, ceterisque omnibus docentibus observandae, doctrina et de morum disciplina catholica, tum in pervestigando tum in instituendo. In primis theologi catholici, conscii se Ecclesiæ persequi mandatum, fideles sint erga Ecclesiæ Magisterium, uti Sacrarum Litterarum et Sacrae Traditionis interpretem authenticum.*”

\(^{234} \) *ECE* II, 5 §2, 1506–1507. “*Cuiusque Episcopi munus est bona administrationi favere Catholicarum Universitatem diecesis sua, eique ius et officium est invigilandi eam indolem catholicæ servandae et firmandae. Si quoad hanc necessariam condicionem quæstiones oriantur, Episcopus loci consilia capiat, quæ opus sint ad eas solvendas, concorditer cum legitimis Auctoritatibus academicis et congruenter statutis procedendi rationibus ac—si necesse sit—cum Sanctæ Sedis auxilio.*”
for the bishop to maintain the “Catholicity” of such an endeavor as a Catholic university, for as Sharon Euart explains,

When the right of the bishop to protect the rights of the Church and its members to receive the faith integrally and faithfully is in tension with the rights of the theologians enumerated above [in *Ex corde Ecclesiae*], mutual trust, cooperation and dialogue are placed in jeopardy unless a just and equitable resolution is sought.235

Pope John Paul II viewed *Ex corde Ecclesiae* as an essential document of renewal, for it focused on an essential element of evangelization and ministry, the Catholic university:

The mission that the church, with great hope, entrusts to Catholic universities holds a cultural and religious meaning of vital importance because it concerns the very future of humanity. The renewal requested to Catholic universities will make them better respond to the task of bringing the message of Christ to man, to society, to various cultures. It is with fervent hope that I address this document to all the men and women engaged in various ways in the significant mission of Catholic higher education.236

Discussions amongst Catholic theologians and canonists centered on the relationship this document created between professors and the bishop. Theologians feared that the *mandatum* would threaten their right to a just freedom of inquiry as guaranteed by canon 218, and further protected by canon 386 §2. Bishops, for their part, praised the re-affirmation of the *mandatum* as an opportunity to strengthen their own mission as the teachers of doctrine. The closer relationship between bishop, university, and theologian would allow the bishop to exercise his responsibility of “vigilance so that abuses do not creep into ecclesiastical discipline,” (canon 392 §1) while

235 Ibid., 471.

236 ECE Conclusio, 1509. “Munus, quod Ecclesia magna cum spe Universitatibus Catholicis concredit, culturalem et religiosam habet significationem magni momenti, quin immo maximi, cum ipsa humani generis futura contingat. Renovatio, quae ab Universitatibus Catholicis postulatur, has habiliores reddet ad satisfaciendum officio Christi nuntium afferendi hominibus, societati, culturis. Vehementissima cum spe hoc Documentum vertimus ad omnes viros omnèsque mulieres qui, multimodis, in grave munus insistunt institutionis superioris catholicæ.”
reaffirming the rights the episcopate already enjoyed concerning the supervision and acceptability of teachers at all levels (cf. canon 805). Sharon Euart summarizes this tension in the following statement:

If the mandate is viewed simply as a juridical mechanism for theological conformity, the work of theology and the morale of theologians may well be undermined. On the other hand, if there exists a community of trust and dialogue between theologians and bishops or at least an effort at building such a community, the work of theology will be enhanced and the challenges associated with the mandate may be minimized.237

Following the promulgation of Ex corde Ecclesiae, Avery Dulles discussed the interdependence of theologians and bishops in a February 1991 address to Franciscan University of Steubenville, Ohio. In this address, Dulles stated,

Both theology and the ecclesiastical Magisterium must operate in the context of the whole Church as the primary recipient and bearer of divine revelation. The diversity of functions, since it exists only within the prior unity of the people of God, cannot be understood as separation of antagonism. Within the Church, theologians and hierarchical teachers depend in many ways upon each other.238

The interdependence becomes clearer when looking at the specific roles. “Without the directives of the Magisterium Catholic theology would lack adequate guidance.”239 On the other hand, “by their preliminary research theologians help to mature the judgment of the Church. By their technical skill they assist the bishops in the precise expression of Catholic doctrine. And even after


238 Dulles, “The Interdependence of Theologians and the Magisterium,” 693.

239 Ibid.
the Magisterium has spoken, theologians play an important role in the reception and interpretation of doctrinal declarations.”

In this address, Dulles also discussed the issue of dissent, one that was prevalent in *Donum veritatis* and *Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving Misunderstanding Between Bishops and Theologians*. “The Church is quite properly concerned to assure that its official teaching is credibly passed on to those who will have the responsibility of instructing others in faith and morals, for otherwise the faithful would be deprived of their right ‘to receive the message of the Church in its purity and integrity and not to be disturbed by a particularly dangerous opinion.’” Therefore, Dulles proposed five ground rules that could stand beside the statements of the Magisterium to avoid any abuse of authority by ecclesiastical teachers in their ministry:

- The Magisterium can avoid issuing too many statements, especially statements that appear to carry with them an obligation to assent.
- The hierarchical teachers can use their influence to protect legitimate freedom and to moderate charges and countercharges among theologians of different schools.
- The Magisterium should be on guard against efforts of any given school or party to gain official endorsement for its own theological positions.
- The hierarchy, before it speaks, should anticipate objections and seek to obviate them.
- Those who speak on behalf of the universal Church must be sensitive to the variety of situations and cultures in different parts of the world. Advance consultation with episcopal conferences can be and has often proved to be of assistance in finding palatable formulations or permitting the preparation of timely explanations.

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240 Ibid.

241 Ibid., 695.

242 Ibid., 696.
In these ground rules, Dulles proposed using a type of subsidiary function as a preventive measure for abuse, as seen especially in the fifth statement. Here, Dulles used the process of developing *Ex corde Ecclesiæ* as a successful model of discussion and consultation.

Following the promulgation of *Donum veritatis* and *Ex corde Ecclesiæ*, the National Conference of Catholic Bishops published a second pastoral letter addressing not only the teaching office in the context of the Church in the United States, but also the way the teaching office affects priests, deacons, catechists, and theologians in their service to the truth of the gospel. This document, titled *The Teaching Ministry of the Diocesan Bishop: A Pastoral Reflection*, reiterated many of the propositions contained in the conference’s previous pastoral letter on the need for a closer working relationship between bishops and theologians. It borrowed heavily from *Donum veritatis*, with the bishops stating, “The Church cannot exist without the office of bishop nor thrive without the sound scholarship of the theologian. Bishops and theologians are in a collaborative relationship.”243 Within this collaborative relationship, each role is separate and well defined. “The bishop is to teach the faith of the Church, its basic understanding of the Gospel of Christ; the theologian is to teach theology, the disciplined extension of this understanding through philosophical, scientific and cultural concepts or methods.”244 For the NCCB, collaboration is an initiative that should be taken by the bishops who “ought to foster dialogue between themselves and theologians. Whether this occurs on a diocesan or regional level, such dialogues ought to encourage theological discussion of the many issues facing the Church and its mission in today’s

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244 Ibid.
world.” Overall, “the Church encourages theology and theologians because ‘the service of doctrine, implying as it does the believer’s search for an understanding of the faith, i.e. theology, is … something indispensable for the Church.”

The conference discussed the role of collegiality and communion between the bishops themselves, especially as they recognized their place within the college of bishops and the teaching ministry that college possessed, for “if the common faith of the Church is to survive from one generation to the next, the Church must possess the internal resources to distinguish for the entire community what is true from what is false in these translations and developments of the Gospel message.” The conference remained concerned that it should not usurp the fundamental role of the diocesan bishop as authentic teacher in the local diocese.

The unity of teaching can be … greatly enriched by the capacities for communication in our own age. This development, however, can be harmful if it leads bishops to abdicate their own inherent teaching authority in a concession toward an excessive centralization or to defer to the statements of a regional body without personal commitment or assent. If teaching is done only at the regional or universal level, the Church may be weakened by its loss of the varied contributions of individual bishops and the churches they serve.

Finally, the document addressed the reservations raised by theologians engaging in public opposition to the Magisterium of the Church. To calm the fears of theologians that the Church, especially after the promulgation of *Ex corde Ecclesiae*, was attempting to curtail discussion and

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245 Ibid., 483.
246 Ibid., 482.
247 Ibid., 477.
248 Ibid., 479.
the possibility of academic disagreement, the bishops made a sharp distinction between private
discussion and public dissent:

It does not seem appropriate to apply the term *public* to the professional discussions
that occur among theologians within the confines of scholarly meetings and
dialogues or to the scholarly publication of views. Such forums for the exchange of
views among theologians are invaluable for the refinement of positions that comes
through peer critique of evidence, methodology and scholarship.

When, however, a judgment rejecting Magisterial teaching is widely disseminated
in the public forum, such as may occur through popular religious journals or
through books intended for mass distribution or through the press and electronic
media, then a situation of public dissent is at hand.249

When these situations do occur, the bishops intended to follow the procedures outlined in
*Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving
Misunderstanding Between Bishops and Theologians* while operating in an “authoritative and
candid manner” and “fostering both that unity of the body of Christ and that progress in the
systematic reflection upon the Gospel which mark the Church as a communion of love and
wisdom.”250 In their actions, the conference stressed their position that the unity of the body of
Christ can never be threatened by,

Preachers and catechists as well as teachers of theology appointed by the competent
authority to teach in the name of the Church, [who] are bound to present faithfully
what the Church teaches. [P]ublic dissent expressed by such persons, especially
when it occurs in the course of performing the duties of their office, cannot be
reconciled with the responsibilities that these positions entail.251

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249 National Conference of Catholic Bishops, *The Teaching Ministry of the Diocesan Bishop: A Pastoral
Reflection*, 488.

250 Ibid., 489.

251 Ibid.
Veritatis splendor

The encyclical Veritatis splendor\textsuperscript{252} is concerned with the foundations of moral theology which, “in the present circumstances, risk being distorted or denied. … It is no longer a matter of limited or occasional dissent, but of an overall and systematic calling into question of traditional moral doctrine”\textsuperscript{253} that the encyclical attempts to curtail and correct:

The encyclical will limit itself to dealing with certain fundamental questions regarding the Church’s moral teaching, taking the form of a necessary discernment about issues being debated by ethicists and moral theologians. The specific purpose of the present encyclical is this: to set forth, with regard to the problems being discussed, the principles of a moral teaching based upon Sacred Scripture and the living apostolic tradition, and at the same time to shed light on the presuppositions and consequences of the dissent which that teaching has met.\textsuperscript{254}

In accomplishing this task,

The Church’s Magisterium does not intend to impose upon the faithful any particular theological system, still less a philosophical one. Nevertheless, in order to ‘reverently preserve and faithfully expound’ the Word of God, the Magisterium has the duty to state that some trends of theological thinking and certain philosophical affirmations are incompatible with revealed truth.\textsuperscript{255}

\textsuperscript{252} John Paul II, Encyclical Veritatis splendor, August 6, 1993, AAS 85 (1993), 1133–1228. English translation is from the Holy See website, https://www.vatican.va/content/john–paul–ii/en/encyclicals/documents/hf_jp–ii_enc_06081993_veritatis–splendor.html. All subsequent English translations from Veritatis splendor will be taken from this source unless otherwise indicated. All further references to this document will be labeled VS. Another English translation appears in Origins 23:18 (October 14, 1993), 297, 299–334.

\textsuperscript{253} VS 4, 1136. “… quæ in periculo versantur deformationis vel negationis … Iam non agitur de oppositibus ex aliqua parte et per occasionem factis, verum de patrimonio morali, in plenam et obstinatam controversiam adducto.”

\textsuperscript{254} VS 5, 1137. “… hæ Litteræ Encycelicæ quasdam solummodo præcipuas tractabunt doctrinæ moralis Ecclesiæ questiones, necessarium quoddam inducentes scrimen circa questiones de ethica deque morali doctrina inter studiosos viros agitatas. Hoc est proprium argumentum harum Litterarum Encyclicularum, quibus exponere cupimus de agatis questionibus rationes institutionis moralis, Sacris Litteris nise et viva apostolica Traditio, in luce ponentes antecedentia et consecutiones contentionum quæ eiusmodi institutionem afficiunt.”

\textsuperscript{255} VS 29, 1157. “Profecto Ecclesiæ Magisterium fidelibus non peculiarem theologicae methodum nedum philosophicam imponere vult, sed ut sancte custodiat et fideliter exponat Dei verbum id declarare debet quasdam theologorum propensiones vel quasdam philosophicas asseverationes minime congruere cum veritate revelata.”
Veritatis splendor, like Donum veritatis before it, expanded the authority of the Magisterium. In this case, the encyclical equated the moral law with the deposit of faith:

The truth of the moral law—like that of the deposit of faith—unfolds down the centuries: The norms expressing that truth remain valid in their substance, but must be specified and determined eodem sensu eademque sententia in the light of historical circumstances by the Church’s Magisterium, whose decision is preceded and accompanied by the work of interpretation and formulation characteristic of the reason of individual believers and of theological reflection.256

The justification for this expansion is based on the statements of the First Vatican Council, as found in the footnote number 100 that accompanied this paragraph, which stated, “The development of the Church’s moral doctrine is similar to that of the doctrine of the faith (cf. Vatican Council I, Dei Filius 4, and Canon 4: DS, 3024).”257 The footnote continued by quoting Pope John XXIII at the opening of the Second Vatican Council:

This certain and unchanging teaching (i.e. Christian doctrine in its completeness), to which the faithful owe obedience, needs to be more deeply understood and set forth in a way adapted to the needs of our time. Indeed, this deposit of the faith, the truths contained in our time-honored teaching, is one thing; the manner in which these truths are set forth (with their meaning preserved intact) is something else. (cf. Acta Apostolicae Sedes 54 (1962), 792.)258

256 VS 53, 1177. “Hæc legis moralis veritas – æque ac ‘fidei depositi’ – per sæcula explicatur: normæ autem quæ eandem exprimunt sunt substantialiter firme, sed sunt definiendæ et terminandæ ‘eodem sensu eademque sententia’ ad historica adiuncta ab Ecclesiæ Magisterio, cuius iudicium antecedunt et comitantur nisus lectionis et formulationisque proprius rationis fidelium atque theologicae inquisitionis.”

257 VS n. 100, 1177. “Moralis Ecclesiæ doctrinæ progressus similis est fidei doctrinae.”

Within this new expansion of magisterial authority, the role of theology and the theologian reflected that as presented in *Donum veritatis*:

It is fundamental for defining the very identity of theology, and consequently for theology to carry out its proper mission, to recognize its profound and vital connection with the Church, her mystery, her life and her mission: Theology is an ecclesial science because it grows in the Church and works on the Church. … It is a service to the Church and therefore ought to feel itself actively involved in the mission of the Church, particularly in its prophetic mission.\(^{259}\)

As a service to the Church, theology and those who engage in it must recognize their place within the Church. “Moral theologians are to set forth the Church’s teaching and to give, in the exercise of their ministry, the example of a loyal assent, both internal and external, to the Magisterium’s teaching in the areas of both dogma and morals.”\(^{260}\) Furthermore, “dissent, in the form of carefully orchestrated protests and polemics carried on in the media, is opposed to ecclesial communion and to a correct understanding of the hierarchical constitution of the people of God.”\(^{261}\) The final paragraphs of the encyclical reinforced the place of the Magisterium in the moral teaching of the Church and saw this role as a blend of governance and pastoral charity. As Pope John Paul II wrote, “It is part of our pastoral ministry to see to it that this moral teaching is faithfully handed down and to have recourse to appropriate measures to ensure that the faithful are

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\(^{259}\) VS 109, 1219. “*Caput definitionis identitatis theologiæ, ac proinde exsecutionis eius ipsius muneri, ponitur in percipiendo eius intimo vivoque nexo cum Ecclesia, eius mysterio, eius vita ac munere:* “*Theologia est scientia ecclesialis, quia in Ecclesia crescit et in Ecclesia agit … Cum Ecclesiae serviat, debet se in munus Ecclesiae insertam sentire, praeertim vero in eius propheticum munus.*”

\(^{260}\) VS 110, 1220. “*Ipsorum eiusmodi theologorum est exponere doctrinam Ecclesiae suoque in ministerio perfungendo exemplum sinceri obsequi interni externique institutioni Magisterii propriae cum in re dogmatica, tum in re morali tribuere.*”

\(^{261}\) VS 113, 1222. “*Dissensio, que statutis constat reclamationibus et contentionibus ope communicationis socialis instrumentorum, contraria est communioni ecclesiali rectoque intellectui constitutionis hierarchicae Populi Dei.*”
guarded from every doctrine and theory contrary to it.” 262 Moreover, “it is the task of the Church’s Magisterium to see that the dynamic process of following Christ develops in an organic manner, without the falsification or obscuring of its moral demands, with all their consequences.” 263

An addendum to the encyclical appeared at its promulgation in the form of an “official Vatican summary.” 264 This summary stated that the encyclical followed the Catechism of the Catholic Church so as to be “able to limit itself to dealing with certain fundamental questions regarding the Church’s moral teaching, in the form of a discernment made by the Church’s Magisterium with regard to certain controversial problems of present-day moral theology.” 265 The summary is also important in its own right not only for its synthesis of the statements of a rather lengthy papal encyclical, but also for introducing language into the discussion that had not been used in the encyclical itself. For example, it stated, “stimulated by the papal Magisterium of the last two centuries, the Church has continued to develop her rich tradition of moral reflection on many different spheres of human life.” 266 The term “papal Magisterium” never appeared in Veritatis splendor but is an addition in this statement. Also, “it has become increasingly evident that this is no longer a matter of limited and occasional dissent from certain specific moral norms,

262 VS 116, 1224. “Pastoralis ministerii nostri pars est … curare ut fideliter morale huiusmodi magisterium transmittatur, necnon opportune prospicere ut fideles ab omni doctrina custodiantur et opinatione, qua illi adversetur.”

263 VS 119, 1226. “Ecclesiastici Magisterii est vigilanter curare, ut dynamismus adsectionis Christi ordinatim ac distincte augescat, postulatibus moralibus non falsatis neque occultatis una cum omnibus earum consectariis. Qui Christum diligit, mandata eius servat.”


265 Ibid., 334.

266 Ibid.
but rather a general and systematic calling into question of traditional moral norms as such, on the basis of certain anthropological and ethical concepts,” and to prevent this dissent from spreading, “the papal Magisterium has deemed it necessary to clarify the points of doctrine crucial for the successful resolution of this crisis.”

Both the encyclical *Veritatis splendor* and its official summary continued a trend begun by *Sapientia Christiana* of strengthening the episcopal teaching office of the Church, and more centrally in the office of the Pope, while relegating the theologian and those engaged in the sacred sciences to an ancillary supporting role. The changes in terminology reflected that trend, so that what began as “collaboration” in the *Instruction on the Ecclesial Vocation of the Theologian* now relegated theologians to a relationship characterized by “obedience” and “loyal assent.”

Theologians, in commenting on this trend, feared that greater authority exerted by bishops and the Holy See, as supported by the Second Vatican Council and its documents, was supplanting their teaching apostolate. Both theologians and bishops, however, quickly used the pastoral character of the relationship between the two sides as a means to soften the centralization and authoritarian tendencies of the Vatican statements, as well as attempting to mold a working relationship under the requirements of the *mandatum* and canonical mission.

*Ad tuendam fidem*

Pope John Paul II issued an apostolic letter motu proprio in May 1998 with the intent “to protect the faith of the Catholic Church against errors arising from certain members of the Christian

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267 “The Vatican’s Summary of *Veritatis splendor,*” 334–335.

268 Cf. *VS* n. 100.

269 Cf. *VS* 110.
faithful, especially from among those dedicated to the various disciplines of sacred theology.”

Titled *Ad tuendam fidem* (“To Defend the Faith”), Pope John Paul II deemed the letter “absolutely necessary to add to the existing texts of the *Code of Canon Law* and the *Code of Canons of the Eastern Churches*, new norms which expressly impose the obligation of upholding truths proposed in a definitive way by the Magisterium of the Church, and which also establish related canonical sanctions.” Specifically, the Pope believed the second paragraph of the Church’s *Professio fidei*,

Has no corresponding canon in the Codes of the Catholic Church. This second paragraph of the *Profession of faith* is of utmost importance since it refers to truths that are necessarily connected to divine revelation. These truths, in the investigation of Catholic doctrine, illustrate the Divine Spirit’s particular inspiration for the Church’s deeper understanding of a truth concerning faith and morals, with which they are connected either for historical reasons or by a logical relationship.

To overcome this gap in enforcement, the Pope promulgated an additional paragraph that would become the second paragraph of a revised Canon 750 in the *Code of Canon Law*. Canon 750 in its complete form after the issuance of the motu proprio now reads:

**Canon 750 §1.** Those things are to be believed by divine and catholic faith which are contained in the word of God as it has been written or handed down by tradition,

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Congregation for the Doctrine of the Faith, *Professio fidei et Iusiurandum fidelitatis in suscipiendio officio nomine Ecclesie exercendo – Formula to be used for the profession of faith and for the oath of fidelity to assume an office to be exercised in the name of the Church*, July 1, 1988, *AAS* 81 (1989) 104–106. English translation is from the Holy See website, [https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_1998_professio–fidei_en.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_1998_professio–fidei_en.html). The Profession of Faith begins with the *Nicene–Constantinopolitan Creed*, followed by three additional paragraphs: “(1) With firm faith, I also believe everything contained in the word of God, whether written or handed down in Tradition, which the Church, either by a solemn judgment or by the ordinary and universal Magisterium, sets forth to be believed as divinely revealed. (2) I also firmly accept and hold each and everything definitively proposed by the Church regarding teaching on faith and morals. (3) Moreover, I adhere with religious submission of will and intellect to the teachings which either the Roman Pontiff or the College of Bishops enunciate when they exercise their authentic Magisterium, even if they do not intend to proclaim these teachings by a definitive act.” The paragraphs themselves are not numbered in the text but are done so here for sake of clarity.
that is, in the single deposit of faith entrusted to the Church, and which are at the same time proposed as divinely revealed either by the solemn Magisterium of the Church, or by its ordinary and universal Magisterium, which in fact is manifested by the common adherence of Christ’s faithful under the guidance of the sacred Magisterium. All are therefore bound to avoid any contrary doctrines.

§2. Furthermore, each and everything set forth definitively by the Magisterium of the Church regarding teaching on faith and morals must be firmly accepted and held; namely, those things required for the holy keeping and faithful exposition of the deposit of faith; therefore, anyone who rejects propositions which are to be held definitively sets himself against the teaching of the Catholic Church.\footnote{Canon 750. “§1. Fide divina et catholica ea omnia credenda sunt quæ verbo Dei scripto vel tradito, uno scilicet fidei deposito Ecclesiæ commisso, continentur, et insimul ut divinitus revelata proponitur sive ab Ecclesiæ magisterio sollemni, sive ab eius magisterio ordinario et universali, quod guidem communi adhasione christifidelium sub ductu sacri magisterii manifestatur; tenentur igitur omnes quascumque devitare doctrinas iisdem contrarias. §2. Firmiter etiam amplectenda ac retinenda sunt omnia et singula quae circa doctrinam de fide vel moribus ab Ecclesiæ magisterio definitive proponuntur, scilicet quae ad idem fidei depositum sancte custodiendum et fideliter exponendum requirunt; ideoque doctrinæ Ecclesiæ catholicae adversatur qui easdem propositiones definitive tenendas recusat.”}

The inclusion of this new paragraph in Canon 750 required a corresponding update to Canon 1371, 1°, which is the only canon that refers directly back to Canon 750. Therefore, the motu proprio made the following adjustment:

Canon 1371. The following are to be punished with a just penalty:

1° a person who, apart from the case mentioned in canon 1364 §1, teaches a doctrine condemned by the Roman Pontiff, or by an Ecumenical Council, or obstinately rejects the teachings mentioned in canon 750 §2 or in canon 752 and, when warned by the Apostolic See or by the Ordinary, does not retract;

2° a person who in any other way does not obey the lawful command or prohibition of the Apostolic See or the Ordinary or Superior and, after being warned, persists in disobedience.\footnote{Canon 1371. “Iusta poena puniatur: 1° qui, preter casum de quo in can. 1364 § 1, doctrinam a Romano Pontifice vel a Concilio Oecumenico damnatam docet vel doctrinam, de qua in can. 750 § 2 vel in can. 752, pertinaciter respuit, et ab Apostolica Sede vel ab Ordinario admonitus non retractat; 2° qui aliter Sedi Apostolicae, Ordinario, vel Superiori legitime praecipienti vel prohibenti non obtemperat, et post monitum in inobedientia persistit.”}
Similar adjustments were made to the *Code of Canons of the Eastern Churches* in canons 598 and 1436, respectively.

The day after the release of *Ad tuendam fidelem*, the Congregation for the Doctrine of the Faith through its cardinal-prefect Joseph Ratzinger and secretary Tarcisio Bertone, S.D.B. published a doctrinal commentary on the concluding formula of the *Professio fidei* that it hoped would assist in the understanding of the motu proprio. The Congregation recognized the new *Professio fidei* and the corresponding motu proprio both intended “to better distinguish the order of the truths to which the believer adheres. The correct explanation of these paragraphs deserves a clear presentation, so that their authentic meaning, as given by the Church's Magisterium, will be well understood, received and integrally preserved.” Within its presentation, the Congregation suggested the second paragraph of Canon 750 and “those things required for the holy keeping and faithful exposition of the deposit of faith” mentioned there,

includes all those teachings belonging to the dogmatic or moral area, which are necessary for faithfully keeping and expounding the deposit of faith, even if they have not been proposed by the Magisterium of the Church as formally revealed. Such doctrines can be defined solemnly by the Roman Pontiff when he speaks *ex cathedra* or by the College of Bishops gathered in council, or they can be taught

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276 Congregation for the Doctrine of the Faith, *Nota doctrinalis*, 545. “… quorum finis est ordines veritatis quibus fidelis adhaeret melius discernere. Operae pretium est horum commatum explanationem enucleare ita ut sensus primarius a Magisterio Ecclesie præbitus bene intellegatur, recipiatur, integre conservetur.”
infallibly by the ordinary and universal Magisterium of the Church as a *sententia definitive tenenda*. Every believer, therefore, is required to give firm and definitive assent to these truths, based on faith in the Holy Spirit's assistance to the Church's Magisterium, and on the Catholic doctrine of the infallibility of the Magisterium in these matters. Whoever denies these truths would be in a position of rejecting a truth of Catholic doctrine and would therefore no longer be in full communion with the Catholic Church.

The doctrinal commentary further stated that the truths belonging to the second paragraph can be of different natures, which in turn gives “different qualities to their relationship with revelation.” The truths could be of a “historical relationship,” while others could have a “logical connection,” but “the fact that these doctrines may not be proposed as formally revealed, insofar as they add to the data of faith elements that are not revealed or which are not yet expressly recognized as such, in no way diminishes their definitive character, which is required at least by their intrinsic connection with revealed truth.” Furthermore, at the end of this paragraph, the Congregation,

Makes a further statement not found in *Ad tuendam fidem* nor in any other previous document of the magisterium regarding truths belonging to the second category: the understanding of truths in this second category can develop so that some of

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278 Ibid., 7, 547. “Quamquam eæ doctrinæ ut rite revelatae non proponuntur quippe quæ fidei elementa non revelata vel nondum ut talia expressim agnita addant, inodium tamen definitiva iis non deest quæ etiam nexus interiore cum veritate revelata demonstrator.”
them may be proclaimed “as also dogmas of divine and catholic faith.” According to the *Nota*, this is what transpired with the doctrine of the infallibility and primacy of jurisdiction of the Roman Pontiff.279

In his 1999 address to the Catholic Theological Society of America, Avery Dulles admitted he saw “nothing new or unprecedented in this claim [of doctrines inseparably linked with revelation, because without them the revelation could not be faithfully expounded or defended.] Popes and councils in past centuries did not hesitate to place their full authority behind doctrines that were not formally revealed.”280 Later in his 2007 book *Magisterium: Teacher and Guardian of the Faith*, Dulles returned to this notion of doctrine by explaining, “Many theologians speak in this connection of ‘ecclesiatical faith’ – faith that goes out not directly to God as witness, but to the Church as divinely assisted teacher.”281

As for how the Church (through the Magisterium) actually teaches these doctrines, the Congregation affirmed,

An infallible teaching of the first or second category [of the profession of faith] requires neither a definitive act nor a clear consensus of the present-day episcopate. In a non-defining act, a doctrine is taught infallibly by the ordinary universal magisterium of the bishops dispersed throughout the world who are in communion with the Successor of Peter. Such a doctrine can be confirmed or reaffirmed by the

279 Anthony J. Figueiredo, *The Magisterium–Theology Relationship: Contemporary Theological Conceptions in the Light of Universal Church Teaching since 1835 and the Pronouncements of the Bishops of the United States* (Rome: Editrice Pontificia Università Gregoriana, 2001), 278. The *Nota doctrinalis* in its eleventh article argued, “The primacy of the Successor of Peter was always believed as a revealed fact, although until Vatican I the discussion remained open as to whether the conceptual elaboration of what is understood by the terms ‘jurisdiction’ and ‘infallibility’ was to be considered an intrinsic part of revelation or only a logical consequence. On the other hand, although its character as a divinely revealed truth was defined in the First Vatican Council, the doctrine on the infallibility and primacy of jurisdiction of the Roman Pontiff was already recognized as definitive in the period before the council. History clearly shows, therefore, that what was accepted into the consciousness of the Church was considered a true doctrine from the beginning, and was subsequently held to be definitive; however, only in the final stage – the definition of Vatican I – was it also accepted as a divinely revealed truth.”


Roman Pontiff without recourse to a solemn definition. His declaration formally attests to a truth already possessed and infallibly transmitted by the Church in explicitly declaring that it belongs to the teaching of the ordinary universal magisterium as a truth that is divinely revealed (first paragraph) or as a truth of Catholic doctrine (second paragraph).  

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Footnote 17 states, “It should be noted that the infallible teaching of the ordinary and universal Magisterium is not only set forth with an explicit declaration of a doctrine to be believed or held definitively, but is also expressed by a doctrine implicitly contained in a practice of the Church’s faith, derived from revelation or, in any case, necessary for eternal salvation, and attested to by the uninterrupted Tradition: such an infallible teaching is thus objectively set forth by the whole episcopal body, understood in a diachronic and not necessarily merely synchronic sense. Furthermore, the intention of the ordinary and universal Magisterium to set forth a doctrine as definitive is not linked to technical formulations of particular solemnity; it is enough that this be clear from the tenor of the words used and from their context.” (“Oportet notetur institutionem infallabilem Magistri ordinarii et universalis non tantum declaracione doctrinae credendae et definitiva tenende aperta proponi, sed etiam doctrina in Ecclesie consuetudine fidei implicite contenta exprimi, cum ea a revelatione derivetur aut utcumque ad salutem aternam sit necessaria atque Traditionis continua testimonio confirmata; cuinsumodi instituto infallibilis a toto corpore episcopali reapse proponi videtur sensu etiam diachronico nec necessarie solummodo synchronico intellecto. Praeterea Magistri ordinarii et universalis consilium doctrinae tamquam definitivae proponenda a formulis technicis nimis sollemnibus pendere non solet; satis est hoc tenore verborum eorumque nexo patetieri.”)

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Footnote 282 refers to Figueiredo, The Magisterium-Theology Relationship: Contemporary Theological Conceptions in the Light of Universal Church Teaching since 1835 and the Pronouncements of the Bishops of the United States (Rome: Editrice Pontificia Università Gregoriana, 2001), 278–279, referencing Nota doctrinalis 9: “The Magisterium of the Church, however, teaches a doctrine to be believed as divinely revealed (first paragraph) or to be held definitively (second paragraph) with an act which is either defining or non–defining. In the case of a defining act, a truth is solemnly defined by an ‘ex cathedra’ pronouncement by the Roman Pontiff or by the action of an ecumenical council. In the case of a non–defining act, a doctrine is taught infallibly by the ordinary and universal Magisterium of the Bishops dispersed throughout the world who are in communion with the Successor of Peter. Such a doctrine can be confirmed or reaffirmed by the Roman Pontiff, even without recourse to a solemn definition, by declaring explicitly that it belongs to the teaching of the ordinary and universal Magisterium as a truth that is divinely revealed (first paragraph) or as a truth of Catholic doctrine (second paragraph). Consequently, when there has not been a judgement on a doctrine in the solemn form of a definition, but this doctrine, belonging to the inheritance of the depositum fidei, is taught by the ordinary and universal Magisterium, which necessarily includes the Pope, such a doctrine is to be understood as having been set forth infallibly. The declaration of confirmation or reaffirmation by the Roman Pontiff in this case is not a new dogmatic definition, but a formal attestation of a truth already possessed and infallibly transmitted by the Church.” (“Utcumque Magisterium Ecclesie doctrinam tamquam divinitus revelatam credendam (in primo commate) aut definitiva retinendam (in secundo commate) actu definitivo aut non definitivo docet. Si de actu definitivo agitur, veritas sollemniter definitur pronuntiatione Romani Pontificis ‘ex cathedra’ aut interventu Concilii Oecumenici. Sin de actu non definitivo agitur, doctrina a Magisterio ordinario et universalis Episcoporum qui ubique terrarum in communione cum Successore Petri versantur, infallibiliter docetur. Huiusmodi doctrina confirmari seu iterum affirmari potest a Romano Pontifice nulla etiam definitione sollemnmi pronuntiata declarante eandem doctrinam ad institutionem Magisterii ordinarii et universalis tamquam veritatem divinitus revelatam (in primo commate) aut tamquam veritatem doctrinae catholicae (in secundo commate) pertinere. Idcirco, cum de aliqua doctrina nullum in forma sollemnmi definitionem exstet iudicium, sed eadem a Magisterio ordinario et universalis — in cuius numerum Papa necessarie confertur — doceatur quippe quae ad patrimonium depositi fidei resipiciat, intellegenda est tunc tamquam infallibiliter proposita. Ergo Romani Pontificis declaratio confirmandi seu iterum affirmandi actus dogmatizationis novus non est, sed confirmatio formalis veritatis ab Ecclesia iam obtenta atque infallibiliter tradita.”) All emphasis appears in the original text.
Dulles recognized that as a community of believers, the Catholic Church had the right to accept or reject things that are not contained in the Scriptures or tradition, because human beings have the capacity to obtain knowledge and come to a definitive or, in some cases, infallible determination about that knowledge.

It is true that there can be doubts about whether certain particular doctrines belong to this second category – the nonrevealed but infallible – but there are similar doubts about members of the first and third categories. The category itself is well established in authoritative Catholic teaching. If the pope had removed secondary objects of infallibility (the *tenenda*) from the sphere of obligatory and irreformable teaching, that would have been a startling innovation.  

Anthony Figueiredo noted that *Ad tuendam fidem* was the first magisterial document that “states explicitly the required connection between truths definitively stated and truths revealed: they must be either (1) for historical reasons or (2) through logical connection.” He also highlighted that in the *Nota doctrinalis*, the Congregation for the Doctrine of the Faith declared:

There is no difference with respect to the “full and irrevocable assent” required for divinely revealed truths and those to be held definitively. The difference between the two categories lies in the source of the assent: for truths of the first category, faith is based on the authority of God’s word; for truths of the second category, faith is based on the Holy Spirit’s assistance to the Magisterium and on Catholic doctrine of the Magisterium’s infallibility.

Richard McBrien in his *The Tablet* article “Hammering the Liberals” likewise clarified,

John Paul II and the Congregation for the Doctrine of the Faith in its various directives to theologians and confessors, have been studying the traditional theological distinction between infallible and non-infallible teachings. They have done so by a creative use of the adjective “definitive.” For decades, the word “definitive” had been reserved for teachings formally declared by a pope or an ecumenical council to be divinely revealed and thus part of the “deposit of faith.”

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285 Ibid., 282.
The Pope and Cardinal Ratzinger now seem to be insisting that non-infallible but “definitive” teachings are to be regarded as if they, too, were infallible.286

However, an inherent difficulty arose after the release of the motu proprio and the doctrinal commentary. While it may be clear as to what tenets of the faith are part of the first paragraph as contained in divine revelation, it is more opaque as to what falls into the second or third categories.287 Richard McCormack saw in Ad tuendam fidel "a return to a broader interpretation of the scope of the secondary object, for there are many teachings which might have a historical or logical connection to revelation but which are not, strictly speaking, necessary for safeguarding revelation."288 The resulting broadening in scope presented the challenge of “distinguishing teachings ‘logically connected’ to divine revelation from those proposed as authoritative doctrine? In fact, is there not a danger of collapsing the third category of church teaching, authoritative doctrine, into this second category by way of convoluted demonstrations of logical or historical


287 Cardinal Ratzinger may have recognized this issue when in article 11 of the Nota doctrinalis he attempted, “without any intention of completeness or exhaustiveness,” to provide examples of doctrines that would fall into each category. For the first paragraph, Ratzinger listed “the articles of faith of the Creed, the various christological dogmas and marian dogmas; the doctrine of the institution of the sacraments by Christ and their efficacy with regard to grace; the doctrine of the real and substantial presence of Christ in the Eucharist and the sacrificial nature of the eucharistic celebration; the foundation of the Church by the will of Christ; the doctrine on the primacy and infallibility of the Roman Pontiff; the doctrine on the existence of original sin; the doctrine on the immortality of the spiritual soul and on the immediate recompense after death; the absence of error in the inspired sacred texts; the doctrine on the grave immorality of direct and voluntary killing of an innocent human being.” The second paragraph included the example of “the development in the understanding of the doctrine connected with the definition of papal infallibility, prior to the dogmatic definition of the First Vatican Council” discussed above, as well as “the doctrine that priestly ordination is reserved only to men,” “the doctrine on the illicitness of euthanasia,” and the “illicitness of prostitution and of fornication.” Finally, for examples from the third paragraph Ratzinger pointed “in general to teachings set forth by the authentic ordinary Magisterium in a non–definitive way, which require degrees of adherence differentiated according to the mind and the will manifested; this is shown especially by the nature of the documents, by the frequent repetition of the same doctrine, or by the tenor of the verbal expression.”

necessity?” James Provost likewise warned that *Ad tuendam fidem* might have tried to solve a problem before there was a shared understanding on what the problems were and the best ways to solve them were developed. As Provost wrote, “Safeguards need to be clear if they are to guard safely. The incorporation of these new categories of teaching and response into the codes before a consensus has developed on how they are to be applied could weaken rather than strengthen the desired protection of the faith.”

There also exists a difference in the penalties incurred in rejecting truths held in each category. “Unlike divinely revealed truths, the rejection of the second level of truths, that is truths which are ‘definitively held’ and require a ‘firm and definitive assent,’ does not imply heresy. Rather, those who find themselves in this situation would ‘no longer be in full communion with the Catholic Church.’” However, if there were uncertainties as to where a church doctrine falls in the categories included in the *Professio fidei*, and connected to these uncertainties are questions surrounding how the Church community was to accept the doctrine or punish those who refused,

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291 Ibid. Heresy is subsequently defined in canon 751 as “the obstinate denial or obstinate doubt after the reception of baptism of some truth which is to be believed by divine and Catholic faith”, and is opposed to both apostasy “the total repudiation of the Christian faith” and schism, “the refusal of submission to the Supreme Pontiff or of communion with the members of the Church subject to him.” The canonical punishment for heresy is listed in canon 1364 §1: “Without prejudice to the prescript of canon 194, §1, n. 2, an apostate from the faith, a heretic, or a schismatic incurs a *latæ sententiae excommunication*; in addition, a cleric can be punished with the penalties mentioned in canon 1336, §§2–4.”
theologians could turn to the norms of canon 18 to clarify, since the rejection of a doctrine
involves the privation of rights and participation in the Church.

To this point, Avery Dulles offered the following explanatory note in July 1998: “In the
framework of the whole commentary and the motu proprio it is evident that this weakening of
communion is not an automatic exclusion from the sacraments; it is not equivalent to
excommunication. Rather, it must be seen as a salutary reminder that communion, as a union of
minds and hearts, is impaired by dissent.” He found confirmation of this position when he wrote
in 2007, “In answer to the question whether this lack of full communion with the Church entailed
exclusion from the sacraments, the representatives of the CDF at the [1999] Vallombrosa,
California meeting [between the chairmen of several episcopal doctrinal commissions and the
CDF] replied: ‘Negative,’ while calling attention to the power of the bishop to impose ‘just
penalties.’” A more detailed description of what these penalties might be, and at what point
these penalties become unjust, was not included in the response from the Congregation. Edward
Peters believes that with this phrase “a just penalty,”

The Legislator made available the entire range of ecclesiastical sanctions, whether
censures (namely, excommunication, interdict, or [clerical] suspension) or expiatory
penalties, including deprivation of office (canon 1336). This strengthens a bishop’s
(or Rome’s, for that matter) hand in dealing with dissent within academe, as it does
not force one into the “all or nothing” stance which censures, particularly
excommunication, evoke in many people’s minds. Specifically, to the degree that a
teaching post in a Catholic institution of higher learning can be termed an
ecclesiastical office (see Canon 145, which I believe supports such a reading), to say

292 Canon 18. “Laws which establish a penalty, restrict the free exercise of rights, or contain an exception
from the law are subject to strict interpretation.” (“Leges quæ poenam statuunt aut liberum iurium exercitum
coorctant aut exceptionem a lege continent, strictœ subsunt interpretationi.”)

293 Avery Dulles, “How to read the Pope,” The Tablet (July 25, 1998), 967–968.

294 Dulles, Magisterium: Teacher and Guardian of the Faith, 91 n. 13.
nothing of the necessity of the canonical mandate to teach theological disciplines (see Canon 812 and *Ex corde Ecclesiae*), one’s demonstrated failure to abide by the requirements of Canon 750, as amended, makes one subject to the loss of ecclesiastical teaching office and withdrawal of, or ineligibility for, a mandate to teach theological sciences under Church auspices. In brief, *Ad Tuendam* removes the last theoretical objections to the exercise of canonical authority over dissident academics on the part of local or universal ecclesiastical authority.  

Where Peters found a positive outcome in *Ad tuendam fidem*, James Provost took a less triumphal approach to the motu proprio:

It is regrettable … that in the introduction to his document the Pope felt called on to single out erring theologians as the main reason for publishing these changes in the codes at this time. The profession of faith obliges a whole range of office holders in the church, from participants in ecumenical and particular councils, to new cardinals and bishops, to various diocesan officials, pastors, seminary professors and candidates for the diaconate. It is required of rectors of ecclesiastical and Catholic universities and of superiors in clerical religious institutes. In addition to this host of officials at all levels of the church, it is also required of university professors of theology. Can the source of problems in the church, even regarding the understanding of the second paragraph of the profession of faith, be so easily confined, out of this entire group of people, to theology professors?  

Finally, Avery Dulles offered what could be seen as a balanced approach between triumphalism and defeatism and wrote, “A great advantage of the Catholic Church in comparison with other Christian bodies is its possession of a living teaching office that can authoritatively settle matters under dispute, thus protecting the integrity of the faith, the validity of the sacraments, and the unity of the church itself. Theologians, I believe, should gratefully acknowledge this benefit rather than treat it as an unwelcome burden.”

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FURTHER CANONICAL DEVELOPMENTS REGARDING THE THEOLOGIAN IN

VERITATIS GAUDIUM

On January 29, 2018, the apostolic constitution Veritatis gaudium was promulgated after being signed by Pope Francis on December 8, 2017. This constitution served as the most comprehensive update to the legal norms governing ecclesiastical universities and faculties since the 1979 apostolic constitution Sapientia Christiana. It is the first Vatican-issued document to make provisions for “distance learning” and for refugees and migrants for whom obtaining academic verification of degrees would be impossible in their circumstances. The constitution does not affect colleges, universities, and institutes of higher education throughout the world governed by Ex corde Ecclesiae, however.

In the foreword of Veritatis gaudium, Pope Francis looked back at Sapientia Christiana and the positive effects that constitution had on Catholic education. He commented that Sapientia Christiana had successfully refined the Church’s efforts to support “Ecclesiastical Faculties and Universities, which is to say those concerned particularly with Christian revelation and questions connected therewith and which are therefore more closely connected with her mission of evangelization,” as well as other disciplines which, “although lacking a special link with Christian revelation, can still help considerably in the work of evangelizing.”298 The Pope also stated that the 1979 apostolic constitution,

298 Francis, Apostolic Constitution Veritatis gaudium, January 29, 2018, AAS 110 (2018) 1–41. English translation is from the Holy See website, https://www.vatican.va/content/francesco/en/apost_constitutions/documents/papa–francesco_costituzione–ap_20171208_veritatis–gaudium.html. All subsequent English translations from Veritatis gaudium will be taken from this source unless otherwise indicated. All further references to this document will be labeled VG. “Facultates et Universitates ecclesiasticas, eas nempe quæ de christiana Revelatione et de iis, que cum ipsa connectuntur, præsertim agunt, ac propiterea cum proprio evangelizandi munere arctius coniunguntur, una cum omnibus aliis
Represented in every respect the mature fruit of the great work of reforming ecclesiastical studies initiated by the Second Vatican Council. In particular, it consolidated the progress made in this crucial area of the Church’s mission under the wise and prudent guidance of Blessed Paul VI, while at the same time heralding the contribution, in continuity with the past, which would be made by the magisterium of Saint John Paul II.\textsuperscript{299}

*Veritatis gaudium*, in Francis’ opinion, provided a necessary update to Catholic education, especially when considering the Church’s need to “embark upon a new stage of “Spirit-filled” evangelization.”\textsuperscript{300} Within that evangelization,

Ecclesiastical studies plays a strategic role. These studies, in fact, are called to offer opportunities and processes for the suitable formation of priests, consecrated men and women, and committed lay people. At the same time, they are called to be a sort of providential cultural laboratory in which the Church carries out the performative interpretation of the reality brought about by the Christ event and nourished by the gifts of wisdom and knowledge by which the Holy Spirit enriches the People of God in manifold ways – from the *sensus fidei fidelium* to the magisterium of the bishops, and from the charism of the prophets to that of the doctors and theologians.\textsuperscript{301}

With this description, Francis “defines the particular role of bishops and theologians in relationship to the charisms given by the Holy Spirit to the entire people of God. Moreover, he reaffirms the three-fold exchange among the *sensus fidei fidelium*, the official magisterium, and theologians in

\[\textit{disciplinis, quae, «quamvis peculiarem nexum cum christiana Revelatione non habeant, attamen ad evangelizationis opus magnopere conferre possunt.”}\]

\textsuperscript{299} *VG* 2, 3. “… maturum fructum plenissime demonstrat magnæ opera studiorum ecclesiasticorum reformationis, quam Concilium Oecumenicum Vaticanum II incepit. Recipit ipsa potissimum effectus ad quos in hoc decretorio ambitu Ecclesiæ missionis est perventum, sub sapienti prudentiique moderatore beato Paulo VI, atque prænuntiat pariter, iisdem retentis vestigiis, quod post oblatum erit, docente sancto Ioanne Paulo II.”

\textsuperscript{300} *VG* 3, 6. “Etenim hodie primum postulatur ut universus Dei Populus ‘spiritu’.”

\textsuperscript{301} Ibid. “Et hoc in processu magni ponderis partes agit congrua renovatio ordinis studiorum ecclesiasticorum. Ipsa enim non modo vocantur ad loca et insignis institutionis curricula praebenda presbyterorum, sodalium vitae consecrate et studiosorum laicorum, verum efficium qucadamtenus providum culture laboratorium, in quo Ecclesia exercet rerum interpretationem, quoad institutionem, quae ab Iesu Christi eventu scatet et Sapientiae Scientiaeque donis alitur, quibus Spiritus Sanctus variis sub formis omnem Dei Populum locupletat: cum sensu fidei fidelium tum Pastorum magisterio, cum charismate prophetarum tum doctorum ac theologorum.”
the ongoing understanding of revelation as in *Dei Verbum* 8."\(^{302}\) Building upon these particular roles, Francis describes a good theologian as one who “has an open, that is, an incomplete, thought, always open to the *maius* of God and of the truth, always in development, according to the law that Saint Vincent of Lerins described in these words: *annis consolidetur, dilatetur tempore, sublimetur ætate* (*Commonitorium primum, 23: PL 50, 668*)\(^{28}\).”\(^{303}\)

In order to renew ecclesiastical studies, Francis called for the “contemplation and the presentation of a spiritual, intellectual and existential introduction to the heart of the kerygma, namely the ever fresh and attractive good news of the Gospel of Jesus Christ, which continues to take flesh in the life of the Church and of humanity.”\(^ {304}\) Secondly, ecclesiastical studies must engage in “wide-ranging dialogue, not as a mere tactical approach, but as an intrinsic requirement for experiencing in community the joy of the Truth and appreciating more fully its meaning and practical implications.”\(^ {305}\) From these points of renewal, pontifical universities have the opportunity to review “the structure and method of the academic curricula proposed by the system

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\(^ {303}\) VG 3, 7. “Itemque philosophus patentes habet cogitationes, id est imperfectas, semper ad maius quiddam patet, ad Deum, ad veritatem, usque progredientem, secundum legem illam, quam sanctus Vincentius Lerinensis ita describit: ‘Annis consolidetur, dilatetur tempore, sublimetur ætate.’” The internal footnote 28 is a repetition of Francis’ statements in his “Address to the Community of the Pontifical Gregorian University, together with Members of the Pontifical Biblical Institute and the Pontifical Oriental Institute,” *AAS* 106 (April 10, 2014), 374.

\(^ {304}\) VG 4a, 7. “In primis discernendi primum permanensque principium respicit contemplationem et introductionem spiritus, intellectus et existentiae in corde kerygmatos, id est usque novi et allicientis laeti Iesu Evangelii nuntii, quod plus plusque ac melius usque caro fit.”

\(^ {305}\) VG 4b, 8–9. “Ad amplissimum dialogum spectat, non sicut merum procedendi modum, sed intrinsecam necessitatem, ut communitatis experientia Veritatis laetitiae obtineatur eiusque significationes practicaeque implicationes altius investigentur.”
of ecclesiastical studies, in their theological foundations, in their guiding principles and in their various levels of disciplinary, pedagogical and didactical organization.”  

Specifically, the pope held that “what distinguishes the academic, formative and research approach of the system of ecclesiastical studies, on the level of both content and method, is the vital intellectual principle of the unity in difference of knowledge and respect for its multiple, correlated and convergent expressions.” In these expressions, ecclesiastical studies are meant to offer “a variety of disciplines corresponding to the multifaceted richness of reality disclosed by the event of Revelation, yet harmoniously and dynamically converging in the unity of their transcendent source and their historical and metahistorical intentionality, which is eschatologically disclosed in Christ Jesus.”

This interdisciplinary approach within ecclesiastical studies means that “someone trained in the framework of the institutions promoted by the system of ecclesiastical studies – as Blessed John Henry Newman wished for – ought to know ‘just where he and his science stand; he has come to it, as it were, from a height; he has taken a survey of all knowledge.’” Such an approach also

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306 VG 4b, 9. “… structuram et methodicum processum curriculorum studiorum, quae ecclesiasticorum studiorum ordo proponit, in eorum monumentis theologicis, eorum in principis doctoribus atque eorum in diversis gradibus disciplinæ, pædagogie et docendi operæ coniunctionum.”

307 VG 4c, 10. “Quod academicam, institutoriam et inquisitivam ordinis studiorum ecclesiasticorum exhibitionem, sive de re sive de methodo, designat, vitale intellectivumque est principium unitatis doctrinæ, distinctis et servatis multiplicibus, iniunctis et coeuntibus eius partibus.”

308 Ibid. “Ad multiformes rerum divitias spectantibus, sub luce quam Revelationis eventus concitavit, quæ eadem opera congruenter ac dynamice in eius transcendentis fontis et historice metahistoricæque contentionis unitatem conveniant, sic ut Christo Iesu ad eschatologiae rationem explicatur.”

“sets out a demanding task for theology. … With a fine image, Benedict XVI stated that the Church’s tradition ‘is not a transmission of things or of words, a collection of dead things. Tradition is the living river that links us to the origins, the living river in which the origins are ever present.’”

For Francis, ecclesiastical studies, especially those regulated by *Veritatis gaudium*,

Cannot be limited to passing on knowledge, professional competence and experience to the men and women of our time who desire to grow as Christians, but must also take up the urgent task of developing intellectual tools that can serve as paradigms for action and thought, useful for preaching in a world marked by ethical and religious pluralism. To do so calls not only for profound theological knowledge, but also the ability to conceive, design and achieve ways of presenting the Christian religion capable of a profound engagement with different cultural systems. All this calls for increased quality in scientific research and a gradual improvement in the level of theological studies and related sciences.

These studies also cannot remain introspective, but must instead,

Develop specialized centers capable of deeper dialogue with the different scientific fields. Specifically, shared and converging research between specialists of different disciplines represents a particular service to the people of God, and especially to the Magisterium. It also supports the Church’s mission of proclaiming the good news of Christ to all, in dialogue with the different sciences and in the service of a

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311 *VG* 5, 13. “… intra fines contineri non possunt cognitiones, munera, experientias præbendi viris mulieribusque nostri temporis, qui sua in christiana conscientia adolescere volunt, sed urgens officium adipisci debent exstruendi intellectus instrumenta que actionis cogitationisque exemplaria sibi sumant, ad nuntium tradendum apta coram terrarum orbe qui ethico religiosoque pluralismo notatur. Quod postulat non modo altam theologicam conscientiam, verum facultatem fingendi, designandi et efficiendi christianae religionis manifestande rationes, quæ in varias culturales structuras penitus descendant. Haec omnia qualitatis scientificæ investigationis requirunt auctum necnon crescentem progressum gradus studiorum theologicorum et scientiarum quæ cum iis nectuntur.”
deeper understanding and application of truth in the life of individuals and society.\textsuperscript{312}

To help accomplish these tasks, \textit{Veritatis gaudium} contained 94 different articles grouped into three parts. The first part of “General Norms” was further subdivided into ten sections focusing on topics such as the organization of governance, teachers, and students, plans of study, degrees, finances, and strategic planning. The second part was divided into norms governing theology, canon law, philosophy, and other faculties, respectively, while the third part dealt with final norms surrounding the timing of the constitution’s implementation and the curial congregation responsible for that implementation, which in this case is the Congregation for Catholic Education. Within this collection of articles were a number of norms that dealt directly with theologians and their relationship to the Church, many of which were copied directly from \textit{Sapientia Christiana}.\textsuperscript{313} Likewise, the norms of implementation released by the Congregation for Catholic Education borrowed directly from those released in 1979 with the promulgation of \textit{Sapientia Christiana}.\textsuperscript{314}

One of the most important places where changes were made from \textit{Sapientia Christiana} and \textit{Veritatis gaudium} surrounded the concern for the orthodoxy of faculty members. Where teachers in \textit{Sapientia Christiana} could be legitimately hired if they were “distinguished by wealth of

\textsuperscript{312} VG 5, 14–15. “… peculiares disciplinas sectantibus, instruantur, quæ dialogum altius investigent diversos inter ambitus scientiarum. Singulariter, investigatio communiter concorditerque acta inter diversarum disciplinarum cultores peculiarem in modum Dei Populo inservit, nominatim Magisterio, atque Ecclesiae missionem sustinet in bono Christi nuntio omnibus proclamando, dialogum instituens varias inter scientias, ut veritas personalem socialemque vitam magis magisque afficiat ac pervadat.”

\textsuperscript{313} Cf. VG 27 and its corresponding article in SC 27; VG 37 and its corresponding article in SC 38 and 39, VG 73 and its corresponding article in SC 70.

\textsuperscript{314} Cf. Norms of Application of the Congregation for Catholic Education for the Correct Implementation of the Apostolic Constitution \textit{Veritatis gaudium}, Articles 21 and 53 and its corresponding articles in Norms of Application of the Congregation for Catholic Education for the Correct Implementation of the Apostolic Constitution \textit{Sapientia Christiana}, Articles 19 and 50, respectively.
knowledge, witness of life, and a sense of responsibility.” Veritatis gaudium expanded this requirement so that teachers should be “distinguished by wealth of knowledge, witness of Christian and ecclesial life, and a sense of responsibility.”³¹⁵ Veritatis gaudium included the word “removed” in its Article 30 where it did not exist in the corresponding article in Sapientia Christiana.³¹⁶ Likewise, in Article 18 of the 1979 norms of application issued by the Congregation for Catholic Education, non-Catholic teachers, “co-opted according to the norms of competent ecclesiastical authority, require permission to teach from the Chancellor.”³¹⁷ In the 2018 norms, the corresponding article 20 has an additional paragraph that states, “Teachers belonging to other churches and ecclesial communities cannot teach doctrinal courses in the first cycle, but can teach other disciplines. In the second cycle, they can be called upon as invited teachers.”³¹⁸ Overall, therefore,

³¹⁵ SC 25 1º: “… doctrinæ copia, vitae testimonio et responsabilitatis sensu perspectus sit.” vs. VG 25 1º: “… doctrinæ copia, christianæ et ecclesialis vitae testimonio et responsabilitatis sensu perspectus sit.” Emphasis has been added by this author.

³¹⁶ VG 30, 21. “The Statutes must state: a) when and under which conditions a teaching post ends; b) for what reasons and in which ways a teacher can be suspended, removed, or even deprived of his post, so as to safeguard suitably the rights of the teachers, of the Faculty or University, and, above all, of the students and also of the ecclesial community.” (“Statuta determinent: a) quando et quibus condicionibus docentes a munere cessent; b) quales ob causas quale procedendi modo a munere suspendi vel amoveri vel etiam officio privari possint, ita ut iuribus tuendis tum docentis, tum Facultatis vel Universitatis, imprimis eius studentium, necnon ipsius communitatis ecclesialis, apte provideatur.”) Compare this statement to SC 30: “The Statutes must state: a) when and under which conditions a teaching post ends; b) for what reasons and in which ways a teacher can be suspended, or even deprived of his post, so as to safeguard suitably the rights of the teachers, of the Faculty or University, and, above all, of the students and also of the ecclesial community.” (“Statuta determinent: a) quando et quibus condicionibus docentes a munere cessent; b) quales ob causas quale procedendi modo a munere suspendi vel etiam eo privari possint, ita ut iuribus tum docentis, tum Facultatis vel Universitatis, imprimis eius studentium, necnon ipsius communitatis ecclesialis, apte provideatur.”) In Latin, the clause “vel amoveri” has been added to VG while it is absent from SC. Emphasis has been added by this author.

³¹⁷ Norms of Application of the Congregation for Catholic Education for the Correct Implementation of the Apostolic Constitution Sapientia Christiana, 18.

Veritatis gaudium marks a relatively modest change to existing norms governing ecclesiastical universities and faculties. There is somewhat more attention given to the various forms such institutions may take and particularly to the possibility of ecclesiastical faculties being incorporated in a larger university. There is also a little more attention given to the proper procedures for firing faculty or suppressing whole institutions. The concern for the orthodoxy of faculty members is greater than in the previous document, and the norms of application for canon law and philosophy stress the importance of Latin and Aquinas, respectively.319

In June 2019, Pope Francis addressed a conference in Naples, Italy organized by the Pontifical Theological Faculty of Southern Italy that had as its theme “Theology after Veritatis gaudium in the Context of the Mediterranean.” In this address, Francis offered his personal observations on the apostolic constitution issued the previous year, as well as the renewal of theology he hoped the constitution would promote, which he stated,

Comes about through the practice of discernment and through a dialogical way of proceeding capable of creating a corresponding spiritual environment and intellectual practice. It is a dialogue both in the understanding of the problems and in the search for ways to resolve them. A dialogue capable of integrating the living criterion of Jesus’ Paschal Mystery with that of analogy, which discovers connections, signs, and theological references in reality, in creation and in history.320

Francis expanded the theology characterized by dialogue further by sharing two examples of how it could be applied to ecclesiastical studies. The first is dialogue as a “method of study, as well as of teaching. When we read a text, we dialogue with it and with the ‘world’ of which it is an expression.” The second example is dialogue as “a theological hermeneutic in a specific time


and place,” which in turn requires “listening to the history and experience of the peoples … to be able to decipher the events that connect the past to the present and to be able to understand the wounds along with the potential that exists.” From these examples, Francis calls for theologians, who know how to work together and in an interdisciplinary way, overcoming individualism in intellectual work. We need theologians – men and women, priests, lay people and religious – who, in a historical and ecclesial rootedness and, at the same time, open to the inexhaustible novelties of the Spirit, know how to escape the self-referential, competitive and, in fact, blinding logics that often exist even in our own academic institutions and concealed, many times, among our theological schools.

To support this vision of the theologian immersed in interdisciplinary thought, Francis reminded those engaged in theology that “the first sources of theology, that is, the Word of God and the Holy Spirit, are inexhaustible and always fruitful; therefore one can and must work towards a ‘theological Pentecost,’ which allows the women and men of our time to hear ‘in their own native language’ a Christian message that responds to their search for meaning and for a full life.” In order to conduct that search properly, “Theological freedom is necessary. Without the possibility of experimenting with new paths, nothing new is created,” but not freedom with total license. Instead, “Among scholars, it is necessary to move ahead with freedom; then, in the final instance, it will be the magisterium to decide, but theology cannot be done without this freedom.” The colleges, universities, and ecclesiastical faculties where these theologians work must also have

321 Ibid.
322 Ibid.
323 Francis, “Theology after Veritatis gaudium in the Context of the Mediterranean.”
324 Ibid.
325 Ibid.
“light and flexible structures that express the priority given to welcoming and dialogue, to inter- and trans-disciplinary work and networking. The statutes, the internal organization, the method of teaching, the program of studies should reflect the physiognomy of the Church ‘which goes forth.’”326

326 Ibid.
CONCLUSION

In discussing the role of the theologian and the bishop in the teaching ministry and charism of the Church, the moral theologian John Mahoney observed,

The division of the Church into the teaching Church, or the hierarchy, and the learning Church is, in the history of the Church, an extremely recent one which Congar summed up as ‘the Magisterium becoming autonomous and absolute.’ Within such a categorization the role of the theologian is defined as that of obeying and also of justifying totally the pronouncements of the Magisterium, which Congar also described as ‘not exactly’ in accordance with what nineteen centuries of the Church’s life tell us about the function of teacher or doctor in the Church.327

The present attitude taken by Rome is “an attitude of mind which can best be summed up in the word delegation, the permitting of theological activity on the part of subordinates only because, or to the degree that, superiors are unable through lack of time to undertake it better themselves.”328

What is most pointed about Mahoney’s comments is that they were made before the promulgation of Veritatis splendor, Ex corde Ecclesiæ, or Ad tuendam fidem, documents that many theologians believed restricted their activities, their freedom of inquiry, and their investigation into matters of faith and morals.

Is it accurate, however, to claim that there has been a strengthening of Church authority over Catholic education through the suppression of the theologian in favor of definitive teaching and blind compliance? While the documents of John Paul II, especially the constitutions Sapientia Christiana and Ex corde Ecclesiæ, did favor a more hierarchically based model in organizing educational institutions, did that necessarily mean that theological investigation was suppressed


328 Ibid.
due to the introduction of a missio canonica or mandatum? It is accurate to observe that in these documents, the theological models presented in the Second Vatican Council grew more institutionalized, so that the oversight exerted by a diocesan bishop in a university located in his diocese resembled more closely the models presented in the 1917 Code of Canon Law or Deus scientiarum Dominus than Gaudium et spes or Gravissimum educationis. This still does not mean that the freedoms of inquiry and investigation were hampered severely in the model presented by John Paul II. Likewise, the apostolic constitution Veritatis gaudium as promulgated by Pope Francis did little to restrict theological discussions, even though it included the need for a nihil obstat for non-Catholics teaching in theological disciplines and required the witness of Christian and ecclesial life in hiring worthy candidates to professorial positions.

As shown throughout this chapter, the unity of faith requires that the Roman Catholic Church direct its teaching activities through norms and legislation, including The Code of Canon Law and the apostolic constitutions regulating both Catholic colleges and universities and those teaching at them. These documents regularly focus on the magisterial authority of the Church’s teaching office as exercised by the order of bishops, and from that focus, the documents explain how magisterial authority directs the activity of theologians. From this observation, the question remains as to how John Henry Newman and his thoughts on doctrinal development can expand the canonical status of the theologian in the Church into one that can fully “manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the Christian faithful” (canon 212 §3). In other words, can Newman’s claims of doctrinal development allow for greater “freedom of inquiry and of expressing their opinion prudently on those matters in which they possess expertise, while observing the submission due to
the magisterium of the Church” (canon 218)? In so doing, can Newman resolve the standing issue of the relationship between theology and canon law? To accomplish this task, the third chapter must investigate Newman’s own interaction with Roman Catholic authority and canonical structures, the challenges he faced to his theological positions and the eventual reparation to his reputation. In so doing, this dissertation will use Newman’s thoughts to engage in an evaluation of the theological-canonical models presented by the theologian Francis Sullivan and the canonist Ladislas Örsy.
CHAPTER THREE: NEWMAN, DEVELOPMENT, AND CANON LAW

As a nineteenth-century British theologian raised in the Anglican tradition and a latecomer to the Roman Catholic Church, John Henry Newman had little experience with Roman Catholic canon law. When he did encounter decretals or other canonical regulations, Newman often found himself unable to navigate their demands or understand their language. The same was true with those trained in Roman Catholic theology and canon law who tried to understand Newman and his theory on doctrinal development. Since he was not schooled in the scholastic or Thomistic traditions prevalent in the Roman universities, Newman’s theology did not use the standard vocabulary of the Catholic Church, and the need to translate his notions into scholastic understandings often led to misinterpretation and resistance. This resistance to Newman’s theology would become a trend in the Catholic Church’s reception of both doctrinal development and the person suggesting the theory, which will be the theme of this chapter. It will show that the ebbs and flows in the acceptance of Newman as a Catholic theologian were influenced as much by canonical norms as by theological concerns, and in the process will illustrate that Newman’s positive influence over both canon law and theology was far from guaranteed.

NEWMAN AND CANONICAL REGULATION AS RECTOR OF THE CATHOLIC UNIVERSITY OF IRELAND

When John Henry Newman published the series of lectures titled The Idea of a University, he did not do so as a purely academic exercise. These lectures were part of a larger fundraising and student recruitment drive, a series of propaganda pieces delivered by an English cleric approached by an Irish archbishop to serve as the rector of a grand experiment for the Irish Catholic population: The Catholic University of Ireland (CUI, or Ollscoil Chaitliceach na hÉireann in
Irish). Newman proved he was an eager supporter of higher education and wanted to develop an institution in Ireland that “contemplates neither moral impression nor mechanical production; it professes to exercise the mind neither in art nor in duty; its function is intellectual culture; here it may leave its scholars, and it has done its work when it has done as much as this. It educates the intellect to reason well in all matters, to reach out towards truth, and to grasp it.”

At the beginning of his tenure, Newman admitted to being attracted to the project as “a most daring attempt, but first it is a religious one, next it has the Pope's blessing on it. Curious it will be if Oxford is imported into Ireland, not in its members only, but in its principles, methods, ways, and arguments. The battle there will be what it was in Oxford twenty years ago … I am renewing the struggle in Dublin with the Catholic Church to support me.” Upon his return to England in 1858 after resigning his appointment as university rector, Newman admitted (perhaps in hindsight) to conflicted feelings about the endeavor, and told his friends that when he began his service in 1854, he “could not but see from the first that humanly speaking there seemed great doubts as to the practicability of the scheme. But he appears to have undertaken it as a religious act in which he dreaded to be of little faith.”

The Catholic University of Ireland, despite its problems, remained a noble endeavor founded on the ideal of providing higher-level education that was both accessible to followers of the Catholic Church and taught by Roman Catholics. While the original institution proved to be a failure, it was able to reorganize itself as University College in 1882 under the auspices of the

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1 *Idea*, 125.


3 Ibid., 313.
Society of Jesus, became part of the Royal University of Ireland system in 1883, and eventually was incorporated into the National University of Ireland system in 1908. Today it exists as University College Dublin alongside sister universities in Cork, Galway, and Maynooth. To understand CUI’s demise is to recognize many burdens placed on its operation, including the lack of a royal charter and with it the lack of recognized academic degrees, financial restraints, issues over governance, and academic offerings. The failure of CUI generally and Newman’s leadership of the institution specifically also has much to do with canon law and the place of theology within the academic enterprise, which will be the focus of the discussion in this section.

*A Hopeful Project*

The Catholic University of Ireland developed from the hope of the Irish Catholic bishops, and in particular, Paul Cullen, Archbishop of Armagh, to counter the growth of secular education in Ireland started with the creation of the Queen’s Colleges. These colleges were established with the intent to provide a university education for all religious denominations and were expressly prohibited from offering instruction in theology. When proposed to the British Parliament, government officials in Ireland hoped the new colleges would “assuage the grievances of a Catholic middle class that had no access to higher education acceptable to their religion within

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4 For a detailed biography of Paul Cullen (April 29, 1803 – October 24, 1878), rector of the Pontifical Irish College (1831–1849), Archbishop of Armagh (1849–1852), Archbishop of Dublin (1852–1878), formulator of the doctrine of papal infallibility at the First Vatican Council (1869–1870), and Ireland’s first cardinal (1866–1878), please refer to Desmond Bowen, *Paul Cardinal Cullen and the Shaping of Modern Irish Catholicism* (Dublin: Gill and Macmillan, 1983). A collection of essays about Cullen’s interactions with the Irish world of the 19th century is found in *Cardinal Paul Cullen and his World*, eds. Daire Keogh and Albert McDonnell (Dublin: Four Courts Press, 2011), and is a valuable resource in understanding Cullen’s influence over Irish life and culture. Cullen’s influence was evident when upon his death on October 24, 1878, the *Times* of London, a newspaper that had been hostile towards Cullen throughout his career in Armagh and Dublin, wrote of him: “No man in the kingdom has exercised a greater personal influence, or wielded more absolute power.”
Ireland. Instead, the colleges became the centre of divisive religious and political controversy,” with Pope Pius IX joining the debate by declaring the colleges “godless” and “detrimental to religion.” It was not surprising, therefore, that when the Queen’s Colleges proposal was first announced, the Irish bishops “adopted a reply in which they claimed that the colleges as presently planned were unacceptable. They suggested the following changes and guarantees:

- A fair representation of Catholics on the staff of the colleges,
- Catholic chairs of logic, metaphysics, moral philosophy, history, geology and anatomy,
- Catholic chaplains provided for each of the colleges, selected by the bishops but salaried by the government,
- A board of trustees created for each college, upon which local bishops would sit, that would be responsible for appointments.”

The Irish bishops soon split over the fundamental nature of organized higher education in the country. On the one side was a group that believed “Catholics should receive instruction in all subjects in a Catholic environment for the most important lesson of the classroom was faith. Subjects such as science were meaningless without religion; they had no inherent value of their own.” On the other side were those who held “education was valuable in its own right and religious supervision outside of the classroom might serve to correct any potential errors which occurred within it.” Where they did agree was in the belief that “The Queen’s Colleges …

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6 This phrase appeared in a letter from the College of the Sacred Congregation for the Propagation of the Faith dated October 9, 1847, and sent to John MacHale, Archbishop of Tuam, as well as the other archbishops of Ireland. The letter was published in *The Galway Vindicator* newspaper on October 27, 1847 and is accessible at http://www.askaboutireland.ie/reading-room/history-heritage/history-of-ireland/galway-society-in-the-pas/condemnation-of-the-queen/.

7 Adelman, *Communities of Science in Nineteenth-Century Ireland*, 54.

8 Ibid., 56.

9 Adelman, *Communities of Science in Nineteenth-Century Ireland*, 56.
threatened the future of Catholic Ireland by potentially turning the leading (middle- and upper-class) Catholics away from their religion through education.”10

By 1850, the recently appointed Cullen decided in his first official act as Archbishop of Armagh (by right Primate of All Ireland and most senior bishop on the island) and Apostolic Delegate (thereby the pope’s de facto representative to the British government in Ireland) to call a national synod held at St. Patrick’s College Seminary in Thurles, the first synod in the country since 1642. With this extended authority over the Church in Ireland, Cullen guided the synod to standardize diocesan administration, religious practices, and teaching that would bring the country closer in line to continental Europe. At Thurles, one of the main points of discussion became the Irish church’s institutional response to the Queen’s Colleges, especially when their suggestions from 1845 remained ignored by the Anglo-Irish government. During these discussions, it became clear to the bishops that “while previously the Church had focused on the education of priests, the rising importance of the Catholic middle class meant that it was no longer practical to believe that priests would remain better educated than laymen.”11 With that in mind, the presence of the Queen’s Colleges presented a significant challenge to Catholic education. As the synod began, the bishops were reminded of the position on those institutions taken by Pope Pius five years earlier and “in the official documents of the Holy See issued before the Synod of Thurles, it was made quite clear that there was no question of reopening the discussion on the Queen’s Colleges; on the contrary the rescripts already issued [by the Congregazione Propaganda Fidei]12 retained their

10 Ibid., 65.

11 Ibid.

12 The three rescripts were published in 1847, 1848, and 1850, respectively. They appeared as “The Pope and the Infidel Colleges, Ireland,” The Times 19:690 (October 26, 1847) 5; “The Godless Colleges–The Rescript,
full force and the Synod’s work was to pass legislation to implement them.”13 Despite this admonition, discussions about how the Irish bishops should react to the creation of the Queen’s Colleges remained a source of contention, with some bishops wanting to grant permission for Catholics to enroll in the institutions, while others (Cullen included14) thought the best response was to create their own university.

With Cullen forcing the issue in favor of a full condemnation of the Colleges, the synod accepted the rescripts in its first decree regarding *De Collegiis Regiae*, and issued eight further decrees on the Colleges, starting with the declaration that the bishops would not participate or cooperate with the Queen’s Colleges in any capacity.15 The bishops further barred priests from holding offices at the Colleges,16 and if priests failed to abide by the prohibition, they would face

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14 Cullen had been rector of the Pontifical Irish College in Rome for 19 years, starting his tenure at 28 years old and only two years removed from his ordination to the priesthood. His own background was as a biblical theologian and scholar of classical and Oriental languages. Cullen had earned a Doctor of Divinity from the Pontificia Universitas Urbaniana in a public disputation presided over by Pope Leo XII and with the future Leo XIII in attendance. He later held appointments as chair of Hebrew and chair of Sacred Scripture under the direction of the Sacra Congregatio de Propaganda Fide and headed the Congregation’s printing house from 1829 until 1832. With this background, Culllen was both well connected to interested parties in Rome and well acquainted with the intricacies of university administration and life.

15 Synod of Thurles (*Decretâ synodi plenariæ episcoporum Hiberniæ apud Thurles habitæ, anno MDCCCL*, Dublin: James Duffy, 1851), IX. *De Collegiis Regiae*, 2. 53. “Adhering not only to the letter, but to the spirit of these Rescripts we declare that no Bishop of Ireland can assume to himself any part in carrying on or administering the aforesaid college. *Non solum litteræ, sed spiritui horum rescriptorum inherentes, declaramus nullum Hiberniæ Episcopum partem ullam assumere sibi posse in prædictis Collegiis gerendis aut administrandis.*” English translation is from “The Queen’s Colleges,” *Tablet* XIII: 612 (January 2, 1852) 8. All subsequent English translations from the Synod of Thurles will be taken from this source unless otherwise indicated.

16 Ibid., 3. 53. “We prohibit all Priests and other Clerics from taking any part or retaining any office which relates to the administration of these colleges and forbid that any Professors or Deans of Residence be made or remain in them. *Sacerdotes omnes aliosque clericos prohibemus ne munus aliquod quod ad administrationem horum collegiorum spectet, assumant aut retineant; neve professores, seu Decani residentiae, in iis fiant aut remaneant.*”
an *ipso facto* suspension.\textsuperscript{17} The Irish laity faced similar prohibitions, in their case being forbidden from attending the Colleges at all,\textsuperscript{18} and they were to be warned more formally about the dangers of the Queen’s Colleges in a future pastoral letter.\textsuperscript{19} The bishops of those dioceses where the Colleges were established were called to ensure that the synod’s legislation was properly observed by the clergy,\textsuperscript{20} which would include the rescripts of the Congregation for the Propagation of the Faith.\textsuperscript{21} Finally, the ninth decree provided an alternative to the Queen’s College in a new Catholic University of Ireland, unanimously approving its foundation “in order at length to provide for the

\textsuperscript{17} Ibid., 4. 53. “But if any Priest or Cleric shall have arrived at much a pitch of Fermerity, thus despising the authority of the Apostolic See, or the Statutes of this National Council, to dare to act otherwise, let him insure suspension *ipso facto*. Quod si quis sacerdos aut clericus ad id temeritatis venerit, ut spreta Sedis Apostolicae auctoritate, aut hujus Concilii Nationalis statuto, alter agere ausus fuerit, suspensionem *ipso facto* incurrat.”

\textsuperscript{18} Ibid., 5. 53. “Moreover, concerning the aforesaid colleges, because of the grace and intrinsic danger to which, by the judgment of the Holy See, and the Faith and Morals of studious Catholic youth are exposed in them, we declare that they are such that by all means they are to be avoided and rejected by faithful Catholics, who ought to prefer their Faith to temporal advantages and emoluments. *Præterea Collegia prædicta, ob graviora et intrinseca pericula, quibus ex judicio S. Sedis in eis fides et mores studiosa catholicæ juventutis exponuntur, talia esse declaramus, quæ omni ratione a fidelibus catholicis, qui fidem commodis omnibus et emolumentis temporalibus anteponere debent, sunt rejicienda et evitanda.*”

\textsuperscript{19} Ibid., 6. 53–54. “But that the faithful people committed to our care, of whose Faith and eternal salvation a strict account is to be rendered by us to Almighty God, may suffer no detriment by our silence, we shall in a Pastoral Letter, to be published in the name of this Synod, indicate the grave and intrinsic danger mentioned by the Holy See, to which Catholic youth are exposed in these Colleges, and we shall admonish and exhort all the Faithful with weighty and charitable words that they wholly abstain from frequenting these colleges, lest their Faith contact some strain, or they be infected with some pestiferous doctrine. *Ne vero fideles populi nostræ curæ comissi, de quorum fide et æterna salute ratio disticta nobis Deo est reddenda, detrimentum aliquod ex nostro silentio patiatur, in epistola pastorali nomine hujus Synodi edenda, gravia et intrinseca pericula a S. Sede memorata, quibus juvenes catholicic in hisce collegiis exposuntur, indicabimus, et omnes fideles gravissimis et charitate plenis verbis monebimus et hortabimur, ut ab his Collegiis frequentandis, ne eorum fidei aliqua macula inuratur, aut pestifera aliqua doctrina inficiantur, omnino abstineant.*”

\textsuperscript{20} Ibid., 7. 54. “Let the Bishops of the places where the Colleges are situated diligently take heed that these Statutes be kept by all Priests and that fitting veneration to the Statute of this Council. *Episcopi locorum ubi extant Collegia, invigi– lent ut hæc statuta a Sacerdotibus omnibus serventur, et ut debita ab eiusmodi veneratio Sedis Apostolicae mandatis et hujus Concilii statutis observantia et veneratio exhibeantur.*”

\textsuperscript{21} Ibid., 8. 54. “Finally, let the responses and warning from the Sacred Congregation for the Propagation of the Faith about the Queen’s Colleges be inserted into the acts of this Council for perpetual remembrance. *Denique ad perpetuam rei memoriam, rescripta et monita S. Congregationis de Prop. Fide, quæ ad Collegia Reginæ spectant, actis hujus Concilii inserantur.*” English translation is this author’s.
sound education of Catholic youth” and as part of the bishops’ “duty to strive, with all our might, to cause by our common counsels to be erected as soon as possible a Catholic University of Ireland.”22 Through the new proposed university, “Just as the government hoped to create a new generation of productive, happy (and therefore loyal) citizens, the Catholic Church hoped to create a new Catholic intelligentsia who would help to maintain the influence of Catholicism in Irish life.”23

The Irish historian P. C. Barry called the decrees dealing with the Queen’s Colleges “amongst the most effective drawn up by the Synod. They dealt with the whole question of the Colleges clearly and comprehensively and left no doubt any longer about what was allowed and what was not. This legislation spelled the end of the Queen’s Colleges scheme as far as Catholics were concerned.”24 The decree on the Catholic University of Ireland, on the other hand, “failed to convince the Bishops who favoured tolerating the Colleges that these were so dangerous that they could not be made sufficiently safe by Deans of Residence and by the other safeguards provided for in the Statutes. It also failed to convince them of the feasibility of a Catholic University; after-events were to prove that their hearts had never been won over to the project.”25 The American historian Marvin R. O’Connell noted “the ratification of Rome’s directive in this regard was far

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22 Ibid., 9. 54. “In order at length to provide for the sound education of Catholic youth, and to follow up the reiterated recommendations given to us by the Apostolic See, we consider it our duty to strive, with all our might, to cause by our common counsels to be erected as soon as possible a Catholic University of Ireland. Ut sane tandem educationi juventutis Catholicæ provideamus, et iteratis commendationibus nobis a Sede Apostolica datis inhaereamus, muneris nostri esse arbitramur totis viribus conari ut quam primum, collatis consiliis. Universitatem Catholicam in Hibernia erigendam curemus.”

23 Adelman, Communities of Science in Nineteenth–Century Ireland, 69–70.


25 Ibid., 159–160.
from unanimous,” 26 which he believed was a reflection on the bishops’ collective educational background, in that other than Archbishop Cullen, “not one of the twenty-seven bishops had experienced a university education or had more than a vague notion of what it entailed; seminaries are very different institutions from universities.” 27

Three years after the closing of the Thurles synod, progress on the foundation of the Catholic University of Ireland had stalled. The majority of Irish bishops, while externally supportive of the notion of the university, remained unmoved to act on that support. Archbishop Cullen, now the Archbishop of Dublin while still serving as Apostolic Delegate, travelled to Rome to rally the support of Pope Pius IX for the university. In response, Pius issued the encyclical Optime noscitis on March 20, 1854, where the pope admitted that he was

Certain that, by starting such a salutary work without delay, you would have dedicated all your ingenuity, your wisdom and your commitment to carry out this Catholic Gymnasium in Ireland with the utmost speed. … For this reason we have learned with great regret that this Catholic University, so desired by us and by all good people, has not yet been built, despite the fact that all the necessary means are available to found it. 28

Pius IX demanded the Irish bishops meet again under Cullen’s presidency in order to “decide everything that may have to do with the prompt establishment and opening of this University catholic. At this meeting it will also be your episcopal concern to adopt the appropriate


27 Ibid., 59.

28 Pius IX, Encyclical Optime noscitis, March 20, 1854, accessible online at https://www.vatican.va/content/pius–ix/it/documents/enciclica–optime–noscitis–20–marzo–1854.html. “Eravamo certi che, iniziando senza alcun indugio un’opera tanto salutare, Voi avreste dedicato tutto il vostro ingegno, la vostra saggezza ed il vostro impegno per realizzare con la massima celerità questo Ginnasio cattolico in Irlanda . . . Per questo abbiamo saputo con non poco dispiacere che questa Università cattolica, tanto desiderata da Noi e da tutti i buoni, non è ancora stata realizzata, nonostante siano a disposizione tutti i mezzi necessari per fondarla.” English translation is this author’s. All subsequent English translations from this encyclical will be taken from this source unless otherwise indicated.
resolutions so that this University, which is adorned with the title of Catholic, fully responds to the sanctity and dignity of the name.”

Within those resolutions, the bishops must ensure “that the deposit of our faith be kept intact and inviolate; that all disciplines advance jointly in very close connection with religion; that all types of study be illuminated by the shining rays of Catholic doctrine; that the form of the words of salvation be solidly preserved; that what comes from this supreme Chair of the Most Blessed Peter is considered and accepted as Catholic.”

To help accomplish this mission, the bishops were tasked with ensuring that “Professors of the same University show themselves constantly and personally as examples of good works, for doctrine, integrity and firmness.”

Finally, Pius was edified by the bishops’ choice of John Henry Newman as the rector for the new university, and when he approved Newman’s election to the position, the pope wanted “this same Priest, rich in eminent talents and spirit, and excellent for valuable piety and doctrine and for the knowledge of the Catholic religion, to assume the care and guidance of the same University and preside over it as Rector.” As he concluded his encyclical, Pius IX remained “absolutely persuaded, Venerable Brothers, that out of your egregious devotion and your singular,
loving piety towards us and towards this Apostolic See, you will give complete satisfaction to these Our desires, warnings, requests and dispositions, which they show with the utmost clarity how concerned We are for the salvation and spiritual prosperity of your nation.’’

The Organizational Failures of the Catholic University of Ireland

With the words of Pius in hand, both Paul Cullen and John Henry Newman stood ready to bring the university project to fruition. The two men shared a common goal in the educational program of the Catholic University of Ireland, yet despite their eagerness to open the university, both men faced significant hurdles in bringing about that program. For Archbishop Cullen, these problems involved the power and authority of the diocesan bishop and the fact that the authority of the Irish primate and Apostolic Delegate could only extend so far. As Colin Barr, Senior Lecturer at the School of Divinity, History, Philosophy, and Art History at the University of Aberdeen pointed out, “The structure of ecclesiastical government in Ireland did not lend itself to either co-operation or efficiency. Each bishop was, under Rome, supreme in his own diocese.”

From that structure, each diocesan bishop claimed an equal share of the university’s administration, but as Barr discovered, “the twenty-eight bishops who made up the hierarchy were not a body well suited to running a university.” In response, Cullen used his limited authority as Apostolic Delegate to remove much of the decision-making powers from his fellow bishops soon after they gave grudgingly unanimous approval for the establishment of a university at the Synod

33 Ibid., “Sono assolutamente persuaso, Venerabili Fratelli, che per la vostra egregia devozione e per la vostra singolare, amorevole pietà verso di Noi e verso questa Sede Apostolica, voi darete una completa soddisfazione a questi Nostri desideri, moniti, richieste e disposizioni, che mostrano con la massima chiarezza quanto Noi siamo preoccupati per la salvezza e la prosperità spirituale di codesta vostra Nazione.”


35 Ibid.
of Thurles. He needed the death of Daniel Murray, Archbishop of Dublin, and an opponent of Cullen’s who “had never given up his support for the Queen’s College and was unwilling to support a rival institution,” to establish the Catholic University of Ireland in the capital city, a foundation guaranteed with Cullen’s appointment as Archbishop of Dublin in 1852. Even then, “Cullen could only exercise control outside of Dublin by means of his extensive influence at Rome or by the necessarily exceptional means of a national synod such as that held at Thurles in 1850.”

Coupled with Cullen’s personality and administrative style, which Marvin O’Connell described as “a workaholic and a control-freak,” the Catholic University of Ireland suffered under a lack of direction. As O’Connell explained,

> Cullen refused to delegate meaningful authority to any but his own minions. Having spent thirty years working the corridors of power at the Vatican, he had learned to keep his own counsel, to proceed with caution, to take care before committing himself on paper. These were not bad lessons in themselves but in a driven man like Cullen they assumed paranoid proportions. His secretiveness and procrastination were maddening. Literally months would pass and Newman would receive no reply to communications on matters of pressing concern he had dispatched to archbishop’s house.38

As an Englishman and convert from Anglicanism, Newman proved ill-prepared to face the realities of Irish politics, both from the seat of government in Dublin Castle and internal Catholic ecclesiastical circles.

Newman knew nothing of Ireland, or rather what he knew was of the kind he would later designate as notional rather than real. He set foot there for the first time when he was fifty years old, a Victorian gentleman to his fingertips. He was a notoriously poor traveler; any time spent away from Birmingham was a purgatory to him; whether during sojourns in the country houses of wealthy friends or cabined up on

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36 Ibid., 131.

37 Ibid., 134.

his rare visits to the continent in some slovenly hostel, he suffered regularly from boredom, ague, and overall melancholy.\[^{39}\]

At the start of his university tenure, “the complexities of the Irish political landscape overwhelmed him. It is, therefore, not surprising that during his years in Ireland he showed little, if any, interest in the discordant pattern of political conflicts. His primary concern lay with the day-to-day practicalities of establishing a new university.”\[^{40}\] This lack of public interest in Irish politics did not tell the whole story, though, for Newman actually “exaggerated the degree of his ignorance of Irish politics. … By the mid-1850s, he had travelled around the country meeting prominent clergymen. … Throughout his time in Ireland, he maintained a steady correspondence with leading Irish personalities from the ecclesiastical, business and political sphere.”\[^{41}\] By the end of his administration, Newman became a political convert and “had a genuine sympathy towards Irish Catholics' demands for political reform.”\[^{42}\]

The Catholic University of Ireland eventually suffered under a number of structural restraints that proved to be part of its downfall. In their 1850 address to the people of Ireland, the bishops’ permanent committee on the Catholic University of Ireland wanted to show that they were committed to “promote the cause of learning, and with that view to create educational institutions suited to the exigencies of society” which would be “as extensive and diversified as any to be found in the most distinguished universities of Europe, so that the youth of the country may enjoy

\[^{39}\] Ibid., 61.


\[^{41}\] Ibid., 338.

\[^{42}\] Ibid., 332.
all the benefits of the highest education without any detriment to their faith or morals.” 43 These institutions, in particular the new Catholic university, would overcome what the bishops called “One of the greatest calamities of modern times,” namely:

The separation of religion from science; whereas the perfection of knowledge is the union of both, which produces the most perfect form of civilised society, by making men not only learned, but also good Christians. So far from there being any antagonism between religion and science, they are a mutual advantage, each reflecting light upon and facilitating the acquisition of the other.44

At the conclusion of the address, and with the re-integration of science and theology now explicitly listed as one of the university’s stated purposes, the bishops called upon

The Catholic clergy and people of Ireland, to throw yourselves heart and soul into this great work, and to assist, according to your means, in carrying it into immediate execution. … — if you wish that the youth of Ireland shall not be led astray by the science of this world, which puffeth up with pride, corrupts the heart, unsettles the faith, disturbs society, and overturns the throne and the altar, but that they shall be imbued with science, the beginning of which ‘is the fear of the Lord,’ and its end peace, order, obedience, happiness, both spiritual and temporal, — if you wish to hand down to future generations that Catholic faith for which we have suffered so much, and which is the first principle of civilisation, — then will this appeal not have been made in vain.

With this call to the Irish clergy and people in mind, Rector Newman knew that recruiting quality students to the university meant establishing a course of study that recognized “the importance of incorporating modern scientific subjects into the curriculum.”45 He reaffirmed the fact that there was no contradiction between science and theology, and he “claimed that there were three possible reasons why a scientifically proven fact could never contradict revelation. If there

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43 The permanent committee on The Catholic University of Ireland consisted of two bishops from each province, led by Archbishop Cullen of Armagh. The committee’s letter to the people of Ireland was published in The Rambler: A Catholic Journal of Home and Foreign Literature, Volume 6 (1850) 462–466, with this quote appearing at 462. The Rambler can be accessed online.

44 Ibid.

45 Adelman, Communities of Science in Nineteenth–Century Ireland, 66.
is a contradiction, Newman stated, ‘that point will eventually turn out, first, not to be proved, or secondly, not contradictory, or thirdly, not contradictory to anything really revealed, but to something which has been confused with revelation.” 46 His approach to education at the Catholic University of Ireland thus belonged to the,

Tradition that understands the humanities in terms of the “English idea of the humanities,” one that places an emphasis on the “more practical, social, and civic virtues.” Even though his discourses privilege the place of theology in the curriculum, his university is not to be regarded as a spiritual guide or ‘Seminary,’ but rather as an institution in which to acquire ‘Liberal Knowledge,’ what is of ‘great secular utility, as constituting the best and highest formation of the intellect for social and political life.” 47

From that tradition, Newman believed liberal education was obligated to “transform the student into a gentleman,” 48 and the university “gives a man a clear conscious view of his own opinions and judgments, a truth in developing them, an eloquence in expressing them, and a force in urging them.” 49 It was no surprise, therefore, that “the curriculum offered by the University was traditionally classical and was little different from that offered by the Queen's Colleges or Trinity College, or even American Catholic universities such as Georgetown or Notre Dame.” 50 Where there was a difference was in the ethos of the Catholic University of Ireland, which both Newman as rector and Cullen as archbishop were convinced rested on “the necessity for a university to include theological knowledge and training; both men believed that that knowledge was properly

46 Adelman, Communities of Science in Nineteenth–Century Ireland, 67. The internal quote is from Idea, 466–467.


48 Ibid., 54.

49 Idea, 178.

50 Barr, “The Failure of Newman’s Catholic University of Ireland,” 133.
the preserve of the Catholic Church; and both men were clear on the need for the ethos of such a university to be truly and devoutly Catholic.”

Ultimately, Newman proved unable in developing at the Catholic University of Ireland a transnational institution in line with Oxford, Louvain, or even Trinity. After he started his recruitment lectures, “Newman was surprised and somewhat demoralized to learn that the university he was asked to serve as rector for in 1851 was intended only for Irish Catholics.”

This desire to reserve the Catholic University of Ireland for the Irish was one expressed in the consternation of John MacHale, Archbishop of Tuam, who “fretted increasingly that the English rector insisted on putting on staff English intellectuals—actually, there were relatively few—and, even worse, kept describing the university as an institution that would furnish higher education for the English-speaking peoples of the British Empire and America.” To complicate the issue further, “the thoughts of aristocratic Irish and English Catholics were not [Newman’s] thoughts, and the intellectual ways of the masses of the people, in many things he deemed of high seriousness, were not his ways.”

The Catholic laity, for their part, “specifically the lawyers, other professionals and the small number of country gentlemen, Irish Catholics of influence in other words—not only hesitated to send their sons to the new university but also refused to be associated in any way with an institution so utterly under the sway of the clergy.”

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51 Barr, “The Failure of Newman’s Catholic University of Ireland,” 133.

52 O’Sullivan, *The Humanities and the Irish University: Anomalies and Opportunities*, 52.


the theological sciences, the university always competed with the national seminary in Maynooth, so the Irish bishops who were hesitant to support the experiment from its inception at the Synod of Thurles felt no obligation to provide students to keep it financially solvent. Furthermore, once the bishops made the decision to support Maynooth over the university, the rest of the country lacked “the network of schools necessary to provide students for a university with a rigorous classical curriculum.”

The same resistance emerged when Newman tried to recruit professors, lecturers, and instructors to the university, but in this case, the frustration was directed at Archbishop Cullen, leaving the two men on opposite sides of the issue and marking the beginning of a deteriorating relationship. Newman grew increasingly exasperated with what he thought was “a reactionary clergy” and he “resented the stranglehold that the Catholic Church hierarchy, under Cullen's influence, wished to secure over the CUI. He did not want a priest-ridden institution. Instead he wished to appoint members of the laity to the staff of the CUI.” Archbishop Cullen, on the other hand, wanted the university to remain “predominately ecclesiastical” because he “feared that the CUI would be a breeding ground for fervent nationalism, a university for revolutionary intellectuals” without the restraint provided by a conservative, ultramontaine clergy in Cullen’s own image and likeness. “As to a Faculty of Theology for professional theologians, it never really functioned in the C.U. Newman left this to the bishops,” and not surprisingly, the bishops showed

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56 Barr, “The Failure of Newman’s Catholic University of Ireland,” 137.
57 Kelly, “John Henry Newman, the Young Irelanders and the Catholic University of Ireland,” 339.
58 Ibid.
little interest in providing the resources necessary to establish such a faculty with any vitality. As the historian Timothy Corcoran observed, “At no stage in the history of the Catholic University was a Faculty of Theology, definitely organised and set to work: and the lectures were chiefly concerned with the proper placing, influence, and dignity of Theology and Religion amid the other sciences to find their orbit within a truly-devised University system.”

A further structural problem at the university was the lack of a royal charter. “Without a charter from the Crown, the University was limited to awarding pontifical degrees. Then, as now, a pontifical degree, while useful in establishing the holder's qualifications to teach theology, had little worth in the secular world and could, in fact, serve as a hindrance to an ambitious young man eager to enter the professions.” The Irish academic and former president of University College Cork Alfred O’Rahilly went so far as to stress, “It is not generally realized that the Catholic University was quite illegal, and existed only because certain penalties were quietly allowed to fall into desuetude. The Emancipation Act of 1829 opened some positions excluded in 1793. But it still left it illegal for higher education outside Maynooth, Most, if not all, of the other Catholic colleges remained under the prohibition of 1782.”

Again, this preference for Maynooth and the resulting dearth of theological students, when combined with the lack of secular degree offerings, meant the university suffered from perpetually low enrollment and a lack of tuition income. Barr pointed to the university’s failure to thrive and Newman’s failure as its rector as rooted in symptoms that forced the Catholic University of Ireland into a death spiral:

It could not raise the money necessary to survive because of the indifference of the Irish hierarchy; the hierarchy was indifferent because Paul Cullen felt it necessary

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60 Corcoran, “Newman’s Ideals and Irish Realities,” 117.

61 Barr, “The Failure of Newman’s Catholic University of Ireland,” 137.

to exclude them from any authority over the University; the University was vulnerable to this inability to raise fresh funds (despite a healthy endowment) because it was unable to attract enough students to avoid a substantial annual deficit; and there were not enough students of the necessary sort in Ireland, whereas those that did exist were not tempted by a Catholic University education because that University lacked a charter that would enable it to grant civil degrees.63

Both Colin Barr and Thomas Corcoran noted that Newman’s organizing vision for the institution placed the Catholic University of Ireland at an institutional disadvantage. When Newman developed the curriculum for the new university, he had in mind “the Catholic ideal, illustrated for hundreds of years in both Oxford and every other University that developed during the ages of Faith.”64 He saw in his alma mater “a system whose very spirit had passed into his soul. It was a scheme well devised for a leisured aristocracy in a condition of secure independence, such as is now mainly, and was then almost exclusively provided for at the ancient Universities of England.”65 The inescapable reality of this system, however, was that “it was applicable nowhere else in the world … such an education can usually be made possible for only a privileged caste.”66 What Newman discovered in his Dublin experience was “There were not enough students of the sort whose parents might wish to send them to the Catholic University. Many of the Irish Catholic elite, and even the aspiring Catholic middle classes, chose to educate their children at Trinity College, at an Oxford and Cambridge now opening to Catholics, or on the Continent.”67 In other words, the Irish upper and middle classes would rather send their children to the original in

63 Barr, “The Failure of Newman’s Catholic University of Ireland,” 139.

64 Corcoran, “Newman’s Ideals and Irish Realities,” 118.

65 Ibid., 121.

66 Ibid.

England rather than the copy in Dublin, even if that copy were Irish Catholic in name and staffed by Irish Catholics with a leading English Catholic intellectual from Oxford at its helm.

In the end, the Catholic University of Ireland under Newman’s leadership failed to meet the needs of the Irish people of the mid-19th century, which included “the immediate development, not of an exclusive and dominant Arts Course, but of professional schools of law and medicine, together with those newer Special studies which were not known to the Oxford of Newman's day.”

Thomas Corcoran, writing soon after the turn of the 20th century, posited that the Catholic University of Ireland should have provided for a country twenty years removed from Catholic Emancipation and still emerging from the ravages of the Great Famine and potato blight that swept through the country from 1845 to 1852, “that education which would put the sons of the poor, and the sons of the moderately well-to-do, in a position to reverse, as soon as possible, the evil results of the Penal Laws on their social position and their right to work.”

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68 Corcoran, “Newman’s Ideals and Irish Realities,” 122.

69 Ibid.
CRITIQUES OF NEWMAN’S THEORY OF DOCTRINAL DEVELOPMENT

Despite his failures in Dublin and the demise of the Oxford-modelled Catholic University of Ireland, during the last two decades of his life, John Henry Newman had become the leading English Catholic intellectual voice on matters ranging from papal infallibility to the role of the Catholic population in British politics. He was, in many ways, a celebrity commentator on current events and topics of interest, and his thoughts were sought on a variety of matters. As Kenneth J. Stewart noted, “Newman was the Englishman about whom observers differed and frequently differed strongly.”70 When he died in 1890, Newman had left behind a corpus of writings, personal diaries, and correspondence with people throughout the British Isles that remained influential for decades. “Critics there were, to be sure. But the loudest voices were Newman himself and the circle of admirers whom he left.”71 This does not mean, however, that his methodology and his theology were immune from public scrutiny. Such has been true since his Essay on the Development of Christian Doctrine was published in 1845, which revealed not only his discoveries on an Anglo-Catholic model of development that leaned significantly towards the Roman church as opposed to the English, but also included his de facto repudiation of both the Oxford Movement and his Anglican heritage. These critiques from both Anglican and Roman Catholic theologians highlighted deficiencies in Newman’s theology as well as places where Newman did not go far enough in explaining how development worked in theology.


71 Ibid., 268.
Critiques from Newman’s Contemporaries

A particularly-virulent critique on Essay on the Development of Christian Doctrine came from James Bowling Mozley (1813–1878), an Anglican theologian and Regius Professor of Divinity at the University of Oxford from 1871 until his death. Mozley and Newman had a long history of interaction, which made Mozley’s critique of Newman’s position particularly strong. Mozley started his studies at Oxford in 1830 as part of Oriel College, and later became Newman’s brother-in-law in September 1836 when his elder brother Thomas married Newman’s eldest sister Harriet Elizabeth. In 1838, the younger Mozley earned his master’s degree from Oxford and was ordained a deacon in the Anglican Church, where he was assigned as Newman’s curate at St. Mary the Virgin Church. In 1840, he was elected a fellow at Magdalen College, and from that position, joined his brother Thomas, Edward Pusey, John Keble, and Newman as leading members of the Oxford Movement.

While the Oxford Movement continued to promote its objective of defending the Church of England as preserving apostolic succession and the Catholic sacraments as a branch of the Catholic Church alongside the Roman Catholic Church and the Eastern Orthodox churches,72 members of the movement began to reconsider the relationship between the Roman Catholic Church and the Church of England. When Newman joined the Roman Catholic Church in 1845, Mozley refused to follow his brother-in-law’s example, and wrote in May of that year, “No one, of course can prophesy the course of his own mind; but I feel at present that I could no more leave

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72 The “branch theory” originated with William Palmer (1803–1885) in his work Treatise on the Church of Christ 1838). Palmer was an early member of the Oxford Movement and supporter of their work in Tracts for the Times, but when the Oxford Movement came under criticism from the Whig government and evangelical bishops in the Anglican Church, Palmer withdrew his support for the Tracts.
Mozley used his position as editor of the *Christian Remembrancer* to publish *A Criticism of Dr. Newman’s Essay on the Development of Christian Doctrine*. In this 1847 work, he did not counter Newman’s claim that genuine development exists, but instead confined himself “to Mr. Newman’s argumentative proof of the doctrine of development in connection with the authoritative claims and the peculiar teaching of the Church of Rome.”

To make his case, Mozley claimed there were two distinct kinds or types of development, and Newman failed to distinguish between the two. The first type was development that draws out necessary implications from the original content of faith. Mozley provided examples such as the doctrine of the *homoousios* from the Council of Nicaea, the formulation of the Trinity by Basil the Great, Gregory of Nyssa, and Gregory of Nazianzus, and the statement on *hypostasis* developed at the Council of Chalcedon. None of these formulations are found in the New Testament, but each of them can be drawn from the words of Scripture without adding to Scripture unnecessarily. Using the Incarnation as his example, Mozley explained,

> A whole body of Christian theology, from the short decrees of the earliest councils to the full volumes of the Schoolmen [i.e., Scholastics], explain this truth. The former guarded it from misconstruction; the latter, besides this, brought out, in detail, the logical contents of the truth. There are inexhaustible logical contents in it. God comprehends all that God is; man comprehends all that man is. All that was logically comprehended under these two terms was brought out; and all that was logically comprehended in the idea of the union of the two was brought out.

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76 Ibid., 147–148.
Mozley highlighted the work of Thomas Aquinas as a paragon in the field of what he called explanatory theology,

Which takes the idea of the Incarnation, and brings out all the possible inferences and aspects which can be elicited from it, some nearer and more obvious, others remoter and minuter, till the subject multiplies into a whole world of subtle, and, so to call it, microscopic theological science. But such manifold evolutions do not profess to add anything to the substantial idea of the Incarnation, the truth that God became man. There is a great difference between the clearness, accuracy, and circumstance in the intellectual image of the doctrine, which such an explanatory development as this produces, and the intellectual image in an ordinary Christian mind unversed in scholastic divinity, but the doctrine entertained is the same identical one.\textsuperscript{77}

Mozley claimed the second type of development was genuinely new and not rooted in the Scriptures. He called this development “growth and not that of explanation only, which Mr. Newman’s argument desiderates in the present case,”\textsuperscript{78} and included in this category the dogma of the Immaculate Conception of the Blessed Virgin Mary as rooted in the definition of Mary as theotokos (mother of God):

“Can a clean thing come from an unclean,” we are told. But it is evident that on such an application of Scripture as this, the mother of the Virgin must be immaculate, for the same reason that the Virgin herself was; and so the stream of original sin is driven backward till no place is left where it ever could have existed. The truth is, we are not sufficiently acquainted with the nature of the mystery of the Incarnation to be drawing such conclusions from it. Show us indeed, as we said before, an infallible logician, and we will accept whatever his logic extracts. But it is absurd to suppose that the mere consecutiveness which human logic sees in this or that line of thought and process of evolution, can be appealed to as proof of a doctrine.\textsuperscript{79}

True Marian dogma, he argued, which developed from the thoughts of Origen or the Council of Ephesus, was not actually saying something about Mary, but referencing something about Christ. Jesus Christ is truly God, and by extension, Mary as his mother must truly be the mother of God.

\textsuperscript{77} Ibid., 149.

\textsuperscript{78} Ibid.

\textsuperscript{79} Ibid., 54–55.
The doctrine of the *theotokos* is therefore a necessary implication of the Incarnation, and the Incarnation is clearly taught in the New Testament (for instance, John 3:1–21, Colossians 2:9, or Philippians 2:7–8). However, the dogma of the Immaculate Conception and the Assumption are not taught in Scripture, either implicitly or explicitly, and cannot be proven from Scripture.

Mozley found the same false development at work in the doctrine of the papacy and papal infallibility, for while the apostle Peter was acknowledged as leader of the apostles, the Scriptures were silent about his position as bishop of Rome or that the successors of the bishop of Rome have infallible authority. Newman claimed in the *Essay* that Christianity “is a revelation which comes to us as a revelation as a whole, objectively, and with a profession of infallibility.”80 Such a proof of papal infallibility,

[I]s made here to rest on the necessity of the continuance of a revelation if once given. The argument is that so long as nature is our basis of knowledge, we have no reason to look for certainty of knowledge; but that when a revelation has been once made, we have: that a Divine act of communicating truth has thus taken place, different from the ordinary one by natural means, and having once taken place, must be expected to go on.81

Mozley claimed this argument was without merit. He thought Newman’s development model was a claim that knowledge, communicated once, was always communicated along the same lines with the same thought underlying it and in the same way by everyone.

The Irish historian of philosophy William Archer Butler (1814–1848) shared Mozley’s concerns that Newman’s theory of doctrinal development could not be supported by history. He feared that doctrinal development reduced revelation and dogma to logical deduction and made the hypothesis “feeble and inadequate (indeed must differ in nothing, except its imposing garb of learning and research, from the most pitiful enthusiasm that ever bewildered ignorance), unless

80 *Dev.* 118.

combined with the further supposition of an infallible directive authority to govern the course of these vague spontaneous evolutions of doctrine.” Such a deduction rendered development meaningless, since “a Church absolutely infallible can need to vindicate its decisions out of a theory of development no more than St. Paul would have needed to prove the resurrection of the body out of the books of Moses.”

Infallibility for Butler was an intentional, rational equation of private truth with divine truth, and he likened this move of finding meaning in the truths proclaimed by the pope with the claim by the German philosopher Immanuel Kant that Christianity is completely reasonable. Butler argued, “It is, therefore, quite vainly that Mr. Newman would vindicate his system from being a defence of Romanism on the principles of Rationalism, by alleging that the tendency of the Development Theory is positive, and to extend belief; of Rationalism negative, and to contract it.” He therefore saw in doctrinal development an attack on the history of the Church, a movement away from the historical experience of Christianity toward an experience that can be created today, and “the hand of a rationalist now ripping apart the Fathers as others had previously torn apart Scripture. For high churchmen, if antiquity failed, then the truth of Christian doctrine was simply that of the rationalists who reasoned or who constructed doctrine on their own or that

82 Ibid., 81–82.

83 Ibid., 84.

84 Here, Butler referred to Kant’s “Religion within the Boundaries of Pure Reason.” In the footnote introducing this notion, Butler stated, “Mr. Newman considers Christianity intended to develope, so as to adopt new dogmas; Kant, so as to set itself free of the old. The one would encumber the spirit with an unwieldy body, the other would disembodify it altogether; but both equally affect to preserve the spirit itself of the religion.” (William Arthur Butler, Letters on the Development of Christian Doctrine, in reply to Mr. Newman’s Essay, ed. Thomas Woodward (Dublin: Hodges and Smith, 1850) 87, n. 6.)

85 Ibid., 88.
of the Roman Church, which Butler dubbed ‘a huge corporate Rationalist.’”  

He rejected entirely Newman’s doctrinal development, and offered the following suggestion in its place:

I venture to affirm the broad principle,—that the very perfection of the Church’s discharge of her office of instruction and exposition lies not in unlimited “development,” but in cautious moderation; in being not “wise beyond;” that the great problem in theological deductions and applications consists in exactly the very thing this speculation overlooks, the admitting a certain tone of thought, and guarding against its extravagancies. What this theorist would call timidity and incompleteness is just the perfection of practical wisdom.

In what he hoped would be the final statement on the topic, Butler suggested the Essay showed Newman’s “intellect was diseased with a radical tendency to Scepticism, while his better Heart owned the nobler necessity of Belief.”

Perhaps the strongest contemporary critique to Newman’s approach was made by the American intellectual and author Orestes Brownson (1803–1876) whose background rivaled Newman’s own. Raised a Congregationalist in Vermont by his adoptive parents, Brownson converted and was baptized a Presbyterian, yet later became a Universalist preacher, a Unitarian pastor, and a member of the Transcendentalist movement. In 1844, Brownson decided to make his final religious conversion, this time to Catholicism, and like Newman, used the conversion to retract thoughts from his past. Brownson became a strong defender of the Catholic Church as the only religion that could restrain an undisciplined American population and used his writings to criticize those he perceived were heterodox authors, including Newman and his Essay on the Development of Christian Doctrine.

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88 Ibid., 204.
Brownson published an article entitled “Newman’s Development of Christian Doctrine” in his own *Brownson’s Quarterly Review* (formerly *The United States Magazine and Democratic Review* and, before that, the *Boston Quarterly Review*), where he asserted that Newman’s “problem is no problem; for it presupposes what no Catholic can concede, and what there is no warrant in the facts of the case for conceding.” The basic premise that doctrine develops over time was for Brownson a flawed assumption. “[The Church] asserts that there has been no progress, no increase, no variation of faith; that what she believes and teaches now is precisely what she has always and everywhere believed and taught from the first. She denies that she has ever added a new article to the primitive creed.” Brownson understood that the doctrines that emerged in Church history, such as from ecumenical councils, were not developments, “but simply a new definition, against the ‘novel expressions’ invented by the enemies of religion, of what, on the point defined, had always and everywhere been her precise faith.”

For Brownson, Newman misunderstood how revelation is given to the Church. “He does not appear to have ever heard that Almighty God gave his revelation to pastors and teachers qualified from the first to teach it in its purity and integrity, clearly and distinctly, but that he threw it upon the great concourse of believers for them to receive and make the most of.” Newman claimed that the mind of the Church, found in the collective body of the faithful, develops dogmatic truth in its expression and experience. Brownson worried that, “This view, if followed out, would

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90 Ibid., 11.

91 Ibid.

92 Ibid., 13.
suppress entirely the proper teaching authority of the Church, competent at any moment to declare
infallibly what is the precise truth revealed; or, at least, would raise the *ecclesia credens* above the
*ecclesia docens*.“93 Where Newman held that infallibility in the Magisterium allowed development
to occur properly, Brownson argued the infallible teaching office prevented development from
taking place at all, because development was, in fact, unnecessary. The Magisterium has taught
the same thing always, everywhere, and to everyone.

Brownson made specific claims on Newman’s theory of doctrinal development that
stretched the theory beyond where Newman himself intended. For instance, he summarized
Newman’s position with the following statement: “The Church, in order to attain to an adequate
expression of the Christian idea or of Christian doctrine, must institute and carry on the precise
process of development which he has predicated of ideas generally.”94 Brownson thereby feared
that in this process, “The revelation is not and cannot be taken in all at once. The Church can
neither learn nor teach it, except under particular aspects, none of which, he says, can go the depth
of the idea.”95 For Brownson, such a development theory postponed the fullness of revelation and
opened the possibility for the Church to fall into error with an ease that would worry the most
ardent of believers. Where Newman saw a natural positivity, Brownson only saw chaos and
disorder. Specifically, he feared that under Newman’s theory,

As time goes on, as individuals differently circumstanced view it under different particular
aspects and from opposite poles, as new controversies arise, bold and obstinate heretics
start up, some clamorous for one particular aspect, and some for another, [the Church] is

93 Ibid.
94 Ibid., 19.
95 Ibid.
able to enlarge her view, to augment the number of her dogmas, and tell us more truly what is the revelation she has received.96

Brownson never supported the enlargement of doctrine in an infallible Church, especially in light of the doctrinal authority granted to the Apostolic Fathers, who faced serious heretical challenges to the revelation of Jesus Christ. To claim doctrinal development was to discount the infallibility of the Patristic era.

In plain words, was the Church able to teach truly and infallibly in the age of Saints Clement and Polycarp, or of Saints Justin and Irenaeus, the whole Catholic faith, and the precise Catholic faith, on any and every point which could be made, – or was she not? If she was, there can have been no development of doctrine; if she was not, she was not then competent to discharge the commission she received97

In his final analysis, Brownson misunderstood Newman’s arguments from the Essay. For instance, he stated, “It is singular that it never occurred to Mr. Newman, that possibly the heretical views which he seems to admire so much were simply corruptions of doctrines which the Church had taught before them, and that heresy is the corruption of orthodoxy, and not its raw material.”98 To claim that Newman admired the heretical positions found in Church history, including the Arian and Monophysite positions that helped cement his argument in favor of infallibility was a misreading of the text. Brownson continued this misinterpretation by claiming, “It is clear that Mr. Newman’s mother error, is in assuming that the Christian doctrine was given originally and exclusively through the medium of the written word.”99 Newman, in fact, made no such error, and

96 Ibid., 20.
97 Ibid.
98 Ibid., 21.
99 Ibid., 22.
recognized the importance of Scripture and tradition. Both served as the indirect sources of infallibility in the Church since neither can serve as the direct source in themselves.

Brownson, however, continued his attack of Newman’s position as,

[S]heer Protestantism, not Catholicity, and is never to be assumed or conceded by a Catholic, in an argument for the Church. Catholicity teaches that the whole revelation was made to the Church, irrespective of written documents, and there never was a time when Christianity was confined to “the letter of documents and the reasonings of individual minds.”

Perhaps his background in the strictly interpreting Congregationalist and Presbyterian traditions, or his previous experience as a Universalist and Unitarian preacher, influenced Brownson’s position. Whatever the reason, he vigorously called Newman’s theory into question. “The Church must precede the Scriptures; for it is only on her authority that their inspiration can be affirmed. They are a part of her divine teaching, not the sources whence she learns what she is commanded to teach.” His conclusion to the book review is no less caustic: “If he had left out the Church, and entitled his book, An Essay on the Development of Christian Doctrine, when withdrawn from the Authority and Supervision of the Church, he would have written, with slight modifications, a great and valuable book.”

Current Critiques of the Development Approach

Modern theologians also keep a critical eye on the movements Newman attempted in his theory on development, especially as these movements translate into a post-Vatican II Church. Although it is true that Newman found in the fourth-century Church a historical parallel to his own time, theologians continue to question whether that parallel has merit in the Church today. During

100 Ibid.

101 Ibid., 23.

102 Ibid., 25.
his academic career, Newman had hoped to avoid becoming entangled in contentious theological discourse, yet his approach led to “a seeming incongruity that Newman both denied that he was ‘teaching theology’ and marshaled a series of theological texts in support of his position.” As Newman soon discovered, while “His intention had all along been ‘studiously’ to avoid the dangerous subject of theology … he had ‘put’ his ‘foot into it’ against his ‘wish and expectation’ by merely ‘stating historical facts’ which he assumed ‘no one would deny.’”

Newman has been labelled by recent commentators as a theologian, historian of theologies, historiographer, ecumenist, apologist, and even as a poet or mystic. With each of these identifications comes its own challenges in interpreting Newman’s writings, as well as changing avenues for critique. For instance, one of the places where Newman’s understanding of development can be critiqued is in On Consulting the Faithful in Matters of Doctrine, in which he claimed,

As to the present, certainly, if there ever was an age which might dispense with the testimony of the faithful, and leave the maintenance of the truth to the pastors of the Church, it is the age in which we live. Never was the Episcopate of Christendom so devoted to the Holy See, so religious, so earnest in the discharge of its special duties, so little disposed to innovate, so superior to the temptation of theological sophistry. And perhaps this is the reason why the “consensus fidelium” has, in the minds of many, fallen into the background.

Was Newman writing as a theologian in this work, or was he simply pondering the status of lay education from his posting as a university administrator? Make no mistake: Newman lamented the loss of the lay voice in the development of doctrine, but from what perspective was he making the lamentation? Later in the work, he looked for an as-yet unnamed “something” as the place where

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105 Cons., 228.
the lay faithful could best express their role in the Church. That “something” became liturgy and devotion, the events that touched the lives of the lay faithful most intimately. “If ever there be an instance when they ought to be consulted, it is in the case of doctrines which bear directly upon devotional sentiments. … The faithful people have ever a special function in regard to those doctrinal truths which relate to the Objects of worship.”106 However, could Newman comment on such matters from his perspective as a university rector, and were his opinions meaningful in such a context?

For Newman, his presentation served a dual purpose. On the one hand, he addressed what he believed was the truth of Catholic life at the time. On the other, he wanted to forestall any allegations of dogmatic heterodoxy in his work, and since liturgical worship and devotional practices were less controversial than dogmatic discussions, Newman held these elements as more easily accepted. However, by presenting the model in this way, it was unclear as to what role Newman wanted to play. Was he presenting a theological argument? Was this more sociological or even historical? Could Newman even write with authority about this topic, and by approaching it liturgically, was he writing from a position of strength? By writing from this perspective, Newman also opened up the lay faithful to charges that he had worked to refute. For instance, in the concluding paragraph of “Consulting,” Newman claimed,

\[T\]he Ecclesia docens is more happy when she has such enthusiastic partisans about her as are here represented, than when she cuts off the faithful from the study of her divine doctrines and the sympathy of her divine contemplations, and requires from them fides implicita in her word, which in the educated classes will terminate in indifference, and in the poorer in superstition.107

\[106\] Cons., 229.

\[107\] Cons., 230.
This statement left the entire project open to criticism. Namely, did Newman unwittingly equate devotional attitudes “from below” with superstition? Did he discount the liturgical traditions of the faithful as a “poor man’s practice,” while a disaffected educated class languished in indifference? Worse yet, were the poorer classes suffering in superstition at that moment because of the bishops’ inattentiveness?

A second weakness emerged with Newman’s stress of the devotional life of the lay faithful, for he expanded the term “lay faithful” itself. As liturgy and devotion now stood in at the forefront of Church life, Newman confronted the prevalent image of an overly clericalized Church. In this confrontation, he returned to the Church of the fourth century, which could,

[M]ake it abundantly clear that the “faithful” comprised not only laity but also “presbyters,” “holy virgins,” and “monks,” in other words priests and religious. It was not just the laity but the faithful or baptized Christians—whatever their canonical status in the Church—who upheld the orthodox faith against the Arian heresy despite the failure of the body of the episcopate to stand firm.108

Such an approach seemed contradictory, however. Priests, despite their roles in the liturgical life of the Church, are not members of the lay faithful. Their ordination, by its very nature, gives these men a different sacramental character. Furthermore, Newman’s desire to include the clergy in an expanded role for the lay faithful contradicted his thoughts from The Rambler editorial of May 1859. Recall that this editorial read, “It is our fervent prayer that their Lordships may live in the hearts of their people; of the poor as well as of the rich, of the rich as well as of the poor; of the clergy as well as of the laity, of the laity as well as of the clergy.”109 The editorial made it clear that there are not two distinct groups in the Church but three: the Lordships, the educated laity, and the clergy. How could Newman justify distinguishing between two groups


109 Rambler, 123.
in July 1859 and three groups only two months prior? Why did the clergy lose their distinctive place in Consulting? As Ian Ker explains, the argument, when presented in Newman’s way, simply became untenable:

I also referred to a note Newman added to an appendix to the third edition of The Arians of the Fourth Century when he republished it in 1871. This note contains part of the article, together with some amendments and additions, including a remarkable sentence, which not even G. K. Chesterton at his most paradoxical could outdo: “And again, in speaking of the laity, I speak inclusively of their parish-priests (so to call them), at least in many places.”

Perhaps the most vocal current critic of Newman’s approach is Michael Slusser, who in his article “Does Newman’s ‘On Consulting the Faithful in Matters of Doctrine’ Rest Upon a Mistake?” states, “The strongest support for Newman’s thesis [that the laity are the truest guardians of orthodoxy] is provided by the cases where the laity were loyal to those bishops who upheld Nicaea, while they opposed or rejected bishops who supported Arian doctrine.”

However, We should dismiss the “romantic suggestion” that the ordinary faithful as a body clung to Nicene orthodoxy despite the vacillation of their bishops. But this alleged orthodoxy of the laity in the Arian controversy was Newman’s principal argument in “On Consulting the Faithful in Matters of Doctrine,” and the only one he developed. If the laity were not orthodox as he said, does his advocacy of their dogmatic authority rest on a mistake? Should his call to dogmatic theology to pay attention to the sensus fidelium be considered unfounded?

To begin, Slusser does not accept Newman’s evaluation of the fourth century, where he claimed that only the laity were consistent in their defense of orthodoxy against the numerous heresies present in the post-Nicaean Church. Instead, Slusser argues, “Emperors, bishops, and monks can be found among the supporters of virtually all the competing doctrinal formulations,


12 Ibid, 239.
and the Bible was invoked by all parties, without producing agreement.”\textsuperscript{113} He also argues that Newman’s references in the historical examples of “the holy virgins and brethren,” a “persecution against all,” “some,” “others,” “monks,” and “members not few in numbers”\textsuperscript{114} are fraught with ambiguity and therefore lack historical certainty or veracity. While “all” is an absolute number, the other descriptive words included in Newman’s approach remain open to interpretation. How many faithful are included in “some” or “others”? If less than half, does that weaken the argument? How many “holy virgins and brethren” were part of a fourth century Christian community: tens, dozens, hundreds, or simply two or three? Did the presence of “members not few in number” stem the tide of heresy, or were there members “less few in numbers” on the other side of the debate? From these questions emerge another weakness in Newman’s historical approach: when using non-descript qualifiers such as “some” or “others,” a reader is left wondering how much is “some,” and did the “sum” of “some” make a difference in the total?

Slusser’s critique continues: “[T]he role of the bishop, the holy man, is not the same today as it was in the fourth century. Then the bishop was catechist and mystagogue, the visible embodiment of people’s hope for salvation. Such was the organic union between bishop and church that it may be anachronistic to contrast the faith of the people with the faith of their bishops.”\textsuperscript{115} In the Church of Newman’s day, the bishop was not the primary catechist or mystagogue of a small community centered on his person. Whereas the average member of a local fourth-century Christian community may have seen his or her bishop on a regular basis, whether

\textsuperscript{113} Ibid.

\textsuperscript{114} Cf. The descriptions of the faithful laity in \textit{Cons.}, 219 to 227.

\textsuperscript{115} Slusser, “Does Newman’s ‘On Consulting the Faithful in Matters of Doctrine’ Rest Upon a Mistake?,” 239.
at Eucharist or in the marketplace, the average member of the nineteenth-century Catholic community did not have that same familiar relationship with their bishop. The fact that their bishop was addressed as “Your Lordship” or “Your Grace” would not have been lost on the ecclesiological understanding of the faithful. For Newman, the contrast between the lay faithful and the *magisterium* was rooted in a clerical attitude that, in the fourth century, never existed.

In a third critique of Newman’s position, Slusser suggests that he may have overstressed the type of controversy and its role in the life of the Church of the fourth century, and this overemphasis may have laid nineteenth century sensibilities upon the fourth century Church.

Because of modern preoccupations with dogma, and because the early church historians and Athanasius were preoccupied with dogma, we describe the Arian controversy as a battle between orthodoxy and heresy. This may be reductionistic; right doctrine and the language to express it were no doubt important, but so was the need to achieve the goal of living the Christian life.\(^{116}\)

To support his argument that living the Christian life was just as important as orthodox teaching, Slusser points to the historical circumstances of St. Parthenius of Lampsacus, whose example may have been more commonplace than previously thought, including by Newman:

What is strange is that such a great saint not only does not appear to have defended the cause of St. Athanasius, which was that of the Church’s faith, but on the contrary remained in the communion of the bishops of Asia, even that of Theodore of Heraclea who had been condemned by name and deposed by the Council of Sardica.

… The saving grace in times of doctrinal dispute and disunion may not be disclosed either in the witness of the laity or in that of the bishops, seen as distinct voices in the church, but in those local churches where the faithful, including the bishops, live the Christian life intensely without succumbing to envy, anger, or partisan spirit.\(^{117}\)

At the end of his investigation, Slusser makes the following assessment of Newman’s development theory:

\(^{116}\) Ibid., 240.

\(^{117}\) Ibid.
The real mistake in Newman’s proposal may lie less in the weakness of his historical evidence than in his and our overestimation of the importance of verbal formulations, and our willingness to see those who disagree with us as tools of the Adversary. If the sensus fidelium becomes just another weapon for use in doctrinal combat, we shall surely have failed to learn the lesson of the Arian controversy.118

Bradford Hinze, the American theologian and holder of the Karl Rahner Chair in Theology at Fordham University, criticizes Newman’s criteria of continuity and unity as they pertain to doctrinal development because they arose in a milieu where “the Newtonian and Enlightenment mechanistic view of the work was displaced by the romantic appreciation of organic life processes.”119 Hinze claims that for Newman, this organic appreciation “provided primarily or solely a retrospective defense for what had developed,”120 but also allowed blind spots to form in the discussion of development within the Church. Like Slusser, Hinze holds that Newman’s development approach was an overly romanticized and sanitized reflection on church history. Newman and others who used this model did not take into consideration an accurate version of the Church and its lived situation. “Disease, corruption, and death were ignored by a few who used organic models; some theologians banished negative factors as external threats beyond the borders of faith, whereas others viewed them as an integral part of the process.”121 The Second Vatican Council, with its implicit acceptance of Newman’s theory on development, also “explicitly embraced linear and progressive implications at work in certain organic developmental

118 Ibid.


120 Ibid.

121 Ibid., 422.
models.”122 These implications, in turn, allowed modern Catholic theologians to employ a model on development that “accentuated unity, continuity, and stability, defending or paving the way for change interpreted as growth and accumulation.”123 For Hinze, the development approach neglected to recognize that change could also be the result of devastation, horror, instability, and confusion.

As the Church moves further from the events of the Second Vatican Council, Hinze argues that a necessary recognition of diversity within the unity of faith and the growing plurality of traditions will challenge the cohesion of doctrinal development that has been emphasized since the Council. For Hinze, plurality in traditions is a product of both modernity and postmodernity. The use of the historical-critical method in studying the Scriptures allows scholars “to reconstruct the plurality of Sitze im Leben in the Scriptures [which] entails isolating various voices, groups, and positions and charting the histories of texts in terms of authors, editors, and communities.”124 New research in Church history means “the old presentation of the apostolic age as whole, perfect, or complete is no longer viable and we now approach the documents from the apostolic age and find incompleteness, openness, and newness,”125 while new philosophical arguments from authors such as Heidegger, Levinas, and Derrida “have left a lasting imprint on the nature of the questions we now must face concerning the written traces, minority traditions, and voices from the past and in

122 Ibid.
123 Ibid.
124 Ibid., 423.
125 Ibid, 424.
the present. At the minimum, their work pleads for an openness to new narrative configurations that can call into question, modify, as well as help us to rediscover old plots.”

Hinze finds in the contemporary Church “a new appreciation of the plurality of traditions that have informed and continue to shape Christian identity. … Neither a rectilinear configuration of doctrinal development nor a closed model of salvation history can adequately account for this plurality; certainly they cannot suppress questions about disputed doctrinal issues.” Instead, he argues for expanding the process of tradition, which “entails being receptive and obedient to the voice of God as the Christian community critically reappropriates what has been received, judiciously discerns the spirits past and present, and remains open to the new.” In this model, doctrinal development cannot become the rigid imposition of norms for the sake of continuity and unity, and the criteria as developed by Newman can no longer be permitted to obscure “the multiform, tensive, and labyrinthine aspects of ecclesial history and pilgrim existence.”

As is clearly seen from these critiques, John Henry Newman and his presentation of doctrinal development is still not universally adopted as the only theory of progress in the Church. Newman’s ecclesiology does have inherent limitations, including those caused by the ravages of time that his theories were meant to address and overcome. Nevertheless, Newman remains a popular model for those attempting to understand the craft of theology in the post-Vatican II church, and the question of how to integrate Newman’s thought into a rapidly changing world

126 Ibid., 426.
127 Ibid., 427–428.
128 Ibid., 432.
129 Ibid., 433.
continues to challenge canonists, theologians, and Church leaders. The question, however, is one of how to integrate Newman into the Church of today, and not should he be integrated at all.
JOHN HENRY NEWMAN AND THE SPECTER OF MODERNISM

Fifty years after his death, a Catholic intellectual would have found Newman’s theological importance waning, for while his works remained admired in a small circle of Anglo-Catholic thinkers, his theological writings were not very influential outside the United Kingdom. A brief revival of interest in Newman’s Tractarian works had taken place in the Anglican Communion, but only to discredit the Tractarian movement of Newman’s day as too mingled with ultramontanism. Studies on Newman at this time also included what Kenneth Stewart described as a psycho-history work by Geoffrey Faber titled *Oxford Apostles*.130 Geoffrey Faber was a grandnephew of Frederick Faber, who had been one of Newman’s companions on his 1832 tour of southern Europe and the Mediterranean. In this work, the younger Faber,

Influenced by Freudian psychology, took particular interest in Newman’s prolonged and unrelenting relationship with his mother, his claimed determination from age fifteen to follow a life of celibacy, his overwhelming preference for male company (long before his re-affiliation to Rome), his recurring tendency to have severe health crises when confronted by great tasks, and supremely his self-absorption. Faber strongly implied the existence of dark psychological forces at work in the Tractarian hero.131

In English society, Newman started to be thought of as less a theologian and Church intellectual and more a scandalous figure living under the burdens of the social structures in Victorian England.

As his standing declined in English intellectual and social circles, Newman’s theological reputation in the Catholic Church ebbed and flowed with the tides of the Church’s reactions to the modern world. Newman worked within the nineteenth-century intellectual milieu of a Catholic Church engaged in a bitter struggle against what it had termed the heresy of modernism,132 and the

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132 In the encyclical *Pascendi dominici gregis* (September 8, 1907), Pope Pius X provided “a summary description of the apologetic method of the Modernists . . . I with their doctrines - methods and doctrines brimming
popes of Newman’s Catholic life were staunch opponents of that movement. The specter of modernism brought with it the perceived threat of replacing Thomistic philosophy, advocating the separation of Church and state, the reinterpretation of historical development, political change, and the revaluation of the connection between the present and past. Modernism took many forms, among which were rationalism, secularism, humanism, historicism, indifferentism, and agnosticism. In papal condemnations of the movement, these terms were used interchangeably so that one concept led into another without much differentiation. Modernism also carried political implications, with popes linking it to Protestantism (especially Anglicanism and Lutheranism), socialism, communism, or liberal and republican ideals that threatened the existence of the Papal States and, by extension, the role of the pope as a secular ruler.

Pope Gregory XVI (1765–1846; reigned 1831–1846), who was the occupant of the Chair of Peter when Newman converted to Catholicism in 1845, rejected modernism as a position openly hostile to the Catholic faith. Prior to his election to the Papacy in 1831, Bartolomeo Alberto Cappellari had been Prefect of the Congregation for the Propagation of the Faith and had served

over with errors, made not for edification but for destruction, not for the formation of Catholics but for the plunging of Catholics into heresy; methods and doctrines that would be fatal to any religion.” (n. 37)

In the entry on modernism that appeared in the 1911 edition of The Catholic Encyclopedia, the entry author Arthur Venneersch, S.J., a professor of moral theology at the Catholic University of Louvain, admitted, “A full definition of modernism would be rather difficult. First it stands for certain tendencies, and secondly for a body of doctrine which, if it has not given birth to these tendencies (practice often precedes theory), serves at any rate as their explanation and support. Such tendencies manifest themselves in different domains. They are not united in each individual, nor are they always and everywhere found together.” (Arthur Vermeersch, “Modernism,” The Catholic Encyclopedia Vol. 10 [New York: Robert Appleton Company, 1911], accessible online at http://www.newadvent.org/cathen/10415a.htm.) Nevertheless, Vermeersch attempted to summarize modernism as a plan of reform that possessed “1. A spirit of complete emancipation, tending to weaken ecclesiastical authority; the emancipation of science, which must traverse every field of investigation without fear of conflict with the Church; the emancipation of the State, which should never be hampered by religious authority; the emancipation of the private conscience whose inspirations must not be overridden by papal definitions or anathemas; the emancipation of the universal conscience, with which the Church should be ever in agreement; 2. A spirit of movement and change, with an inclination to a sweeping form of evolution such as abhors anything fixed and stationary; and 3. A spirit of reconciliation among all men through the feelings of the heart. Many and varied also are the modernist dreams of an understanding between the different Christian religions, nay, even between religion and a species of atheism, and all on a basis of agreement that must be superior to mere doctrinal differences.” (Ibid.)
as a successful diplomat in the Netherlands, Armenia, and the Ottoman Empire. When elected pope, Gregory faced growing political instability in the Papal States. The previous year, revolutionaries in France had deposed King Charles X of the House of Bourbon in favor of a constitutional monarchy headed by Charles’ cousin Louis Philippe and based on popular sovereignty. Similar unrest spread to the neighboring United Kingdom of the Netherlands, where the southern Flemish and Walloon provinces, supported by the new French monarchy, seceded to establish a popular constitutional monarchy as the independent Kingdom of Belgium. Unsuccessful revolutions erupted in Poland against the Russian occupation and, more importantly for Gregory, in the Papal States, where the Pope was forced to request military assistance from the Austrian Empire to suppress republican movements.

Soon after the events of the 1830 revolution in France, two French priests, Jean-Baptiste Henri-Dominique Lacordaire of Paris, and Félicité de Lamennais of Rennes, along with a young nobleman named Charles de Montalembert, began a newspaper that embraced the liberal revolutions as consistent with Roman Catholicism. In the December 7, 1830 edition of *L’Avenir* (*The Future*), the editors made the following demands of French society:

> We firstly ask for the freedom of conscience or the freedom of full universal religion, without distinction as without privilege; and by consequence, in what touches us, we Catholics, for the total separation of church and state.

> Just as there can be nothing religious today in politics there must be nothing political in religion.

> We ask, secondly, for freedom of education, because it is a natural right, and thus to say, the first freedom of the family; because there exists without it neither religious freedom nor freedom of expression.133

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The editors of *L’Avenir* viewed their position as ultramontane, albeit liberal in nature, and they remained committed to an adherence to the authority of the Pope as opposed to reliance on nationalism and secularism. As the French historian Bernard Chedozeau described the movement,

> It defined itself as “a tendency among sincere Catholics to exalt liberty as a value with the consequences that this [exaltation] entails for the principles that govern social, political and religious life; to want to reconcile the irreconcilable: the principles on which were based Christian France and those stemming from the Revolution.” This liberalism was received by significant fringes of French Catholics, made “sensitive to modern ideas of tolerance, reduction of the Church to common law, [and] exaltation of freedom as a value first.”

The Catholic hierarchy in France tended to be more conservative and Gallican, asserting the authority of the French national church in the process. For their public position in *L’Avenir*, Lamennais and Lacordaire were called before a French ecclesiastical tribunal and charged with insubordination, but after their acquittal in March 1831, the two priests and their co-editor Montalambert sought official approval from Pope Gregory XVI for what they believed were orthodox, ultramontane positions.

As Lamennais and Lacordaire faced the pressure of the French ecclesiastical tribunal, Pope Gregory learned that both the French government and hierarchy viewed the demands of *L’Avenir* as dangerously disturbing to the privileged positions they enjoyed within French society. Gregory’s subsequent response in the encyclical *Mirari vos*, promulgated on August 15, 1832, while never mentioning the newspaper *L’Avenir* or its editors explicitly, nevertheless condemned

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the demands made by Lamennais, Lacordaire, and Montalembert as notions produced under the “banner of felony” by the “insolences of the factious.”\footnote{Mirari vos 5. “Superba tripudia la disonestà, insolente è la scienza, licenziosa la sfrontatezza. Viene disprezzata la santità delle case sacre: e l’augusta maesta del culto divino, che pur tanto possiede di forza e di necessità sul cuore umano, viene indegnamente contaminata da uomini ribaldi, riprovati, messa a ludibrio. Quindi si stravolge e perverte la sana dottrina, ed errori d’ogni genere si disseminano audacemente. Non leggi sacre, non diritti, non istituzioni, non discipline, anche le più sante, sono al sicuro di fronte all’ardire di costoro, che solo eruttano malvagità dalla sozza loro bocca. Bersaglio di incessanti, durissime vessazioni è fatta questa Nostra Romana Sede de’ Beatissimo Pietro, nella quale Gesù Cristo stabilì la base della Chiesa; i vincoli dell’unità di giorno in giorno maggiormente s’indeboliscono e si sciolgono. La divina autorità della Chiesa viene contestata e, calpestati i suoi diritti, si vuole assoggettarla a ragioni terrene; con suprema ingiustizia si vuole renderla odiosa ai popoli e ridurla ad ignominiosa servitù. Intanto s’infrange l’obbedienza dovuta ai Vescovi, e viene conculcata la loro autorità. Le Accademie e le Scuole echeggiano orribilmente di mostruose novità di opinioni, con le quali non più segretamente e per vie sotterranee si attacca la Fede cattolica, ma scopertamente e sotto gli occhi di tutti le si muove un’orribile e nefanda guena. Infatti, corrotti gli animi dei giovani allievi per gl’insegnamenti viziosi e per i pravi esempi dei Precedenti, si sono dilatati ampiamente il guasto della Religione ed il funestissimo pervertimento dei costumi. Scosso per ta[ ] maniera il freno della santissima Religione, che e la sola sopra cui si reggono saldi i..."} Gregory observed that in the system advocated by publications such as \textit{L’Avenir},

Depravity exults; science is impudent; liberty, shameless. The sanctity of sacred things is despised; and the august majesty of divine worship, which possesses so much strength and necessity of the human heart, is unworthily contaminated by men who are rebellious, reprobated, and put to jeopardy. Hence, sound doctrine is distorted and perverted, and errors of all kinds are spread boldly. No sacred laws, no rights, no institutions, no disciplines, even the most holy, are safe in the face of the ardor of them, who only spout evil from their foul mouth. The object of incessant, harsh harassment is this Our Roman Seat of the Most Blessed Peter, in whom Jesus Christ established the basis of the Church; the bonds of unity from day to day weaken and melt more. The divine authority of the Church is challenged and her rights trampled; she is subjected to human reason and with supreme injustice is made hateful to the peoples and reduced to ignominious servitude. Meanwhile, obedience due to the Bishops is shattered, and their authority is violated. The academies and schools resound with monstrous novel opinions, which openly attack the Catholic faith; this horrible and nefarious war is openly and even publicly waged. In fact, institutions and the example of teachers corrupt the minds of young students, religion is dealt a tremendous blow, and the extremely dangerous perversions of customs have widened. In this way the most holy religion is broken, which is the only one on which the kingdoms stand firm, and the strength and authority of all domination are held firm, and with it the subversion of public order, the decadence of the Principalities and the disintegration of every legitimate power. This great mass of calamities must hence be attributed in particular to the conspiracy of those Societies in which seems to have gathered, as does bilge water in a ship’s hold, what is sacrilegious, abominable and wicked in heresies and in the most wicked sects.\footnote{Gregory XVI, \textit{Mirari vos}, August 15, 1832, \textit{ASS} 4 (1868) 336–345. An Italian translation is accessible online at http://w2.vatican.va/content/gregorius-xvi/it/documents/encyclica-mirari-vos-15-augusti-1832.html. All English translations for this source are this author’s. The words used in the encyclical were “il vessillo della fellonia” and “insolenza dei faziosi.”}
Pope Gregory condemned modernism by declaring its character of indifferentism as a “perverse opinion that fraudulent unbelievers spread all over, according to which one can in any profession of faith attain eternal salvation if the customs conform to the rule of the righteous and honest. But it will not be difficult for you to drive this pestilential error from the people entrusted to your care.” He described the liberty of conscience as a “plague of society more deadly than any other. The experience of centuries demonstrates brightly that, even from antiquity, cities flourishing with wealth, power, and glory fell into ruin because of this single evil, namely excessive freedom of opinion, license of free speech, and desire for novelty.” Thirdly, Gregory equated the freedom to publish erroneous books when the truth is published in other writings with the following rhetorical question: “It can never be said by those who are sane that poison should be distributed, sold publicly, stored, and even drunk because some antidote is available, and those who use it may be snatched from death again and again?”

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Regni e si mantengono ferme la forza e l’autorità di ogni dominazione, si vedono aumentare la sovversione dell’ordine pubblico, la decadenza dei Principati e il disfacimento di ogni legittima potestà. Ma una congerie così enorme di disavventure si deve in particolare attribuire alla cospirazione di quelle Società nelle quali sembra essersi raccolto, come in sozza sentina, quant’è sacrilego, abominevole e empio nelle eresie e nelle sette più scellerate.”

137 Ibid., 13. “[P]erversa opinione che per fraudolenta opera degli’ increduli si dilate in ogni parte, e secondo la quale si possa in qualunque professione di Fede conseguire l’eterna salvezza dell’anima se i costumi si conformano alla norma de’ retto e dell’ onesto. Ma a voi non sara malagevole cosa all on tan are dai popoli affidati alla vostra cura un errore così pestilenziale in.”

138 Ibid., 14. “[L]a peste della società più di ogni altra esiziale, mentre l’esperienza di tutti i secoli, fin dalla più remota antichità, dimostra luminosamente che città fiorentissime per opulenza, potere e gloria per questo solo disordine, cioè per una eccessiva libeita di opinioni, per la licenza delle convevtice, per la smania di novità andarono infelicemente in rovina.”

139 Ibid., 15. “Ma potra mai dirsi da chi sia sano di mente che si debba liberamente ed in pubblico spargere, vendere, trasportare, anzi trancanare ancora il veleno, perché esiste un certo rimedio, usando il quale avviene che qualcuno scampa alla morte?”
The sharp condemnations in *Mirari vos* led both Lacordaire and Montalembert to write letters of submission to the judgment of the pope in the hope of ending debate. Lamennais, on the other hand, viewed *Mirari vos* as a reactionary, absolutist polemic against his well-supported demands. By 1833, Lamennais had renounced his priesthood and his Christian identity, and in 1834, he published a work titled *Paroles d’un croyant* (Words of a Believer) that denounced the social order of Western Europe as a conspiracy of monarchies and the Church against the people they governed. In response, Gregory issued a second encyclical, *Singulari nos*, that directly denounced Lamennais’ publication as “small in size, but enormous in perversity,” and his system, “which comes from the despicable and unbridled desire for innovation, does not seek truth where it is found with certainty, in the received and holy apostolic inheritance. Rather, other useless, futile, and uncertain doctrines not approved by the Church are adopted. Only the most conceited men wrongly think that these teachings can sustain and support that truth.”

Writing in 1837 for the *British Critic*, a conservative, high-Anglican journal dominated by authors from the Tractarian and Oxford Movements, John Henry Newman criticized the polemic between Lamennais and Gregory XVI as containing implications that are more political than doctrinal:

M. de [Lamennais] came to [Gregory] as an oracle of doctrine, and found him only disposed to give political directions. Nothing can be more discordant, less capable of a common measure, than a question of abstract religious truth, and a question of practice and matter of fact, in relation to the measures to be pursued by one secular power towards the people.

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140 Gregory XVI, Encyclical *Singulari nos*, June 25, 1834, *Bullarum Romani Continuatio* XIX. An Italian translation is accessible online at [https://w2.vatican.va/content/gregorius-xvi/it/documents/enciclica-singulari-nos-25-giugno-1834.html](https://w2.vatican.va/content/gregorius-xvi/it/documents/enciclica-singulari-nos-25-giugno-1834.html). “... piccolo invero per dimensioni, ma grande per la perversità.” All English translations for this source are this author’s.

141 Ibid., 8. “... per cui, per spregevole e sfrenato desiderio di novità, la verità non viene cercata dove si trova con certezza e, trascurate le sante e apostoliche tradizioni, si accettano altre dottrine inutili, futili, incerte e non approvate dalla Chiesa, dalle quali uomini stoltissimi credono a torto che la stessa verità sia sorretta e sostenuta.”
another; as discordant was the position of the Pope with that of the conductors of the
Avenir.142

Newman saw in this confrontation the seeds of a growing controversy over papal infallibility. While he would later revise his position after the First Vatican Council, at this moment Newman clearly supported the Anglican/Protestant notion of infallibility. “M. de [Lamennais] says in this extract that Rome has taken up a position which goes far towards involving a reductio ad absurdum of her claim to infallibility. We agree with him, and should congratulate him on a discovery which is no news to Protestants, did we not fear that he has too unsubdued a mind to take the discovery religiously.”143 Despite his agreement with the position of Anglican and continental Protestantism, and bearing in mind his admission that Lamennais was “a powerful, original, and instructive writer,”144 Newman could not wholeheartedly support Lamennais’ project because “there is just that ill flavour in his doctrine, which, in spite of all that is excellent in it, reminds one that it is drugged and unwholesome; and the conviction of this makes one tremble lest the same spirit, which would lead him to throw off civil authority, may urge him under disappointment to deny the authority of Religion itself.”145

Upon Gregory’s death in 1846, and in contrast to the prevailing political climate of continental Europe at the time, which leaned towards conservatism and retrenchment, the cardinal electors chose Giovanni Maria Mastai-Ferretti (1792–1878), the 54-year-old Cardinal Archbishop of Imola, as the new pope. Mastai-Ferretti had built a reputation as a liberal reformer during his


143 Ibid., 172.

144 Ibid.

145 Ibid.
service in the Archdiocese of Spoleto, where he had instituted administrative changes after the republican movements of 1831, and in Imola, where the cardinal was sympathetic towards Italian nationalist movements. The Church historian Eamon Duffy described the new pope, who chose the name Pius IX (reigned 1846–1878), as “a glamorous candidate, ardent, emotional with a gift for friendship and a track-record of generosity even towards anti-clericals and Carbonari. He was [also] a patriot, known to be critical of Gregory XVI.”

During the first years of his reign, Pope Pius IX proved as liberal and reform minded as his reputation at the conclave hinted. He instituted some of the same administrative changes from Spoleto and Imola throughout the Papal States. His creation of agricultural institutes, for instance, allowed farmers to gain an education on the latest techniques in productivity and increased the food supply in Rome. He granted a general amnesty to all political prisoners held in papal prisons, created the first Council of State where the participation of the laity was structurally encouraged, and established a Roman city council that allowed its citizens to share power with the curial cardinals. Soon, the new pope earned a reputation “in New York City, London, and Berlin as a model ruler.”

Despite his reputation as a reformer, Pius followed the example of his predecessor Gregory XVI by condemning modernism and used his first encyclical *Qui pluribus* as the instrument of that condemnation. Issued on November 9, 1846, five months after his election as pope, the encyclical contained the following warning: “A bitter and terrible war, in this our age, against the Catholic Church is being stirred up by men bound together in an ungodly union. [They are] adversaries of


\[147\] Ibid.
sound doctrine, disdainful of the truth, intent on pulling out every monster of opinion from the darkness, and with all their accumulated strength, disseminate and disseminate their errors among the people.”\textsuperscript{148} He claimed contemporary philosophers (more accurately, those who act “in the name of philosophy, il name di filosofi”) are deceitful in pretending to know the path to happiness. These men, instead of conducting “an investigation of natural truths, must reject those which God himself, the supreme and most merciful author of nature, for singular benefit and mercy, has deigned to demonstrate to men, so that they may achieve true happiness and salvation.”\textsuperscript{149} Furthermore, “with a false and confused argument they never cease to magnify the strength and excellence of human reason against the most holy faith of Christ, and boldly blather that [this faith] is repugnant to human reason.”\textsuperscript{150}

Just as there are bad actors in philosophy, so too is theology under threat from “enemies of the divine revelation, [who] with great praises exalting human progress, would like to introduce it boldly into the Catholic religion; as if it were not the work of God, but of men, or the invention of philosophers, to be able to improve themselves with human ways.”\textsuperscript{151} Instead of stressing human

\begin{footnotes}
\item[148] Pius IX, \textit{Qui pluribus} 4, November 9, 1846, \textit{Acta Pii IX}, Vol 1, 13, accessible online in Italian at https://www.vatican.va/content/ Picus-IX/it/documents/ enciclica- qui-pluribus-9-novembre-1846.html. All English translations for this source are this author’s. “Nessuno di Voi ignora, Venerabili Fratelli, quanta acerba e terribile guerra muovano, in questa nostra eta, contra la Chiesa cattolica uomini congiunti fra loro in empia unione, avversari della sana dottrina, disdegnosi della verit\8., intenti a tirare fuori dalle tenebre ogni mostro di opinioni, e con tutte le forze accumulare, divulgare e disseminare gli errori presso il po polo.” All English translations for this source are this author’s.

\item[149] Ibid., 5, “[C]he si aggira tutta nella investigazione delle veritil naturali, debba rifiutare quelle che lo stesso supremo e clementissimo autore della natura, Iddio, per singolare beneficio e misericordia si e degnato di manifestare agli uomini, affinch\8. conseguano vera felicita e salvezza.”

\item[150] Ibid. “Quindi con fallace e confuso argomento non cessano mai di magnificare la forza e l’eccellenza della ragione umana contro la fede santissima di Cristo, e audacemente blaterano che la medesima ripugna alla ragione umana.”

\item[151] Ibid., 7, “[N]emici della divina rivelazione, con somme lodi esaltando il progresso umano, vorrebbero con temerario e sacrilego ardimento introdurlo perfino nella Religione cattolica; come se essa non fosse opera di Dio, ma degli uomini, ovvero invenzione dei filosofi, da potersi con modi umani perfezionare.”
\end{footnotes}
progress as the source of religious truth, Pius reasserted: “Human reason, knowing clearly for such splendid and very firm arguments, that God is the author of faith, cannot go further, but, having removed all difficulties and removed all doubt, it is convenient that he should pay respect to the faith itself, bearing for what date from God all that it proposes to believe and to do.”152 To assist humanity in this recognition,

God Himself has constituted a living authority, which teaches and establishes the true and legitimate meaning of His heavenly revelation, and with infallible judgment defines every controversy of faith and morals, so that the faithful may not be circumvented by any whirlwind of doctrine, nor led into error by human inequity. This living and infallible authority is in that one Church which from Christ the Lord was built upon Peter, Head, Prince and Shepherd of the universal Church, whose faith, by divine promise, will never be less, but always and without intermission will endure in the legitimate Pontiffs who, descending from Peter and being placed in his Chair, are also heirs and defenders of his doctrine, dignity, honor, and power.153

From these statements, readers did not find the reform-minded Archbishop of Imola, or the “patriot known to be critical of Gregory XVI,” as Duffy claimed, but instead Pius revealed that his pontificate would hold the same theological positions as his predecessor and hinted at the more conservative and authority-focused elements in his theology for which his later pontificate would be remembered.

Two years into his pontificate, Pius saw nationalist and liberal revolutions sweep through Europe, which changed his approach to political reform, as many of these revolutions sought to

152 Ibid., 9 “La ragione umana, conoscendo chiaramente per siffatti argomenti splendidissimi e fermissimi, che Dio e l’autore della fede, non puo sospingersi piu oltre, ma, tolta ogni difficolt e rimosso ogni dubbio, conviene che presti ossequio alla fede medesima, tenendo per cosa data da Dio tutto cio che essa propanne da credere e da fare.”

153 Ibid., 10. “Iddio medesimo ha costituito una viva autorita, la quale insegni e stabilisca ii vero e legittimo senso della sua celeste rivelazione, e con infallibile giudizio definisca ogni controversia di fede e di costumi, affinchè i fedeli non siano raggrriti da ogni turbinio di doctrina, ne siano per umana ineqvizia indotti in errore. La quale viva ed infallibile autorità e in quella sola Chiesa che da Cristo Signore fu edificata sopra Pietro, Capo, Principe e Pastore della Chiesa universale, la cui fede, per divina promessa, non venia mai meno, ma sempre e.”
overthrow old monarchical systems and create new independent states, including in the Papal
States. After being forced from Rome in November 1848 under cover of darkness, Pius pursued a
more conservative program. In December 1849, he issued the encyclical *Nostis et nobiscum*, in
which he condemned the liberal movements throughout Europe:

> The main architects of this wicked machination aim to push the peoples, agitated by every
wind of perverse doctrines, to the subversion of the whole order of human things and to
drag them to the detestable system of the new Socialism and Communism. They know, by
proven and long experience of many centuries, that they cannot hope for any understanding
with the Catholic Church that, in guarding the deposit of divine revelation, never tolerates
anything detrimental to the proposed truths of faith or that in them are insinuated new
human fictions.¹⁵⁴

Instead of falling prey to these “perverse principles and systems [that], if left to overwhelm them,
would likewise produce its eternal and temporal ruin,”¹⁵⁵ members of the Church must recognize
that “the true, perfect freedom and equality between men are placed in the observance of the
Christian law,”¹⁵⁶ and therefore they have no legitimate reason to engage in revolution.

Intricately connected to these condemnations of the modern political systems of socialism
and communism was Pius IX’s strong theological opposition to modernism. In this opposition,
Pius used the combined roles of the pope as religious and secular ruler to combine theological and
political agendas contrary to the teachings of the Church as anathemas, heresies, and dangerous to
his position as head of the Papal States. During his pontificate,

¹⁵⁴ Ibid., 6. “[I] principali architetti di questa scelleratissima macchinazione mirano infine a spingere i
popoli, agitati da ogni vento di perverse dottrine, alla sovversione di tutto l’ordine delle cose umane ea trascinarli
agli esecrandi sistemi de! nuovo Socialismo e Comunismo. Costoro sanno, per comprovata e lunga esperienza di
molti secoli, che non possono sperare in alcuna intesa con la Chiesa Cattolica la quale, nel custodire il deposito
della divina rivelazione, non tollera mai che si detragga alcunche alle proposte verita di fede o che in esse si
insinuino nuove fantasie umane.”

¹⁵⁵ Ibid., “[P]rincipi e sistemi perversi [che], se lasciati sopraffare, produrrebbe allo stesso modo la sua
rovina eterna e temporale.”

¹⁵⁶ Ibid., 24, “[L]a vera, perfetta liberta ed uguaglianza Ira gli uomini sono riposte nell’osservanza della
legge Cristiana.”
Papal rejectionism reached a new plateau in 1864 with the encyclical *Quanta cura* and its attached *Syllabus of Errors*: a root-and-branch rejection of modernity in virtually all its forms, which ended with the famous condemnation of the notion that the Roman Pontiff “can or should reconcile himself to, or agree with, progress, liberalism, and modern civilization.”

In *Quanta cura*, Pius repeated Gregory’s earlier condemnation of the erroneous statement that,

> Liberty of conscience and worship is each man’s personal right, which ought to be legally proclaimed and asserted in every rightly constituted society; and that a right resides in the citizens to an absolute liberty, which should be restrained by no authority whether ecclesiastical or civil, whereby they may be able openly and publicly to manifest and declare any of their ideas whatever, either by word of mouth, by the press, or in any other way.

The *Syllabus of Errors* also repeated previously-condemned statements on indifferentism (“Each person is free to embrace and profess the religion which, guided by the light of reason, he shall consider true” or “It is absolutely false that the civil liberty of any form of worship, and the full power, given to all to manifest any opinion and any thought plainly and in public, leads more easily to corrupt the morals and minds of the people, and to propagate the pest of indifferentism”),

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158 George Weigel, “Modernity, Pluralism, and Catholicism,” 165. This quote includes a translation of the following statement from *Quantâ curâ*: “Romanus Pontifex potest ac debet cum progressu, cum liberalisnio et cum recenti civilitate sese reconciliare et componere.”

159 Pius IX, Encyclical *Quanta curâ*, December 8, 1864, ASS 3, 160–176, accessible online in Latin at <https://www.vatican.va/content/pius-ix/la/documents/encyclica-quanta-cura-8-decembris-1864.html>. All English translations for this source are this author’s. “[L]ibertatem conscienti et cultum esse proprium cuiuscumque hominis ius, quod lege proclamari, et asseri debet in omni recte constituta societate, et ius civibus inesse ad omnimodam libertatem nulla vel ecclesiastica, vel civili auctoritate, coarctandam, quo suus conceptus quoscumque sive voce, sive typis, sive alia ratione palam publiceque manifestare, ac declarare valeant.”

160 Pius IX, *Syllabus complectens prcecipuos nosh·te cetatis errores qui notantur in allocutionibus consistorialibus, in encyclis alisque apostolicis litteris Sanctissimi Domini Nostri Pii Papæ IX, XV, ASS 3, 167–176, accessible online in Latin at <https://w2.vatican.va/content/pius-ix/la/documents/encyclica-quanta-cura-8-decembris-1864.html>. All English translations for this source are this author’s.

161 Ibid., LXXIX, “Enimvero falsum est, civilem cuiusque callus libertatem, itemque plenam potestatem omnibus attributam quasi libet opiniones cogitationesque palam publiceque manifestandi, conducere ad populorum mores animosque facilius corrumpendos ac indifferentismi pestem propaganda.”
Church teaching (“The obligation by which Catholic teachers and authors are strictly bound is confined to those things only which are proposed to universal belief as dogmas of faith by the infallible judgment of the Church”\textsuperscript{162}), and conscience (“Civil authority may be interested in things concerning religion, customs and spiritual governance. Therefore, he can judge the instructions that the pastors of the Church give to manage consciences in conformity with their office and may even make regulations concerning the administration of the sacraments and the provisions necessary to receive them.”\textsuperscript{163})

In the \textit{Syllabus of Errors}, Pius allowed political statements to carry religious significance, so that modern political tenets such as freedom of worship, freedom of expression, and freedom of conscience were deemed errors in Church teaching, while he simultaneously advocated a consolidation of power in an ultramontane papacy that found its ultimate expression in the definition of papal infallibility at the First Vatican Council. John Henry Newman reacted to the \textit{Syllabus of Errors} most strongly in his 1874 \textit{Letter to the Duke of Norfolk} by calling it “a list, or rather an index, of the Pope's Encyclical or Allocutional ‘proscriptions,’ … drawn up by the Pope's orders, out of his paternal care for the flock of Christ, and conveyed to the Bishops through his Minister of State. But we can no more accept it as \textit{de fide}, as a dogmatic document, than any other index or table of contents.”\textsuperscript{164} He found it most valuable in its references, “Yet, in order to see the nature and extent of the blame cast on any proposition of the Syllabus, it is absolutely necessary

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\item \textsuperscript{162} Ibid., XXII, “\textit{Obligatio, qua catholici magistri et scriptores omnino adstringuntur, coarctatur in iis tantum, quae ab infallibili Ecclesie iudicio veluti fidei dogmata ab omnibus credenda proponuntur.”}
\item \textsuperscript{163} Ibid., XLIV, “\textit{Civilis auctoritas potest se immiscere rebus quere ad religionem, mores et regimen spirituale pertinent. Hine potest de instructionibus iudicare, quas Ecclesiire pastores ad conscientiarum normam pro suo munere edunt, quin etiam potest de divinorum sacramentorum administratione et dispositionibus ad ea suscienda necessariis decernere.”}
\item \textsuperscript{164} Norfolk, 283.
\end{itemize}
to turn out the passage of the Allocution, Encyclical, or other document, in which the error is noted; for the wording of the errors which the Syllabus contains is to be interpreted by its references.**165**

The American theologian Francis Sullivan would later comment on Newman’s response that “It seems to me that it would be difficult to find an example of the evaluation and interpretation of a document of the ordinary magisterium, more respectful of the authority of the source from which it came, more balanced in assessing its doctrinal weight, or more accurate in interpreting its meaning, than Newman’s treatment of the *Syllabus of Errors.*”**166**

After the death of Pius IX, the election of Pope Leo XIII (born Vincenzo Gioacchino Raffaele Luigi Pecci in 1810; reigned 1878–1903) brought to the papal throne a man who advocated what George Weigel terms “a Catholic engagement with modernity conducted with explicitly Catholic tools, newly sharpened for the task.”**167** Newman’s thoughts and approach to theology soon found an ally in the new pope, a fact reinforced through Leo’s decision to elevate Newman to the College of Cardinals as Cardinal Deacon of San Giorgio in Velabro. “[T]hat Leo would go out of his way to honor a man whose distinctive style and theological method could not be fit into any one methodological box suggested that Leo, for all that he was a dedicated Thomist, was also something of a pluralist in terms of intellectual method.”**168**

Soon after his election, Pope Leo sought the re-engagement of the Church with the modern world, thereby reversing the stance of his predecessor. This reversal was best exemplified in his

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165 *Norfolk*, 283–284.


168 Ibid., 166.
1883 decision to open the Vatican Secret Archives to historians and researchers, making available all materials dated from 1815 and earlier in the process. As a theologian and archbishop, Leo had advocated a revival in Thomism, and during his pontificate, he called the restoration of Christian philosophy a method that could reach out even to those who reject faith in favor of reason alone. Leo asserted in his 1879 encyclical *Æterni patris*, written in part by his brother Giuseppe, who had been promoted to the cardinalate on May 12, 1879 alongside John Henry Newman,

> [A]part from the supernatural help of God, nothing is better calculated to heal those minds and to bring them into favor with the Catholic faith than the solid doctrine of the Fathers and the Scholastics, who so clearly and forcibly demonstrate the firm foundations of the faith, its divine origin, its certain truth, the arguments that sustain it, the benefits it has conferred on the human race, and its perfect accord with reason, in a manner to satisfy completely minds open to persuasion, however unwilling and repugnant.169

In his 1893 encyclical * Providentissimus Deus*, Leo outlined principles for the study of Scripture, including the use of critical methods in Biblical scholarship, and recognized science and theology as separate disciplines. He stated that since their fields are separate, “there can never, indeed, be any real discrepancy between the theologian and the physicist, as long as each confines himself within his own lines, and both are careful, as St. Augustine warns us, ‘not to make rash assertions, or to assert what is not known as known.’”170 This warning, Leo continued, included a specific rule for the theologian:

> Whatever [scientists] can really demonstrate to be true of physical nature, we must show to be capable of reconciliation with our Scriptures; and whatever they assert in their treatises which is contrary to these Scriptures of ours, that is to Catholic faith, we must

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either prove it as well as we can to be entirely false, or at all events we must, without the smallest hesitation, believe it to be so.\textsuperscript{171}

Through these two encyclicals, Leo promoted a growing intellectualism in the Catholic Church and provided the Church with the space and methodology for engaging in intellectual discourse with the modern world. Among the authors who flourished under this promotion of intellectualism was John Henry Newman, whose methodology was aligned closely with that advocated in Leo’s encyclicals. Eamon Duffy saw in these years an opportunity for scholars such as Newman,

To explore the early origins of Christianity with a new freedom, Catholic philosophers to engage creatively instead of defensively with the currents of thought which stemmed from Kant and Hegel, and Catholic systematic theologians to explore the nature of the Church not as a timeless and rigidly disciplined military structure centering on the Pope, but as a complex living organism subject to growth and change.\textsuperscript{172}

After the death of Leo XIII in 1903, Newman’s theological positions suffered again under the return of a harsher stance against modernism taken by Pope Pius X (born Giuseppe Melchiorre Sarto in 1835, reigned 1903–1914). Duffy described Pius X as “deeply hostile to intellectualism of every kind” and a pope who,

Saw in every attempt at the liberalization of Catholic theology and social thought nothing but heresy and betrayal. In his first pastoral as Patriarch of Venice he had declared that “Liberal Catholics are wolves in sheep’s clothing, and therefore the true priest is bound to unmask them. … Men will accuse you of clericalism, and you will be called papists, retrogrades, intransigents … Be proud of it!” As pope, he acted on this obligation to “unmask” the rot of liberalism which he saw everywhere in Catholic intellectual life.\textsuperscript{173}

\textsuperscript{171} Ibid., quoting from Augustine, \textit{De Genesis ad Litteram}. i. 21, 41.

\textsuperscript{172} Duffy, \textit{Saints and Sinners}, 325–326.

\textsuperscript{173} Ibid., 326. The internal quote is from then-Cardinal Sarto’s first pastoral letter as Patriarch of Venice, and is taken from René Bazin, \textit{Pius X} (St. Louis: Herder, 1928).
In the 1907 encyclical *Pascendi dominici gregis*, a lengthy document that Duffy called “the opening shot in what rapidly became nothing less than a reign of terror,” Pius X warned the Church to stand firm against,

Many who belong to the Catholic laity, nay, and this is far more lamentable, to the ranks of the priesthood itself, who, feigning a love for the Church, lacking the firm protection of philosophy and theology, nay more, thoroughly imbued with the poisonous doctrines taught by the enemies of the Church, and lost to all sense of modesty, vaunt themselves as reformers of the Church.175

Pius labelled modernism as agnostic, believing that “every religion, according to the different aspect under which it is viewed, must be considered as both natural and supernatural. Hence it is that they make consciousness and revelation synonymous.” Modernist academics used rational investigations to understand Scripture and Tradition, and instead of approaching revelation through faith, they attempted to understand or explain through science, history, and language. To counter this threat, Pius prescribed the exclusion as professors in seminaries and Catholic universities,

Anybody who in any way is found to be imbued with Modernism … and those who already occupy them are to be withdrawn. The same policy is to be adopted towards those who favour Modernism either by extolling the Modernists or excusing their culpable conduct, by criticising scholasticism, the Holy Father, or by refusing obedience to ecclesiastical authority in any of its depositaries; and towards those who show a love of novelty in history, archaeology, biblical exegesis, and finally towards those who neglect the sacred sciences or appear to prefer to them the profane.177

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174 Ibid., 328.


176 Ibid., n. 8.

177 Ibid., n. 48.
Pius further demanded the exclusion from seminaries and universities those secular sciences that did not originate in the sacred or did not recognize the sacred as the ultimate source of meaning.

Three years after the promulgation of *Pascendi dominici gregis*, Pius X released the motu proprio *Sacrorum antistitum*, in which he included an oath against modernism that was to be sworn after the profession of faith by all those entering major orders, pastors and confessors before beginning their ministry in a parish, officials beginning their service in episcopal and ecclesiastical courts, heads of the Roman congregations and tribunals at the start of their term in office, and professors in philosophical and theological seminaries. The oath demanded the oath-taker “sincerely hold that the doctrine of faith was handed down to us from the apostles through the orthodox Fathers in exactly the same meaning and always in the same purport,” and to “reject the heretical misrepresentation that dogmas evolve and change from one meaning to another different from the one which the Church held previously.” There were also rejections of the statements that “in place of the divine deposit which has been given to the spouse of Christ to be carefully guarded by her, there is put a philosophical figment or product of a human conscience that has gradually been developed by human effort and will continue to develop indefinitely,” or “that the faith held by the Church can contradict history, and that Catholic dogmas, in the sense in which they are now understood, are irreconcilable with a more realistic view of the origins of

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179 Ibid., n. 1.

180 Ibid.

181 Ibid.
the Christian religion.” 182 Finally, those taking the oath were encouraged to “hold to my dying breath the belief of the Fathers in the charism of truth, which certainly is, was, and always will be in the succession of the episcopacy from the apostles.” 183 Such a belief allowed those taking the oath to see the true purpose of the oath itself, “not that dogma may be tailored according to what seems better and more suited to the culture of each age; rather, that the absolute and immutable truth preached by the apostles from the beginning may never be believed to be different, may never be understood in any other way.” 184 For Pius, the oath accomplished what he hoped would become the treatment for modernists in general. “Some people, he had declared, want the Modernists ‘treated with oil, soap and caresses, but they should be beaten with fists.’” 185

Given these statements from Pius X, Newman’s theory on the development of doctrine became suspect and, because of perceived similarities to modernism, some theologians and canonists thought it bordered on the heretical. This specter of modernism haunted Newman’s legacy throughout the pontificate of Pius’ successor, Benedict XV (reigned 1914–1922), and as the events surrounding the First World War, the growth of communism in Russia (later the Soviet Union), the increasing strength of fascism in Spain, Italy, and Germany, and the devastation of the Second World War demanded new answers from theological investigations, Newman was pushed further into the shadows. His writings on development, infallibility, and the place of the university in the social and intellectual life of the community seemed less relevant and less discussed.

182 Ibid., 2.
183 Ibid.
184 Ibid.
185 Duffy, Saints and Sinners, 329.
Newman, however, did not become a completely forgotten figure in Catholic theology. As the *ressourcement* and *nouvelle théologie* movements emerged during the 1930s and 1940s, theologians engaged in these movements found his writings:

Not only a theologian whose theology was based on that of the Fathers, but a theologian who was clear that theology should not be separated from history, whose principal theological work indeed was on the development of doctrine, a theologian who emphasized the real and the concrete as opposed to the notional and abstract, the personal and the experiential as opposed to the impersonal and theoretical, and who believed that he was the first theologian to make “life the mark of a true Church.”

Even so, by the middle of the twentieth century, Newman remained “‘still an occasionally suspect stranger” removed from the dominant, Neo-Scholastic school of thought in the Catholic Church. These theological fortunes would soon change, though, with the calling of the Second Vatican Council by Pope John XIII (1958–1963).

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THE REHABILITATION OF NEWMAN AND DOCTRINAL DEVELOPMENT

Upon his election as Pope John XXIII in 1958, Angelo Roncalli (1881–1963) had already served the Church as a diplomat in Bulgaria (1925–1935), Turkey and Greece (1934–1944), and France (1944–1953). He witnessed the varied life of the Church in predominantly Muslim, Eastern Orthodox, and Roman Catholic societies, and had watched the Church as it navigated “the ecclesiastical air turbulence generated by the Leonine Revolution and the sometimes-harsh reactions to it from anti-modern Catholic rejectionists.” 188 From his diplomatic postings and his pastoral service as Patriarch of Venice (1953–1958), John understood that the Church needed to focus “the dynamics of engagement with modernity that Leo had set in motion … so that the Church might approach the third millennium of Christian history with renewed energy and a positive program, capable of responding to cultural, social, political, and economic circumstances that had changed vastly during his lifetime.” 189 That focus would take shape in the Church’s twenty-first ecumenical council, called by John XXIII on January 25, 1959. In his announcement of what would be known as the Second Vatican Council, John included in his motivation for its convening,

A decided resolution to recall certain ancient forms of doctrinal affirmation and of wise provision of ecclesiastical discipline, which in the history of the Church in an era of renewal yielded fruits of extraordinary effectiveness, through clarity of thought, through the solidarity of religious unity, through the living flame of Christian fervor in which we continue to see, even regarding the well-being of life here on earth, abundant riches from “the dew of the heavens and of the fertility of the earth” (Gen. 27:28). 190

188 Ibid.

189 Ibid.

190 John XXIII, “All'ouazione del Santo Padre Giovanni XXIII con la quale annunzia il Sinodo Romano, il Concilio Ecumenico e l’aggiornamento del Codice di diritto canonico (January 25, 1959),” AAS 51 (1959), 65–69.

English translation is this author’s. “...una risoluzione decisa per il richiamo di alcune forme antiche di affermazione dottrinale e di saggi ordinamenti di ecclesiastica disciplina, che nella storia della Chiesa, in epoca di rinnovamento, diedero frutti di straordinaria efficacia, per la chiarezza del pensiero, per la compattezza della unità
As the work of the Second Vatican Council began in earnest, it soon became clear that John Henry Newman had re-emerged as a theologian of some importance. Nicholas Lash explained, “If Vatican II can be said, with Paul VI, to have been ‘Newman’s hour’ and if it can therefore be said to have been, in some sense, ‘Newman’s Council,’ this is not because his thought had much influence on the conciliar debates, but rather, we might say, because during the Council the Catholic Church ‘caught up’ with Newman.”191 Ian Ker sees in the relationship between Newman’s theology and the Second Vatican Council not a direct link between the English theologian and the Council Fathers, but a series of unintended consequences. For instance, in *Dei verbum*,

The Council wanted to make it clear that the Christian revelation is not so much a series of dogmatic propositions as the revealing of God in Christ to whom, rather than to a set of propositions, we are required to give not merely an intellectual assent but the commitment of our whole self. In other words, both revelation and faith are primarily of a personalistic rather than propositional nature. If the understanding of revelation and faith was overly propositional before the Council, the pendulum now swung to the opposite extreme, as Newman could have predicted.192

In fact, Newman never rejected dogmatic definitions, and saw them as “both inevitable and necessary,”193 even though his initial lack of enthusiasm for propositions stemmed “from his awareness of the inability of human language to speak adequately of revelation.”194 By the latter stages of his career, Newman criticized “the common mistake of supposing that there is a

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193 Ibid., 109.

194 Ibid., 109–110.
contrariety and antagonism between a dogmatic creed and vital religion.”195 Ker finds in this later criticism the acceptance that “The dogmatic formulations that Newman had once seen as necessary but undesirable are now seen as indispensable for personal faith. Newman now realizes that dogma not only protects religion from error, but is in fact integral to faith, which cannot exist without knowledge of its object of worship.”196 Here, the Council did not quote Newman or his writings, but instead wrote with the same thought and followed the same approach.

Both the Second Vatican Council fathers and Newman expanded the theological opportunities for those outside the Magisterium. In his appendix to the third edition of Arians of the Fourth Century published in 1871, Newman wrote, “In speaking of the laity, I speak inclusively of their parish-priests (so to call them), at least in many places.”197 As Ker observes, “Newman in practice means by ‘the faithful’ not simply the laity, but what Lumen Gentium calls ‘the whole body of the faithful’198 – that is to say, he has the same conception of the Church as the organic communion of the baptised and not primarily as consisting of clergy and laity, an understanding that leads inexorably either to clericalism or to what I have called ‘laicism.’”199 Again, while never referencing the 19th-century theologian directly, the 20th-century council reached the same theological conclusion.
When theologians, canonists, or historians reflect on the results of a council, be it Nicaea or Vatican II, they must always consider that the results require interpretation. As much as the Council Fathers hoped that their statements were clear and self-evident, no conciliar teachings have been completely free from confusion or contextual imprecisions, even though Ker notices, “After Vatican II there was much talk of ‘implementing’ its teachings as though they were self-evident.”

Newman likewise understood that councils and their teaching, especially the documents of the First Vatican Council, required the work of theologians to “settle the force,” while “the whole Church diffusive” must “make itself heard,” which allowed “Catholic instincts and ideas [to] assimilate and harmonize.” Newman described this process of determination as “the passive infallibility of the whole body of the Catholic people.” Ker thinks that Newman and his “writings on those subjects that occupied the Council offer a balanced, corrective commentary on the conciliar documents,” and argues further, “If it is appropriate to call Newman the father of Vatican II, then it is not unreasonable to apply the mini-theology of Councils which he adumbrated at the time of Vatican I, together with his theology of development, to the question of the reception and interpretation of Vatican II, as well as to likely future developments.” Nicholas Lash likewise found in Newman’s writings the historical example of

200 Ibid., 19.

201 LD xxv, 71, 284.

202 LD xxvii, 338.

203 Ker, Newman on Vatican II, 160.

how to deal with the aftermath of a council, and “after the [Second Vatican] Council he became its godfather and our guide into the strange territory that now lay before us.”

Newman knew that councils inevitably stirred up controversy and dissension. As he wrote in a letter to the Scottish Episcopalian priest Malcolm MacColl in 1875, “One of the incidental disadvantages of a General Council, is that it throws individual units through the Church into confusion and sets them at variance.” After the First Vatican Council, for instance, those who could not accept the Church’s teaching on papal infallibility split from Rome and began the Old Catholic movement. The post-Vatican II Church watched as Archbishop Marcel-François Lefebvre from the Council’s “traditionalist” wing formed the Society of St. Pius X, while progressives such as Hans Küng questioned papal infallibility. Newman’s own position on general councils and their role in the life of the Church highlighted his demand, rooted in historical precedent, for a balance between private judgment and magisterial authority in matters theological and ecclesiastical. Those who find a council too restrictive on the one hand, or too progressive on the other, could decide to close off the useful possibilities of authority in the first case, or of private judgment in the second. Newman held that a union of the two, and not an exclusion of one for the other, allowed development to occur in the Church, especially as private judgment focuses on developing ideas that sprouted from the council, and authority defines the teachings that would steer proper development. As Ian Ker writes, “Pointing out that a living idea cannot be isolated ‘from intercourse with the world around,’ [Newman] argues that this contact is actually necessary ‘if a great idea is duly to be understood, and much more if it is to be fully exhibited.’”

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206 LD xxvii, 240.

207 Ibid., 721.
At the same time, Newman maintained that such contact needed defined limits, for to engage with the world outside the “idea” of Christianity without holding fast to what it means to be Christian would be to abandon Christianity entirely. Here, Ker points out that Newman’s often-quoted statement, “In a higher world it is otherwise, but here below to live is to change, and to be perfect is to have changed often,” is often misinterpreted because it does not support an intellectual claim that change for the sake of change moves an individual closer to perfection. Instead, “Far from being intended as a slogan for a progressivist agenda, it is in reality a deeply conservative point that Newman is making. But this is far from saying that the words should bring comfort to reactionary or integralist Catholics. It is a dynamic not a static Catholicism that Newman has in mind.”

Newman held that Catholicism must constantly engage in new private judgment, bounded by both revelation and authority, so that Catholicism remains a living faith. In that way, Ker continues, “In terms of his thinking on the phenomenon of development, an idea like Catholicism has no alternative but to be dynamic unless it is to become ossified or to die. Newman’s general theological stance … is a via media between conservative and liberal Catholicism in the bad senses of reactionary and progressivist.”

Newman’s writings after the First Vatican Council hinted at what he hoped the Fathers of subsequent councils would create, namely a new, cooperative model. In his Letter to the Duke of Norfolk, Newman created what John Ford described as “a ‘triangular balance’ between the hierarchical function of definition, the laic function of reception, and the theological function of interpretation. All three are necessary; and all three must be in balance. Whenever one function is

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208 Dev., 40.

209 Ker, “Newman, the Councils, and Vatican II,” 722.

210 Ibid., 722.
stressed to the detriment of the others, the Church risks losing its balance by ‘falling’ into error.”211

The Second Vatican Council, again without referencing Newman directly, put Newman’s cooperative model into action, for as the historical theologian Jared Wicks explains, it “constituted a unique case of cooperation between the theologians, who serve by research and explanation, and the Church’s episcopal and papal magisterium.”212 A healthy working relationship between the theologian and the Magisterium therefore proved to be a positive development from the council:

One can see here a well-functioning epistemological duality between (1) the consultative thought of the theologian-experts, that is, their perceptions and concepts drawn from the doctrinal sources, with their provisional judgments, and (2) the decisive judgments by the council members, who discerned, evaluated, adopted, or rejected the experts’ proposals, and so became the responsible authors of Vatican II’s teaching and decrees.213

This relationship raised hopes in bishops and theologians alike that their cooperative spirit at the Council would become a regular part of their working relationship. In this hope, both sides looked to Newman’s theology as a source for building a middle way between tradition and the liberty of investigation that is necessary for development.

Even though his works never appeared amongst the footnotes and citations of the Second Vatican Council’s sixteen documents, John Henry Newman would probably have approved of the Council’s approach to his theological project. In the conclusion to his study of Newman and the Second Vatican Council, Ian Ker goes further by stating, “There can be no question but that


213 Jared Wicks, Doing Theology (New York: Paulist, 2009), 222–23.
Newman would have strongly supported the reformist party at Vatican II.”

He also makes the claim that:

Newman would undoubtedly have aligned himself with the moderates, with the great *ressourcement* theologians such as Daniélou and De Lubac, with the young bishop Karol Wojtyła, the future Pope John Paul II, the young *peritus* Joseph Ratzinger, the future Pope Benedict XVI, and all those who wished to interpret the Council in accordance with the hermeneutic of reform in continuity.

While this is conjecture on Ker’s part, it nevertheless does provide a good assessment of Newman’s position as relation to the Fathers of the Second Vatican Council. Pope Paul VI (1897–1978, reigned 1968–1978) saw the same influence of Newman’s thought over the Council. In an address to participants in the Cardinal Newman Academic Symposium of April 1975, Paul extended Newman’s influence into the entire post-conciliar Church:

Many of the problems which he treated with wisdom – although he himself was frequently misunderstood and misinterpreted in his own time – were the subjects of the discussion and study of the Fathers of the Second Vatican Council, as for example the question of ecumenism, the relationship between Christianity and the world, the emphasis on the role of the laity in the Church and the relationship of the Church to non-Christian religions. Not only this Council but also the present time can be considered in a special way as Newman’s hour, in which, with confidence in divine providence, he placed his great hopes and expectations: “Perhaps my name is to be turned to account as a sanction and outset by which others who agree with me in opinion should write and publish instead of me, and thus begin the transmission of views in religious and intellectual matters congenial with my own, to the generation after me”

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215 Ibid., 160.

A Further Integration of Development in the Contemporary Church

“Christianity, then, is at once a philosophy, a political power, and a religious rite: as a religion, it is Holy; as a philosophy, it is Apostolic; as a political power, it is One and Catholic. As a religion, its centre of action is pastor and flock; as a philosophy, the Schools; as a rule, the Papacy and its Curia.” With this description of the threefold office of the Church (prophetic, priestly, and kingly), given in the Preface to the Third Edition of the *Via Media*, John Henry Newman provided his final contribution to ecclesiology. In some ways, this contribution represented the ultimate step in his development of doctrine. In others, this contribution leaves the post-Vatican II Church with many questions left to answer. How does Newman’s ecclesiology translate in the 21st century? Does the 21st century Church view itself in the way Newman viewed the Church of both the 4th and 19th centuries?

Avery Dulles rightly pointed out that the structures of the Church have progressed from their nineteenth-century counterparts, and the roles played within those structures have also evolved from Newman’s perspective. He did not see these turns as rendering Newman’s formulations meaningless, however. Instead,

Notwithstanding these variations, Newman’s theology of the hierarchy exhibits certain constants. He never doubts that the government of the Church is by divine institution hierarchical, and that the bishops are responsible not only for prescribing right conduct but also for defining obligatory doctrine. All members of the Church are bound to submit to the authority of their bishops, as did Newman himself. For the vitality of the Church, moreover, the hierarchy must encourage theologians to pursue their search for truth and welcome the devotional initiatives of the lay faithful. Since theological speculation tends toward skepticism, and popular devotion toward superstition, both theologians and the laity are in need of mutual correction and hierarchical supervision.218

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Terrence Merrigan agrees with Dulles that Newman’s theology still translates well into the post-Vatican II ecclesiology. While some of the underlying assumptions no longer apply, the overall trend of Newman’s project towards encouraging growth in the many fields of theology remains both viable and necessary. As Merrigan observes, “Newman’s Church is a thinking Church, a Church engaged in a ceaseless quest to articulate the inexhaustible richness of the Christian idea which is its possession. It fixes its certitudes in the language of dogmatic propositions, after a process of rigorous scientific reflection nourished by a present intuition of that idea.”

Newman’s writings, his vision of the laity as engaged in the process of doctrinal formation, his harmonization of conscience and authority, and his understanding of infallibility as residing in the Church writ large continue to shape theological developments in the 21st century.

Through his personal example, John Henry Newman provided a model of fidelity amid conflict. In his sermons and articles, he developed a methodology for historical reflection that allowed his community to find answers in historical precedents for their contemporary challenges. In his ecclesiology, Newman offered a model of harmonious cooperation while expounding the faith transmitted first by the Apostles, followed by the Fathers, and now by the Catholic Church in an unbroken succession of orthodox believers. To be a member of the Catholic Church is to be faithful, orthodox, and doctrinally submissive when directed. “It is impossible, with the principles and feelings on which I have acted all through life, that I could not have acted otherwise. I never have resisted, nor can resist, the voice of a lawful Superior, speaking in his own province.”

Joseph Komonchak, professor emeritus and former John and Gertrude Hubbard Chair in Religious Studies at The Catholic University of America, holds that this approach allows Newman

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220 *LD* ixx, 150.
to maintain a convincing position in discussions on the Church’s intellectual responsibility as a believing community. Komonchak states that even after the definition of papal infallibility by the First Vatican Council, Newman continued to hold “great confidence in the future of the Church, which he repeated many a time to a number of desponding correspondents. His knowledge of Church history here held him in great stead, as did his patient conviction that God would not abandon his Church, no matter how poorly her leaders might direct her.”221 That conviction, Komonchak writes, “at once permitted and was filled out itself by a great confidence that in the end truth would prevail; and it was this confidence that enabled Newman to be such a champion of intellect and defender of its freedom.”222 To prove his point, Komonchak looks to Newman’s Apologia, in which he “includes a powerful defense of the Catholic belief in the infallibility of the Church, but so far from granting the Protestant claim that this power paralyzes the intellect, Newman argued that it provides one of the principles that are necessary for the dialectical acquisition of religious truth.”223 Elsewhere, he looks to Newman’s discussion of the position of a convert to Catholicism and that convert’s interactions with his new faith. “For Newman … an experience of the ‘power, strength, comfort, peace, and depth’ of Catholicism will lead the new convert to the ‘admiration, trust, and love’ that make skepticism or doubt inwardly repugnant to him, that when present makes appeals to merely formal authority superfluous and when absent make it powerless.”224

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222 Ibid.

223 Ibid.

It is this yoking of intellect, investigation, and truth that continues to make Newman a powerful post-Vatican II thinker, just as he was after Vatican I. As Newman wrote in the *Apologia*,

The energy of the human intellect “does from opposition grow”; it thrives and is joyous, with a tough elastic strength, under the terrible blows of the divinely-fashioned weapon, and is never so much itself as when it has lately been overthrown. … It is necessary for the very life of religion, viewed in its large operations and its history, that the warfare should be incessantly carried on.

Catholic Christendom is no simple exhibition of religious absolutism, but presents a continuous picture of Authority and Private Judgment alternately advancing and retreating as the ebb and flow of the tide.225

For Newman, the Church lived in tensile balance, where theology is always complemented and challenged by devotion (liturgy) and politics (community life). Due to this need for balance, Newman warned church authorities, especially when they pushed the pendulum more towards the side of infallibility than the side of intellect, that the Church as a whole (that is, as a body politic), must be allowed to ask questions about its faith or about its claims to knowledge. As he posed the problem, “How are the respective claims of revelation and of natural science to be adjusted?”226 His answer proved that both intellect and infallibility needed to coexist:

Few minds in earnest can remain at ease without some sort of rational grounds for their religious belief; to reconcile theory and fact is almost an instinct of the mind. When then a flood of facts, ascertained or suspected, comes pouring in upon us, with a multitude of others in prospect, all believers in Revelation, be they Catholic or not, are roused to consider their bearing upon themselves, both for the honour of God, and from tenderness for those many souls who, in consequence of the confident tones of the schools of secular knowledge, are in danger of being led away into a bottomless liberalism of thought.227

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225 *Apo.*, 252.

226 *Apo.*, 260.

227 Ibid.
THE CREATION OF A DEVELOPMENT MODEL IN CANON LAW

Newman, Sullivan, and Örsy: Orthodoxy and Orthopraxy

With the close of the Second Vatican Council in 1965 and the Church’s digestion of the many documents emerging from its sessions, theologians and canonists discovered John Henry Newman was a valuable partner in their discussions on how the post-conciliar Church should function. This dialogue with Newman’s writings and perspective became more important as the Church debated how the nineteenth century pronouncements on infallibility could be translated into a twentieth and twenty-first century context where debate over theological principles grew more contentious. In many of these debates, Newman was used as a voice of moderation, both theologically and canonically, against the excesses of interpretation and implementation, and in the process Newman’s approach to theology and the Magisterium allowed for the theologian in the post-Vatican II Church to navigate through the canonical demands the Church was developing.

To investigate the way Newman’s thoughts can be used as a moderating influence within both the theological and canonical fields, the writings of two authors will be discussed as they relate to their understanding of Newman’s theology. Francis Sullivan’s theological investigations of Magisterium and fidelity to the Church’s teaching office looked into the role infallibility plays in theological investigations, and Sullivan used Newman and his experiences surrounding the First Vatican Council as a model for contemporary theologians. Ladislas Örsy, on the other hand, examines how Newman could be used as a moderating force in canon law by illustrating how the theology of canon law allowed for greater dialogue and freedom of investigation. By using Francis Sullivan and Ladislas Örsy in this discussion, Newman’s thought is shown to produce both a more canonical approach to theology and an increasingly theological canon law.
For Sullivan, the infallible nature of the Magisterium in certain proscribed circumstances does nothing to reduce the need for theological investigation. Infallibility is a guarantee of truth, not the elimination of the need to investigate truthfulness. As he wrote in his work *Magisterium: Teaching Authority in the Catholic Church*, “If one grants that propositions about matters of faith can be true, I do not see what more is required, as far as the intrinsic nature of the proposition is concerned, to be able to say that in this case the magisterium has spoken infallibly. All that this adds is a guarantee, provided by the assistance of the Holy Spirit, that the solemnly defined proposition is true, and always will be true.” 228 In fact, Sullivan pointed to the discussions at the First Vatican Council and afterwards about infallibility to show how theological development should work in the contemporary Church. Sullivan, like Newman, believed that the restricted notion of infallible statements was a sign of ecclesial restraint. Newman “publicly deplored the tactics used to get the doctrine [of papal infallibility] solemnly defined, and on the other hand was satisfied that the extremists had not succeeded in getting their version of infallibility ratified by the council; he therefore had no difficulty in accepting the Vatican dogma as true in the form in which it was actually defined.”229 For Sullivan, infallibility was rooted first in community and only secondly in authority, and as he wrote in *Creative Fidelity*, “To fulfill the conditions required for the infallible teaching of the ordinary universal Magisterium, the consensus [of the faithful] must not only be universal; it must also be constant.”230 It remained important for Sullivan, again
echoing Newman’s thought, that infallibility necessarily involved the reception of the infallible statement by the believing Church:

If one believes that the Holy Spirit maintains the Church of Christ in the true faith, and if one further believes that the Church of Christ ‘subsists in the Catholic Church,’ then one can be satisfied, as John Henry Newman was, with the reception of the dogma of papal infallibility by the Catholic bishops who had opposed the definition, and by the Catholic faithful generally, as final confirmation of the fact that an infallible definition had taken place at Vatican I.231

Without this reception, it would be impossible for the statement to be considered truly infallible. Infallibility always must remain in its proper ecclesiastical context.

At the same time, the Church cannot believe only infallible statements, and for Newman and Sullivan, the importance of assent is crucial in the theological enterprise. Both authors argued that “genuine assent is always unconditional,”232 with Newman insisting in his Essay in Aid of a Grammar of Assist that the faithful “can rightly give an ‘unconditional’ assent to a proposition, even though the process by which one arrived at that proposition could not be described as ‘infallible’?"233 As Sullivan explained Newman’s position, “assent is an adhesion without reserve or doubt to the proposition to which it is given.’ For Newman, the word assent ‘stands for an undoubting and unhesitating act of the mind.’ In other words, what Newman excludes from assent is any present doubt about the truth of what one affirms.”234 Sullivan saw in this mental activity both an affirmation of truth and an understanding that the affirmation “does not necessarily exclude the recognition of the possibility that one might be in error. All that is required to justify undoubting

231 Sullivan, Magisterium, 111.

232 Ibid., 160.

233 Ibid.

234 Ibid. The internal quotes come from GA 172–173.
Assent is that one sees no probability that the proposition is erroneous: no grounds for prudent fear that one is making a mistake in affirming it."\textsuperscript{235} Such affirmation does not preclude infallibility in general, but it does recognize that a person’s judgment may be fallible in the specific situation under discussion.

Affirmation as judgment is also something that cannot be forced on a believer individually or a believing community collectively. Sullivan stressed that assent involved an appeal by the Magisterium to the minds of the faithful:

\begin{quote}
By presenting the teaching with reasons that are clear and convincing … Indeed it would be inconsistent for the magisterium to propose a moral norm as a requirement of the natural law (i.e. law which has to be discovered by human intelligence reflecting on experience) and not offer convincing reasons that would appeal to the intelligence of those to whom this teaching is directed. … It is simply impossible to assent to a proposition while retaining serious doubts in one’s mind whether it is true.\textsuperscript{236}
\end{quote}

In a simple example, a higher authority may claim that the sky is green and demand through force of will that I believe that the sky is actually green, but my experience at looking at the sky every sunny day and witnessing through that experience that the sky goes through various shades of blue will leave me with serious and lingering doubts as to the veracity of the claim.

On the other hand, if the Magisterium has presented a compelling and convincing argument in favor of religious truth that a believer, even after a submission of mind and will to the Magisterium as authentic teachers of the faith, and “by making an honest and sustained effort to achieve internal assent to its teaching, and still find that doubts about its truth remain so strong in their minds that they cannot actually give their sincere intellectual assent to it, I do not see how

\textsuperscript{235} Ibid., 161.

\textsuperscript{236} Ibid., 165.
one could judge such non-assent, or internal dissent, to involve any lack of obedience to the
magisterium.” For Sullivan, true dissent,

Means that Catholics are forming their consciences: i.e. their personal judgment as to the
moral rightness or wrongness of particular kinds of conduct, in a way that conflicts with
the judgment of the teaching authority of their Church. In the hypothesis that they have
‘carefully attended to the official teaching,’ but have really been unable to ‘form their
conscience according to it,’ despite serious and sustained effort to do so, I do not see how
one could accuse them of moral fault in the way that they have formed their consciences.
At least they cannot be accused of a lack of religious submission to the teaching authority
of the Church, because they have actually exercised the virtue of docility in its regard,
without being able to rid themselves of serious doubt as to the correctness of a particular
doctrine and achieve internal assent to it.”

The Hungarian Jesuit canonist Ladislas Örsy authored an article in 1990 that directly
addressed the relationship between canon law and theology, and in the article, he saw John Henry
Newman as the model for that relationship. Örsy argues the main difference between theology and
canon law is a matter of perspective, which he illustrates in a difference of verb tense and mood.

On the first side of the dichotomy stands theology, which,

Is composed of affirmative judgments; it speaks of what is. It conveys knowledge acquired
either through revelation or through reflection on the revealed data. It speaks of God's
mighty deeds in history and of our own human response to them. When the discourse is
concluded, no order is issued. This is not to say that theology does not speak of God's
commands; it does. It reports on them, it conveys the knowledge of them. The authority to
command, however, remains with God.”

On the other side stands canon law, a field that operates,

In the imperative mood; they speak of what ought to be. They convey a specific command,
coming from an ecclesiastical (that is, human) authority and demanding action. This is true
even when seemingly they are plain affirmations of rights and duties; in the context the

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237 Ibid., 166.

238 Ibid., 170.

402-434, at 406.
only purpose of indicating those rights and duties is to impose on all a behavior that will respect them.”

Theology and canon law make different authoritative demands on believers within the Church community. “Theology at its highest level mediates God's self-revelation received through faith; at a lower level it consists of the fruits of human reflection on the same divine revelation—all that faith has found in seeking understanding.” Theology is meant to persuade, or in Newman’s terminology, it is meant to invoke assent. Canon law in contrast “commands actions to be performed. It mediates decisions made by an ecclesiastical superior who has the power to bind subjects. Remotely, all such decisions must hinge on the knowledge of the values necessary or useful for the community, a knowledge acquired through the cultivation of theology and by a good dose of human wisdom as well.” Canon law is meant to govern and invokes obedience.

Örsy also breaks down the difference between the two fields as a way the Church exercises its faith. As he writes, “Theology emerges from the consciousness of the whole Church as the fruit of faith seeking understanding. Canon law emerges from the consciousness of legitimate authority as the fruit of faith seeking decisions and actions, leading to a set of commands to the community, or to some members of it, directing them to appropriate values which are important for the entire social body.” When discussing which field has priority in the community, Örsy quickly chooses theology over canon law by highlighting the fact that “Theology has the capacity out of its own resources to form a judgment over the fittingness of canonical norms for theological institutions.

240 Ibid.
241 Ibid.
242 Ibid., 407.
243 Ibid., 408.
It has the means to determine if the rules are well proportioned for the purpose of upholding the values in question; if they go as far as necessary but do not go beyond what is needed.”

Canon law, on the other hand,

Has no capacity at all to judge theology because legal *ordinationes* are not meant to be judgments. Besides, it would have no criteria; in its genesis it depends on theological affirmations concerning values. Admittedly, there are canons which *seem* to be exercising jurisdiction over theology, such as the ones which prescribe *obsequium* to the ordinary teaching of the magisterium. Their purpose, however, is to impose an attitude on the subjects and not to impose a specific point of doctrine.”

Even though theology and canon law are distinct academic disciplines with distinct backgrounds, Örsy holds the two fields in an organic unity, since “both of them are concerned with Christian mysteries, and in speaking of them they use the same words and expressions; [and] both are the product of the internal drive of the Church toward a deeper understanding of the mysteries and toward an enrichment by the appropriation of values.” This organic unity does not mean equality, however, for “the decisions represented by canon law flow from a vision of values that is presented by theology [and] theology retains the power to judge canon law.”

Örsy advocates from this flow from theology to canon law a systematic reflection of law through the lens of theology. During this process,

Theologians can surely reflect on the Church's own being as structured from the beginning (e.g., all the baptized, the twelve, the deacons, the presbyters, and other ministers); all such structures were upheld by some kind of norms of action (going beyond the mere description of them) and signifying an *ought*. Those norms can be the proper object of theological investigation. Also, theologians can reflect on developments in the Church by examining the evolution of its institutions and norms of actions—much of it canon law, of course. Further, theologians can reflect on the present system of laws and examine them critically.

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244 Ibid., 416.

245 Ibid., 417.

246 Ibid., 417–418.

247 Ibid., 418.
to assess how far they support the divine and human values by which, and for which, the Church lives.\textsuperscript{248}

Örsy calls this self-reflection “‘theology of canon law’ although a more correct terminology for it would be ‘theology of the Church’ that is a structured community and operates through norms of action.”\textsuperscript{249} The theological understanding of the community comes before any decision and subsequent action chose by the community to bring the understanding into being. As Örsy understood Newman’s theory of dogmatic development,

The Church is in possession of an "idea" that somehow contains all that is in the tradition but not in the form of propositions. As history progresses, the Church, guided by the Spirit, lets the "idea" unfold and its content be revealed in articulated formulations. Before this unfolding happens, however, the "idea" may already inspire practical norms, but this is really nothing else than an intuitive vision leading to a decision. Knowledge, even though implicit, remains the mother of action.\textsuperscript{250}

John Henry Newman argued:

To be a true Catholic a man must have a generous loyalty towards ecclesiastical authority, and accept what is taught him with what is called the \textit{pietas fidei}, and only such a tone of mind has a claim, and it certainly has a claim, to be met and to be handled with a wise and gentle \textit{minimism}. Still the fact remains, that there has been of late years a fierce and intolerant temper abroad, which scorns and virtually tramples on the little ones of Christ.\textsuperscript{251}

For both Ladislas Örsy and Francis Sullivan, this connection between proper belief and proper practice represented the most beneficial blending of theology and canon law. As Sullivan wrote in \textit{Creative Fidelity}, “Newman felt that people who were engaged in the interpretation of dogmatic statements for the faithful had to be concerned with charity as well as with truth. I conclude that while Newman did not use these terms, he surely would have agreed that the interpretation of

\begin{itemize}
\item \textsuperscript{248} Ibid., 431.
\item \textsuperscript{249} Ibid.
\item \textsuperscript{250} Ibid., 433.
\item \textsuperscript{251} \textit{Norfolk}, 94.
\end{itemize}
dogma calls not only for orthodoxy but for orthopraxy as well.” Likewise, Örsy believes Newman’s thoughts on doctrinal development allowed for internal reflection. The connection between orthodoxy and orthopraxy was only one way Newman’s theology can influence both theology and canon law working together, and as will be highlighted in the next section, his writings proved valuable in the continued discussion on the relationship between theological investigation and hierarchical moderation.

Newman’s Theology and the International Theological Commission

The International Theological Commission has its roots in a recommendation made by the bishops of the First Ordinary General Assembly of the Synod of Bishops in October 1967. The bishops, following upon the stated goals of the Synod for “the preservation and the strengthening of the Catholic faith, its integrity, its force, its development, its doctrinal and historical coherence,” suggested to Pope Paul VI, “in light of the rise of atheism, a crisis in faith and erroneous theological opinions in the world, to set up an international commission of theologians to assist the Congregation for the Doctrine of the Faith as well as to broaden a discussion on approaches to theological research.” Paul VI agreed with this recommendation, and established the International Theological Commission in 1969 under the auspices of the Congregation for the Doctrine of the Faith. When Pope John Paul II formally approved the statutes of the Commission thirteen years later in his 1982 motu proprio Tredecim anni, he thanked the theologians on the

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252 Sullivan, Creative Fidelity, 180.


254 Ibid.
Commission for their service to the Magisterium and the universal Church, since through their academic pursuits, their

[C]oming from different nations, and having to deal with the cultures of different peoples, know better the new problems, which are like ancient problems with a new face, and therefore they can also better appreciate the aspirations and the mentality of the men of today. Therefore, they can be a great help in giving to the urgent problems today a response that is more profound and more consonant according to the norm of the faith revealed by Christ and handed down through the Church.255

In subsequent years, the Commission refined this understanding and listed its tasks as “helping the Holy See and primarily the Congregation for the Doctrine of the Faith in examining doctrinal questions of major importance. The Commission is composed of theologians from diverse schools and nations, noted for their knowledge and faithfulness to the Magisterium of the Church.”256 The fact that the definition of the Commission’s composition includes the balanced elements of knowledge and faithfulness to the Magisterium of the Church will prove to be an important understanding for the role of theology as expressed by the Commission, especially in the two documents chosen for evaluation in this section. These documents, Theology Today: Perspectives, Principles, and Criteria (2012) and Sensus Fidei in the Life of the Church (2014), address the role of theology through their vision of an interdependent relationship between the Magisterium and theologians that stresses a balanced approach between investigation and moderation.


256 This definition is found on the International Theological Commission website, accessible at https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_pro_14071997_ictheology_en.html.
Theology Today: Perspectives, Principles, and Criteria

The International Theological Commission recognized that after the Second Vatican Council, the Church experienced an extremely productive period in the realm of theology, with more members of the laity (especially women) entering the field, bringing with them new voices, new cultural contexts, and new themes for discussion within theology. With that increased productivity, however, the Church needed to find “a common discourse if it is to communicate the one message of Christ to the world, both theologically and pastorally. It is therefore legitimate to speak of the need for a certain unity of theology. However, unity here needs to be carefully understood, so as not to be confused with uniformity or a single style.” (1) It was the hope of the commission members that this document could provide a framework for this diverse unity. Theology Today offers criteria for what it means to engage in Catholic theology beyond the traditional, formal definition of theology as “scientific reflection on the divine revelation which the Church accepts by faith as universal saving truth.” (5) In presenting these criteria, the commission through this document wanted to encompass as much investigation as possible, since “The sheer fullness and richness of that revelation is too great to be grasped by any one theology” while at the same time avoiding any implication of “fragmentation or discord” that could come from a plurality of theologies. (9)

Most important to this discussion are the twelve criteria of Catholic theology that the International Theological Commission includes in Theology Today. These criteria will be given

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here in list form but will be discussed and analyzed using Newman’s theory of development.

*Theology Today* describes Catholic theology as the following:

- Theology must recognize the “primacy of the Word of God.” (9)
- Theology must “take the faith of the Church as its source, context, and norm,” and hold the *fides qua* (an act of belief or trust) and the *fides quae* (that which is believed or confessed) together. (15)
- Theology must have a rational dimension in accordance with its role as the science of faith. (18)
- Theology must “draw constantly upon the canonical witness of Scripture and … promote the anchoring of all of the Church’s doctrine and practice in that witness.” (24)
- Theology must be faithful to the Apostolic Tradition. (32)
- Theology must be attentive to the *sensus fidelium*. (36)
- Theology must give “responsible adherence to the magisterium in its various gradations” (44)
- Theology “should be practiced in professional, prayerful and charitable collaboration with the whole company of Catholic theologians in the communion of the Church, in a spirit of mutual appreciation and support, attentive both to the needs and comments of the faithful and to the guidance of the Church’s pastors.” (50)
- Theology “should be in constant dialogue with the world. It should help the Church to read the signs of the times illuminated by the light that comes from divine revelation, and to profit from doing so in its life and mission.” (58)
- Theology “should strive to give a scientifically and rationally argued presentation of the truths of the Christian faith.” (73)
- Theology “attempts to integrate a plurality of enquiries and methods into the unified project of the *intellectus fidei*, and insists on the unity of truth and therefore on the fundamental unity of theology itself.” (85)
- Theology “should seek and delight in the wisdom of God which is foolishness to the world.” (99)

In listing these criteria, the International Theological Commission follows the traditional patterns highlighted by Newman in its observation that the “*intellectus fidei* … becomes theology in the strict sense when the believer undertakes to present the content of the Christian mystery in a rational and scientific way.” (18) Theology begins with the personal response to revelation, and that response is described as “faith, and faith itself is both personal and ecclesial. The revelation of God is directed towards the convocation and renewal of the people of God, and it is through the Church that theologians receive the object of their enquiry.” (20) Newman would also agree that tradition possesses a living and vital quality, for revelation is not a static event in the past but
continues to form and reform the Church in the present, and will also do so in the future. The International Theological Commission describes this quality as “something living and vital, an ongoing process in which the unity of faith finds expression in the variety of languages and the diversity of cultures.” (26)

_Theology Today_ stresses the importance of the _sensus fidei_ and _sensus fidelium_, which the International Theological Commission warns “must be properly understood,” (34) in direct reference to the growing confusion over the terms’ fluid definitions depending on various theological arguments. The ITC defines the _sensus fidelium_ as “the sense of the faith that is deeply rooted in the people of God who receive, understand and live the Word of God in the Church.” (34) It becomes something of “great importance” to theologians as “not only an object of attention and respect,” but as “a base and a _locus_ for their work.” (35) In this presentation, _Theology Today_ uses a framework that could have been written by John Henry Newman one hundred and fifty years earlier:

On the one hand, theologians depend on the _sensus fidelium_, because the faith that they explore and explain lives in the people of God. It is clear, therefore, that theologians themselves must participate in the life of the Church to be truly aware of it. On the other hand, part of the particular service of theologians within the body of Christ is precisely to explicate the Church’s faith as it is found in the Scriptures, the liturgy, creeds, dogmas, catechisms, and in the _sensus fidelium_ itself. Theologians help to clarify and articulate the content of the _sensus fidelium_, recognising and demonstrating that issues relating to the truth of faith can be complex, and that investigation of them must be precise. (35)

As both a historian and theologian, Newman had advocated for this approach in the earliest of his writings such as _Arians of the Fourth Century_, and, more importantly, in _An Essay on the Development of Christian Doctrine_. For Newman, the _sensus fidelium_ held the key to the proper understanding of theological principles over time, as it provided the clearest examples of lived theological experience.
Theology Today also included a renewed emphasis of the moderating role of the Magisterium in the context of Church as communion, but in this document, the International Theological Commission has moved past the language found in Donum veritatis that raised concerns over the theologian being reduced to an academic mouthpiece of the Magisterium. Recall that in Donum veritatis, theologians were reminded of the warning given by Pope John Paul II that “new proposals advanced for understanding the faith ‘are but an offering made to the whole Church. Many corrections and broadening of perspectives within the context of fraternal dialogue may be needed before the moment comes when the whole Church can accept them.’”

Furthermore, that collaboration between the theologian and the Magisterium,

[O]ccurs in a special way when the theologian receives the canonical mission or the mandate to teach. In a certain sense, such collaboration becomes a participation in the work of the Magisterium, linked, as it then is, by a juridic bond. The theologian's code of conduct, which obviously has its origin in the service of the Word of God, is here reinforced by the commitment the theologian assumes in accepting his office, making the profession of faith, and taking the oath of fidelity.

From this moment on, the theologian is officially charged with the task of presenting and illustrating the doctrine of the faith in its integrity and with full accuracy.

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259 DVert, 22. This article references the 1983 Code of Canon Law, specifically canon 833, which states: “The following are obliged personally to make a profession of faith according to the formula approved by the Apostolic See: 1. In the presence of the president or his delegate, all those who attend with either a deliberative or consultative vote an ecumenical or particular council, a synod of bishops, and a diocesan synod; the president, however, makes it in the presence of the council or synod; 2. Those promoted to the cardinalatial dignity, according to the statutes of the sacred college; 3. In the presence of the one delegated by the Apostolic See, all those promoted to the episcopate as well as those who are equivalent to a diocesan bishop; 4. In the presence of the college of consultors, the diocesan administrator; 5. In the presence of the diocesan bishop or his delegate, vicars general, episcopal vicars, and judicial vicars; 6. In the presence of the local ordinary or his delegate and at the beginning of their function, pastors, the rector of a seminary, and teachers of theology and philosophy in seminaries; those to be promoted to the order of the diaconate; 7. In the presence of the grand chancellor or, in his absence, in the presence of the local ordinary or their delegates, the rector of an ecclesiastical or Catholic university, when the rector’s function begins; in the presence of the rector if he is a priest or in the presence of the local ordinary or their delegates, teachers in any universities whatsoever who teach disciplines pertaining to faith or morals, when they begin their function; 8. Superiors in clerical religious institutes and societies of apostolic life, according to the norm of the constitutions.” The article also references the Professio fidei et Iusiurandum fidelitatis, found in AAS 81 (1989) 104 f.
Instead of reasserting this position, the International Theological Commission states, “Bishops and theologians have distinct callings, and must respect one another’s particular competence, lest the magisterium reduce theology to a mere repetitive science or theologians presume to substitute the teaching office of the Church’s pastors.” (37) The ITC uses the language of communion to describe the theological-magisterial relationship, and softens the language of collaboration without eliminating the relationship:

An understanding of the Church as communion is a good framework within which to consider how the relationship between theologians and bishops, between theology and the magisterium, can be one of fruitful collaboration. The first thing to acknowledge is that theologians in their work and bishops in their magisterium both stand under the primacy of the Word of God, and never above it. Between bishops and theologians there should be a mutually respectful collaboration; in their obedient listening to this Word and faithful proclamation of it; in their attention to the sensus fidelium and service of the growth and maturing of faith; in their concern to transmit the Word to future generations, with respect for new questions and challenges; and in their hope-filled witness to the gifts already received; in all of this bishops and theologians have their respective roles in one common mission, from which the magisterium and theology each derive their own legitimacy and purpose. Theology investigates and articulates the faith of the Church, and the ecclesiastical magisterium proclaims that faith and authentically interprets it. (38)

Just as the Council Fathers at Vatican II needed the assistance of theologians as periti and experts to write the various documents emerging from the council sessions, so too does the International Theological Commission recognize that the Magisterium “needs theology in order to demonstrate in its interventions not only doctrinal authority, but also theological competence and a capacity for critical evaluation, so theologians should be called upon to assist with the preparation and formulation of magisterial pronouncements.” (39) Again, the positive development in recognizing the needs of the Magisterium first should not be underestimated. It is only after recognizing how theology can assist the Magisterium in its tasks that the reverse is discussed. Theologians must recognize that the Magisterium assists theology through its role as authentic transmitters of the depositum fidei, and “Theologians should acknowledge the contribution of
magisterial statements to theological progress and should assist with the reception of those statements.” (39) This role of teaching authentically and authoritatively is unique to the Magisterium and cannot be undertaken by theologians, (40) but theologians can assist in the reception of magisterial statements by the entire believing Church by “deepen[ing] their reflection on the truth proclaimed by the Church’s magisterium, and should seek its implications for the Christian life and for the service of the truth.” (41) In this relationship, dialogue should be based on trust and “due respect for one another’s callings and responsibilities.” (42)

Even in this dialogue undertaken with the best of intentions, though, tensions will arise, and, in addressing this possibility, the International Theological Commission quotes Newman in the *Via Media, Third Edition*. There, he “acknowledged the possibility of such ‘chronic collisions or contrasts,’ and it is well to remember that he saw them as ‘lying in the nature of the case.’” 260 The Commission continued quoting Newman from his preface to the third edition of the *Via Media*: “Theology is the fundamental and regulating principle of the whole Church system,” yet both Newman and the commission by extension warned, “Theology cannot always have its own way.” 261 (42) To highlight this fact, the Commission recalled its earlier words in the 1975 publication *Theses on the Relationship between the Ecclesiastical Magisterium and Theology* when it stated, “Wherever there is genuine life, tension always exists. … Such tension need not be


261 Newman, “Preface to the Third Edition, 29–30. The International Theological Commission also includes the following quote in the endnote reference: “[N]ot all knowledge is suited to all minds; a proposition may be ever so true, yet at a particular time and place it may be ‘temerarious, offensive to pious ears, and scandalous,’ though not ‘heretical’ nor ‘erroneous.’” (34).
interpreted as hostility or real opposition, but can be seen as a vital force and an incentive to a common carrying out of [their] respective tasks by way of dialogue.”

In paragraph 43, *Theology Today* stresses that theologians must integrate different “aspects” of theology, including the scientific (“without presuppositions of faith or ecclesial allegiance”), the confessional (“elaborated within a religious confession”), freedom of conscience, and scientific progress, all while adhering to the statements and teachings of the Magisterium. *Theology Today* emphasizes that investigation is part of the theological task, but that task is contained within a larger “horizon of the design and will of God,” which is safeguarded by the community and the Magisterium. (43) This means that theologians are always bound by “responsible adherence to the magisterium in its various gradations” (44) and theologians must “recognize the competence of bishops, and especially of the college of bishops headed by the pope, to give an authentic interpretation of the Word of God handed on in Scripture and Tradition.” (44) As believers within the community, theologians must always manifest “careful adherence to the fundamental criteria of Catholic theology,” (47) and their efforts are always considered provisional. *Theology Today* states, “Theologians should … offer their work to the Church as a whole for scrutiny and evaluation” (47) as well as to other theologians in a spirit of “mutual questioning and correction … so that ideas and methods can be progressively refined and perfected, and this process generally and healthily occurs within the theological community itself.” (48)

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Much as Newman had done in his own writings on the development of doctrine, the International Theological Commission in *Theology Today* stressed that individual responses to revelation must be subjected to the community for acceptance, modification, or rejection. In this submission, bishops can be involved in dialogue with theologians in an effort of collaboration, and when necessary, must interrupt the theological process, but only “to censure theological work that they deem to be erroneous or harmful.” (48) Theologians likewise engage in a dialogue with the faithful and the Magisterium to inform them of “the importance of developments, events and trends in human history, and to discern and interpret ways in which through them the Spirit may be speaking to the Church and to the world.” (53) They could also dialogue with those fields outside the theological sciences “to liberate themselves from anti-theological elements acquired under the influence of rationalism.” (84) The best way for this to occur is through “the presence of theology and theologians at the heart of university life. [T]he dialogue this presence enables with other disciplines help to promote a broad, analogical and integral view of intellectual life.” (84)

Richard Gaillardetz, the Joseph Chair of Catholic Systematic Theology at Boston College and a leading theologian focusing on Catholic ecclesiology, specifically the structures of authority in the Church, reacted positively to the document’s “extended reflection on the need for both theologians and the magisterium to attend carefully to the *sensus fidelium* (§§33–36), calls for ‘mutually respectful collaboration’ between the magisterium and theologians, and grants to theologians [of] ‘a certain “magisterium” of their own’ (§39) which, however differs in kind from the magisterium of the bishops.”263 Gaillardetz remains concerned, however, that in its discussions of the authentic magisterium of the bishops, *Theology Today* may,

> Turn the pope and bishops into the official theologians of the church whose theological arguments, by claiming authoritative status, would trump all other such judgments. Such

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an expansive view renders theologians unnecessary save as a labor force employed by the magisterium to further its own preferred theological trajectories and schools of thought.\footnote{264} Instead, Gaillardetz supports a narrow interpretation of the Magisterium’s charge to provide an authentic interpretation of the faith, so that is becomes “a judgment concerned strictly with a particular theological position or trajectory’s congruence with the fundamental doctrine of the church.”\footnote{265} Through this narrow interpretation, the bishop maintains his proper and ordinary role in pronouncing judgments on theological works, but such judgments would be made only when doctrinal error is identified and must be corrected for the sake of the community. Gaillardetz fears that by using a broader interpretation, an openness to dialogue and consultation is replaced with recourse to authority and suppression, and that this model stands against what he calls an authentic theology of the assistance of the Spirit, which,

Precludes seeing the authoritative teaching of the church as isolated ecclesial acts engaged by autonomous authority figures. Popes and bishops do not receive supernaturally infused knowledge at ordination. Consultative activities, dialogue, and deliberation ought to be constitutive elements of their teaching ministry; these are the ordinary human means by which the Spirit brings the church to truth.\footnote{266} Conversely, Gaillardetz also holds that,

Theologians must be willing to accept criticism and even correction with humility. We are not ourselves immune from the temptations to arrogance. But the engagement between bishop and theologian must not come at the cost of a theologian’s integrity. For integrity may demand that we speak out respectfully yet forcefully where we see troubling abuses in the exercise of authority. In these times, this is what fidelity to tradition looks like.\footnote{267}

\footnote{264} Ibid., 245.  
\footnote{265} Ibid., 245.  
\footnote{266} Ibid., 250.  
\footnote{267} Ibid., 251.
Sensus Fidei in the Life of the Church\textsuperscript{268}

Sensus Fidei in the Life of the Church, the second document from the International Theological Commission under consideration here, was published in 2014. This document has its roots in an address from Pope Benedict XVI to the Commission at their plenary assembly of December 7, 2012. In that address, Benedict recognizes the value of the 2012 document \textit{Theology Today} as it “clarifies the criteria for an authentically Catholic theology which is therefore capable of contributing to the Church’s mission, to the proclamation of the Gospel to all people.”\textsuperscript{269} The document also “appropriately recalls that theology is inseparably both confessional and rational, and that its presence in the university institution guarantees, or should guarantee, a broad and integral vision of human reason itself.”\textsuperscript{270} Pope Benedict then suggests the future research and publishing activity of the Commission:

It is particularly important to explain the criteria that make it possible to distinguish the authentic \textit{sensus fidelium} from its counterfeit. It is certainly not a kind of public ecclesial opinion and invoking it in order to contest the teachings of the Magisterium would be unthinkable, since the \textit{sensus fidei} cannot be authentically developed in believers, except to the extent in which they fully participate in the life of the Church, and this demands responsible adherence to the Magisterium, to the deposit of faith.\textsuperscript{271}

At the beginning of Sensus Fidei in the Life of the Church, the International Theological Commission defines \textit{sensus fidei} with traditional language from the Second Vatican Council and

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\textsuperscript{269} Benedict XVI, \textit{Address to the International Theological Commission on the Occasion of Its Annual Plenary Assembly} (December 7, 2012), accessible online at https://w2.vatican.va/content/benedict-xvi/en/speeches/2012/december/documents/hf_ben-xvi_spe_20121207_cti.html.

\textsuperscript{270} Ibid.

\textsuperscript{271} Ibid.
the *Catechism of the Catholic Church*. Modified slightly from these two sources, the definition describes the *sensus fidei* as “an instinct for the truth of the Gospel, which enables [the faithful] to recognize and endorse authentic Christian doctrine and practice, and to reject what is false,” and thus “enables Christians to fulfil their prophetic calling.” (2) This instinct is proper to both the individual believer “within the communion of the Church, to discern the truth of faith” (*sensus fidei fidelis*), and to the communal and ecclesial reality of the Church (*sensus fidei fidelium*) as “the convergence of the baptized in a lived adhesion to a doctrine of faith or to an element of Christian *praxis*.” From this convergence (in Latin, *consensus*) comes the ability for the Church to determine “whether a particular doctrine or practice belongs to the apostolic faith.” (3)

In drawing this distinction between the *sensus fidei fidelis* and the *sensus fidei fidelium*, the commission heavily borrows Newman’s writings, citing him twenty-nine times in the document. The first of these references is Newman’s recognition of the crucial role “the faith of the laity, in particular, played” in “determining the canon of Scripture and in defining major doctrines concerning, for example, the divinity of Christ, the perpetual virginity and divine motherhood of Mary, and the veneration and invocation of the saints.” (26) Ten articles later, the Commission recalls Newman’s work with the notion of the *sensus fidei fidelium* “to resolve his difficulty concerning the development of doctrine. … To distinguish between true and false developments, he adopted Augustine’s norm – the general consent of the whole Church, *Securus judicat orbis terrarum* – but he saw that an infallible authority is necessary to maintain the Church in the truth.” (36) In his essay on development, Newman saw the faith of the faithful as a source of passive acceptance of doctrine in the Church, which would be confirmed by the infallible authority as truthful. During his next stage of investigation, “When Newman later wrote *On Consulting the Faithful in Matters of Doctrine* (1859), it was to demonstrate that the faithful (as distinct from their
pastors) have their own, active role to play in conserving and transmitting the faith.” (39) This role exists even when the Magisterium does not act to protect the truth through its infallible authority.

The International Theological Commission confirms that the Second Vatican Council was influenced by Newman and his work on development when it states, “The sensus fidei is also evoked in the council’s teaching on the development of doctrine, in the context of the transmission of the apostolic faith,” (46) citing Lumen gentium and Dei verbum in their discussion. As for the second document, which never uses the terminology “sensus fidei” in its text, the commission recognizes that “the contemplation, study, and experience of believers to which it refers are all clearly associated with the sensus fidei, and most commentators agree that the council fathers were consciously invoking Newman’s theory of the development of doctrine.” (46)

Proceeding from these observations, the Commission proposes several descriptions of the sensus fidei fidelis:

- “… is a sort of spiritual instinct that enables the believer to judge spontaneously whether a particular teaching or practice is or is not in conformity with the Gospel and with apostolic faith.” (49)
- “… arises, first and foremost, from the connaturalism that the virtue of faith establishes between the believing subject and the authentic object of faith, namely the truth of God revealed in Christ Jesus.” (50)
- “… is the form that the instinct which accompanies every virtue takes in the case of the virtue of faith … Faith, as a theological virtue, enables the believer to participate in the knowledge that God has of himself and of all things. In the believer, it takes the form of a ‘second nature.’” (53)
- “… is not a reflective knowledge of the mysteries of faith which deploys concepts and uses rational procedures to reach its conclusions.” (54)
- “… is akin rather to a natural, immediate and spontaneous reaction, and comparable to a vital instinct or a sort of ‘flair’ by which the believer clings spontaneously to what conforms to the truth of faith and shuns what is contrary to it.” (54)
- “… is infallible in itself with regard to its object: the true faith,” so long as “the correct intuitions of the sensus fidei” do not get “mixed up with various purely human opinions, or even with errors linked to the narrow confines of a particular cultural context.” (55)

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272 Reflective knowledge is, of course, the proper role of theology as scientia fidei, which is separate from the sensus fidei, has a different purpose from it, and a different method to achieve its purpose.
• “… flows from the theological virtue of faith. That virtue is an interior disposition, prompted by love, to adhere without reserve to the whole truth revealed by God as soon as it is perceived as such. Faith does not therefore necessarily imply an explicit knowledge of the whole of revealed truth.” (56)

• “… develops in proportion to the development of the virtue of faith. The more the virtue of faith takes root in the heart and spirit of believers and informs their daily life, the more the sensus fidei fidelis develops and strengthens in them.” (57)

For the believer, “the sensus fidei enlightens and guides the way in which the believer puts his or her faith into practice,” as well as gaining “a deeper understanding of faith.” (59) From this enlightenment and understanding, theologians and the Magisterium273 “should give full attention to the experience of believers, especially lay people, who strive to put the Church’s teaching into practice in the areas of their own specific experience and competence.” (59) In this manner, “The whole Church, laity and hierarchy together, bears responsibility for and mediates in history the revelation which is contained in the Holy Scriptures and in the living apostolic Tradition.” (67)

Here, the Commission references Dei verbum article 10 and within this responsibility and mediation, the sensus fidei proves to be both reactive and proactive, retrospective and prospective; it “gives an intuition as to the right way forward amid the uncertainties and ambiguities of history, and a capacity to listen discerningly to what human culture and the progress of the sciences are saying.” (70) This intuition is not reserved for the Magisterium, for from the beginnings of Christianity, “when decisions about the faith needed to be taken, the witness of the laity was taken into consideration by the pastors.” (72) The Commission again cites the work of John Henry Newman that these decisions varied in instigation or inspiration:

Sometimes the People of God, and in particular the laity, intuitively felt in which direction the development of doctrine would go, even when theologians and bishops were divided on the issue. Sometimes there was a clear conspiratio pastorum et fidelium. Sometimes,

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273 The terminology used in the document is “those who teach in the name of the Church,” which in the opinion of this author, can refer to both the Magisterium as authentic teachers and theologians who have been granted the canonical mission, the mandatum, or the nihil obstat to teach under a juridic relationship with the Magisterium. Whether this terminology can be extended outside this judgment is left for debate and discussion.
when the Church came to a definition, the *Ecclesia docens* had clearly ‘consulted’ the faithful, and it pointed to the *consensus fidelium* as one of the arguments which legitimated the definition. (72)

Because of these historical examples, the baptized “cannot be passive” and in fact “have the right to be heard … because it is by the Church as a whole that the apostolic faith is borne in the power of the Spirit. The Magisterium does not have sole responsibility for it,” (74) even though it is “responsible for ensuring the fidelity of the Church as a whole to the word of God, and for keeping the people of God faithful to the Gospel.” (76) The Magisterium as *Ecclesia docens* possesses “the gift of discriminating, defining, promulgating, and enforcing any portion of that tradition,”274 which the faithful, even though they participate in the *sensus fidei fidelium*, does not possess. (77) It is also possible, though, that the faithful might have a difficult time receiving magisterial pronouncements. In those cases, the faithful are urged to make “every effort to understand and accept it. … The magisterium must likewise reflect on the teaching that has been given and consider whether it needs clarification or reformulation in order to communicate more effectively the essential message.” (80) Most importantly for the discussion at hand, though, is that it is in these cases that the task of the theologian can come to the fore.

Theology operates from two starting points within the *sensus fidelium*, with the first coming from a dependence on the community and the *sensus fidei*, “because the faith that they study and articulate lives in the people of God.” As for the second starting point, theologians are directed to assist the community in their expression of the *sensus fidelium* “by reminding them of the essential lines of faith, and helping them to avoid deviations and confusion caused by the influence of imaginative elements from elsewhere.” (81) Theologians become conduits for articles of faith, and the document gives the theologian an intermediary responsibility: theologians need

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274 *Cons.*, 63.
to learn how the community expresses its faith from the inside (since they are part of the community), and they need to teach the community how to express its faith better when it becomes muddled or confused. In this second instance, it is possible that the theologian will need to find something that will improve the community’s internal expressions. The commission highlights this duality when it stresses that theologians must “participate in the life and liturgy of the local church, so as to be able to grasp in a deep way, not only with the head but also with the heart, the real context, historical and cultural, within which the Church and her members are striving to live their faith and bear witness to Christ in the world of today,” (82) while also “critically examin[ing] expressions of popular piety, new currents of thought and also new movements in the Church, for the sake of fidelity to the apostolic Tradition.” (83) Such critical evaluation may involve discernment of “a deviation caused by a crisis or a misunderstanding of the faith, an opinion which has a proper place in the pluralism of the Christian community without necessarily affecting others, or something so attuned to the faith that it ought to be recognized as an inspiration or a prompting of the Spirit.” (83) In these actions, the theologian as a member of the believing community and as someone called to take an objective evaluation of the community “helps the faithful to know with greater clarity and precision the authentic meaning of Scripture, the true significance of conciliar definitions, the proper contents of the Tradition, and also which questions remain open.” In accomplishing these tasks, theologians promote “a strong and sure understanding of the faith” (84) upon which the sensus fidelium relies.

When investigating the tasks of the Magisterium and the theologian, for the two groups to work successfully, they both must have the implicit and, in some cases, explicit support of the faithful. The International Theological Commission recognizes that when this support is lacking, or in those cases when the faithful “remain indifferent to doctrinal or moral decisions taken by the
Magisterium or when they positively reject them,” these may be indications that the people of God are suffering from “a weakness or a lack of faith … caused by an insufficiently critical embrace of contemporary culture.” (123) On the other hand, the rejection of reception by the faithful may be their response to magisterial judgments made “without due consideration of the experience and the sensus fidei of the faithful, or without sufficient consultation of the faithful by the Magisterium.” (123) In both of those cases, the Church must return to “humble listening at all levels and proper consultation of those concerned,” (126) which allows the Church to exercise the “infallibilitas in credendo that the Church has as a believing ‘subject’ making its pilgrim way in history.” (128)

_Sensus Fidei in the Church_ represents the most inclusive of the documents discussed in this work in terms of integrating Newman’s thoughts into the post-conciliar Church. This document incorporates the works of Newman on both doctrinal development and an expanded sensus fidelium without using his works as a counter argument against more “traditional” or “Roman” theologians. _Sensus Fidei_ allows Newman’s theology to breathe new life into theological experience moving forward, and in so doing, re-emphasizes the importance of Newman’s thought that played such a significant role in influencing the Council Fathers at Vatican II.

**The Continued Expansion of the Sensus Fidelium**

In her 2004 article “The Role of the Theologian, _Donum Veritatis_ and Newman,” the Irish theologian Amelia Fleming believes that by integrating John Henry Newman’s thought into the Instruction, the Congregation for the Doctrine of the Faith would have increased the effectiveness of _Donum veritatis_ by balancing the demands for magisterial oversight and theological moderation with disciplined theological inquiry. This is not to say that Newman would have countermanded the statements expressed in _Donum veritatis_; instead, his thoughts could have rounded out the
corners and smoothed the rough edges. For instance, Fleming casts Newman as a Victorian author and conservative historiographer who abhorred scandal. As he explained in *The Idea of a University*, scandal is useful only in “shocking the popular mind or unsettling the weak; the association between truth and error being so strong in particular minds that it is impossible to weed them of the error without rooting up the wheat with it.” Theologians therefore should avoid scandal at all costs, and most especially by generating it through controversies with the Magisterium or the Church as a whole.

Newman believed that scandal very often was an unnecessary action taken more to provoke reaction than promote change. As a historian, Newman knew that the Catholic Church moved slowly to react to controversy, often leaving local controversial propositions on their own for one of two outcomes. The proposition could die on its own, or if it gained enough of a following, a local bishop would address it. From there, the bishop might refer the case to a university in his or a neighboring diocese where the theological faculty could condemn the proposition as heretical, again ending the controversy. However, if the faculty failed to act, or the decision was appealed to a higher authority, then the case moved to the level of a metropolitan archbishop, a local synod, or even to a national body such as a bishops’ conference. Only after all other appeals had been exhausted would the case go to Rome. In the end, “the Roman decision may not be reached for years, and even then, formulated in such a vague and general way, that the whole controversy must be gone through again.” As Newman explained in his *Apologia Pro Vita Sua*, by the end of this process, the question would have been “ventilated and turned over and over again, and viewed on

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275 *Idea*, 473.

every side of it. 277 More important, though, is the fact that the controversialist’s intellectual freedom (and academic freedom, if a member of the academy) would not have been violated during the process. In this way, Newman held that more often than not, the controversial proposition is not generated out of spite or the desire to harm, but instead is developed out of the search for truth:

[M]any a man has ideas, which he hopes are true, and useful for his day, but he is not confident about them, and wishes to have them discussed. He is willing, or rather would be thankful, to give them up, if they can be proved erroneous or dangerous, and by means of controversy he obtains his end. He is answered, and he yields; or on the contrary he finds that he is considered safe. He would not dare do this, if he knew an authority, which was supreme and final, was watching every word he said, and made signs of assent or dissent to each sentence, as he uttered it. Then indeed he would be fighting, as the Persian soldiers, under the lash, and the freedom of his intellect might truly be said to be beaten out of him. 278

In his model, Newman gives primacy and authority to deal with controversial theological statements to the theological community itself, and the Schola theologorum is charged with policing its own members. Francis Sullivan saw in this model a guarantee of infallibility:

One could hardly claim that the fact that a doctrine had been infallibly defined was manifestly established if there were no consensus among Catholic theologians about this alleged fact. On the same grounds, I would say that one could hardly claim that a doctrine had been infallibly taught by the ordinary universal magisterium if there was no consensus among Catholic theologians on this point. On the other hand, their constant and universal consensus would be a reliable basis for judging that it had actually been taught in that way. 279

For Newman, the task of the theologian in this model was consistent with what later would be termed the principle of subsidiarity, in that the people best able to react to a local situation (such as a theological fallacy) are those who are closest to the problem (in this case, theologians). By promoting this model, theologians could debate openly knowing that if they were to generate an

277 Apo., 267.

278 Apo., 267.

279 Francis Sullivan, Magisterium, 107.
incorrect statement or untenable position, they would be corrected and moderated by those who are best equipped to understand the topic under discussion and not by a looming authority such as the Magisterium or the Holy Office. “It is manifest how a mode of proceeding, such as this, tends not only to the liberty, but to the courage, of the individual theologian or controversialist.”^{280}

The modern fear of the Congregation for the Doctrine of the Faith that theologians would be tempted to bring controversial topics to the mass media for their promulgation were shared by Newman in his time. Newman abhorred the waging of theological battles in newspapers and as he wrote in an 1867 letter to one of his former students Henry Wilberforce, a fellow Tractarian and convert from the Church of England to Roman Catholicism, “In all times the debates in Schools have been furious, and it is in this way, of the collision of flint and steel, that the light of truth has been struck and elicited. All this is ordinary – what is extraordinary is that the battle should pass from the Schools … to Newspapers and Reviews, and to lay combatants, with an appeal to the private judgement of all readers. This is a deplorable evil.”^{281} Instead, he relied on the theologian to be an honest broker. The fact that the theologian must integrate the principles of integrity, responsibility, and loyalty to his faith and his Church within all theological investigations was a point that Newman would have taken for granted in any age.

Just as the Church must remain open and receptive to theology, so too must theology remain open to the Church, including the *sensus fidelium* in the Church. How this interaction will take place remains a subject to which numerous theologians have devoted countless studies and ascribed various theories. For instance, the Australian theologian Ormond Rush defines the

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^{280} Aper., 267.

beginnings of a theology of the sensus fidelium as when theologians “give priority to a perception of the faith by one seeking constant conversion to the Gospel, who regularly avails himself or herself of the sacraments, who is constantly being nourished by the reading of the Scripture and personal prayer, and who is attempting to apply the Gospel in his or her life by promoting the reign of God in the world.”282 Within this primary source, Rush finds three groups seeking conversion: the laity, theologians, and bishops, and makes these distinctions for two reasons:

Firstly, the sensus laicorum (the sense of the laity) is often restrictively understood to be synonymous with the sensus fidelium. The sense of the faithful encompasses more than the laity’s sense of the faith, even though they constitute the vast majority of the body of the faithful. Secondly, theologians and bishops, while they also constitute two of the authorities in the teaching office, are also to be included in the determination of the sensus fidelium because of their primary identity as individual baptized fideles [faithful].283

Rush finds a secondary source that also determines the sensus fidelium, which “consists of those baptized Catholics who in a wide variety of ways are not fully “faithful” to their baptismal commitment.”284 While this group285 does not participate fully in the sacramental life of the Church, and their “lack of openness to the Spirit surely diminishes the effectiveness of the Spirit’s ‘eyes of faith’ for interpreting things aright,”286 they cannot be forgotten in the Church’s mission to proclaim the Gospel. Rush includes a third, ancillary source of the sensus fidelium in “the sense

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283 Ibid., 246–247.

284 Ibid., 247.

285 Rush describes the group as “Catholics who could be variously and somewhat vaguely described as ‘inactive,’ ‘lapsed,’ ‘disaffected,’ or ‘marginalized.’ Some within this vastly varying group might indeed have a strong sense of identity with the Catholic Church; others might not.” (Ibid.)

286 Ibid.
of the faith perceived by baptized Christians from other churches.” He believes this source can be gleaned from the Second Vatican Council through an inter-textual reading of *Lumen gentium* 12 with *Lumen gentium* 8 and *Unitatis redintegratio* 3:

[A]n inter-textual reading of all the documents highlights that *Unitatis redintegratio* 3 explicitly recognizes the baptism of other churches. The Catholic Church’s recognition of the baptism of other churches raises the question of whether the *sensus fidei* which accompanies the gift of the Spirit in baptism demands theological recognition of the *sensus fidei* of the baptized from other churches. Therefore, an inter-textual reading requires that the council’s document *Unitatis redintegratio*, promulgated on the same day as *Lumen gentium*, be used to interpret the meaning of the vision outlined in the latter, and in particular paragraph 12 regarding the *sensus fidelium*.

Returning to the primary source of the *sensus fidelium*, Rush separates the voices of the *sensus laicorum* from the *sensus theologorum* and the *sensus episcoporum*. In making this division, Rush does not see these last two voices as more important than the *sensus laicorum*:

Theologians and bishops are *fideles*, who live out their lives seeking, like all believers, to be ever more faithful disciples of Jesus. However, it is still legitimate and important to distinguish them among the *fideles* as two distinct groups. This is not to make them “special” among the *fideles* at the level of baptismal identity. Rather it highlights how, in their official role as theologian or bishop, their own distinctive *sensus fidei* needs to be acknowledged, since it directly affects their contribution at that official level.

As for the specific role played by the *sensus laicorum*, Rush sees this taking place through,

An active, positive hermeneutical contribution, that of reception in particular contexts. Lay people bring “a lay hermeneutic” to their interpretation of revelation. … Lay people, in expressing the way they make sense of their lives through a particular spirituality, are bringing to expression their sense of the faith. These multiple expressions are primary sources for the academic discipline of spirituality, and the study of lay spirituality in particular, which functions as a subdiscipline within theology, and which constitutes an important instrument for bringing to articulation the *sensus laicorum*.

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287 Ibid., 249.
288 Ibid., 250.
289 Ibid., 252.
290 Ibid., 256.
The laity, therefore, become the source of expressions of lived faith where “the ordinariness of the everyday that the depths of personal salvific encounter with the Triune God are to be found. It is from this mystical, ordinary, lived knowing that the activity of God’s salvific revelation in the present to be located.”  

In the *sensus theologorum*, Rush sees,

The Spirit’s bringing together of the *sensus fidei* of a theologian and his or her charism of theological skill, [which] is a *conspiratio* of particular significance for the church. The result of this *conspiratio* is a *sensus theologi*, the sense of the faith of a theologian, with its sophisticated frameworks marking it out from the sense of the faith of others lacking scholarly articulation of the faith.  

Within this *sensus theologorum*, theologians are grounded in their own faith, are guided by their own imagination, and develop a vision from these two sources that they hope is both coherent and systematic. Theologians also know that their work retains a communitarian character, since “They do not make exclusive claims on the fidelity of their own synthesis, but offer their personal *sensus fidei* to the wider community of theologians, and ultimately to the wider church.” Through that offering, theologians hope to express their community’s hopes, challenge their sinfulness, and produce a vision of what the Scriptures mean in their particular situation. An important part of this *sensus theologorum* is the theologian’s requirement to attend to the community’s *sensus fidelium*:

Listening to the varied *sensus laicorum* within a local community is an essential task for a theologian. This fundamental source, capturing contemporary experiences of salvation, constitutes the lens through which the theologian, in a hermeneutical circle of inquiry, can interpret Scripture and the tradition’s interpretation of God’s salvific work through Jesus Christ.

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291 Ibid., 257.

292 Ibid., 262.

293 Ibid.

294 Ibid., 265.
For Rush, this hermeneutical circle of inquiry involves personal conversion by the theologian: “Conversion in the theologian’s personal faith-relationship informs and is formed by his or her ongoing engagement with Scripture, tradition, the oversight of the magisterium, and with the sensus fidelium within their own local community and the universal community of faith.”

While the sensus laicorum expresses the lived experience of faith, and the sensus theologorum expresses the scholarly articulation of the faith, the sensus episcoporum expresses the charism of truth of faith. Rush stresses that this charism of truth does not stand apart from the laity or the theologians, but “is necessarily related to the magisterium’s dialogic relationship with the sensus fidelium and theology, in a conspiratio of the one Spirit of Truth.” The bishops, after all, are first and foremost believers, and as such, possess their own sensus fidei fidelis that will influence their shared sensus episcoporum within the sensus fidelium. Therefore, Rush makes a distinction between the sensus fidei of an individual bishop, the sensus episcoporum, which Rush calls “the collective reality of plural and diverse perspectives of all bishops,” and the sensus magisterii, or the official mind of the Magisterium when issuing definitive proclamations on faith and morals. In the first case, the bishop’s personal faith does not reflect the fullness of the faith:

Just as the individual lay person must consider their own sensus fidei to be subject to the approbative reception of the whole church, and just as the individual academic theologian must consider his or her own sensus fidei to be subject to the approbative reception of the wider community of scholars and ultimately the whole church, so too an individual bishop must consider his own sensus fidei to be subject to the approbative reception of other bishops and of the whole church.

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295 Ibid., 266.
296 Ibid., 269.
297 Ibid., 270.
298 Ibid., 271.
In the case of the *sensus episcoporum*, the *sensus fidei* of a bishop is renewed through the exposure of the *sensus fidei* of other bishops in a “dynamic of personal learning and conversion” best expressed in local, regional, or national conferences, synods, and, at the highest level, the ecumenical council. In particular, Rush found in the experiences of the Second Vatican Council the ultimate expression of ecclesial and intellectual conversion:

Over the four years of the council, as the bishops engaged informally with theologians inside and outside the council hall, formally with theologians in commission meetings, and in their formal and informal debates with one another, the individual *sensus fidei* of each bishop was being challenged and refashioned, and thus the *sensus fidei episcoporum* was being refashioned, to give rise ultimately to a new expression of the *sensus magisterii* itself. In that refashioning, what was achieved over four years was a conversion of the ecclesial imagination of the Catholic Church.299

Rush’s definitions of the *sensus fidelium* and its primary sources in the *sensus fidei*, the *sensus theologorum* and the *sensus episcoporum* highlight one of the enduring characteristics of the *sensus fidelium* in the contemporary Church, which is its elasticity of definition. The *sensus fidelium* could range from a reserved function of an intellectual class within the Church to an expansion into the daily lives of believers through the ecclesiastical equivalent of public opinion polls.

Pope Francis would later take up these themes in the apostolic exhortation *Evangelii Gaudium*, written in response to the Thirteenth Ordinary General Synod, which had met in 2012 to discuss the topic of “The New Evangelization for the Transmission of the Christian Faith.” In this exhortation, Francis admits that he has focused on the issues surrounding the spread of the Gospel message without exploring other questions that “call for further reflection and study.” In that admission, he also adds a comment on the role of the papal Magisterium in that exploration which reflects well on the thoughts of Newman in his theological project. Francis states, “Nor do

299 Ibid., 273.
I believe that the papal magisterium should be expected to offer a definitive or complete word on every question which affects the Church and the world. It is not advisable for the Pope to take the place of local Bishops in the discernment of every issue that arises in their territory. In this sense, I am conscious of the need to promote a sound ‘decentralization.”

As Francis continues his teaching on the themes of evangelization, he offers the following explanation of the *sensus fidei*:

As part of his mysterious love for humanity, God furnishes the totality of the faithful with an instinct of faith – *sensus fidei* – which helps them to discern what is truly of God. The presence of the Spirit gives Christians a certain connaturality with divine realities, and a wisdom which enables them to grasp those realities intuitively, even when they lack the wherewithal to give them precise expression.

From this definition, Francis expands the role of evangelization to a duty for all persons in the Church. “All the baptized, whatever their position in the Church or their level of instruction in the faith, are agents of evangelization, and it would be insufficient to envisage a plan of evangelization to be carried out by professionals while the rest of the faithful would simply be passive recipients.” This means that all the baptized are evangelizers, no matter where they live and in what culture they identify. Inculturation is essential to evangelization. “Culture is a dynamic reality which a people constantly recreates; each generation passes on a whole series of ways of approaching different existential situations to the next generation, which must in turn reformulate it as it confronts its own challenges.”

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301 Ibid., 119.

302 Ibid., 120.

303 Ibid., 122.
spreading of the Gospel occurs, for evangelization involves inculturation, and vice versa: “Each portion of the people of God, by translating the gift of God into its own life and in accordance with its own genius, bears witness to the faith it has received and enriches it with new and eloquent expressions.”

The parallels to the development of doctrine cannot be overlooked in this statement, especially in Francis’ positive comments regarding the “importance of popular piety, a true expression of the spontaneous missionary activity of the People of God.” In popular piety, Francis finds not only the inculturation of faith, but also an appreciation of the theological life present in Christian piety. After providing examples of mothers tending to their sick children who themselves are holding fast to a rosary, families praying for assistance around a candle burning in their home, or devotion to Christ crucified, Francis declares that these acts of piety are not “the expression of a purely human search for the divine,” but instead they are “the manifestation of a theological life nourished by the working of the Holy Spirit who has been poured into our hearts (cf. Rom 5:5).” They are teachable moments for the Church writ large, and not just in those cultures that understand the specific devotional actions such as baking St. Lucy’s Bread in Scandinavia, hiking barefoot up Croaghpatrick in County Mayo, Ireland, or following the Camino de Santiago to the Cathedral of Santiago de Compostela in northwestern Spain. To dismiss cultural examples of piety would be to dismiss the work of the Spirit in the Church: “Expressions of popular piety have much to teach us; for those who are capable of reading them, they are a locus

304 Ibid.
305 Ibid.
306 Ibid., 125.
theologicus which demands our attention, especially at a time when we are looking to the new evangelization.”

It is in these places and in these moments where “The Church, in her commitment to evangelization, appreciates and encourages the charism of theologians and their scholarly efforts to advance dialogue with the world of cultures and sciences.” Francis goes further in declaring that theologians should work not only in pastoral theology, but also in a dialogue with the sciences and those human experiences that allow the Church to evangelize in different cultures and groups. The last two sentences of paragraph 133 are most remarkable in understanding the development of a pastoral Magisterium. In the first of these sentences, Francis explicitly directs “theologians to carry out this service as part of the Church’s saving mission.” The second sentence reads as follows, “In doing so, however, they must always remember that the Church and theology exist to evangelize, and not [to] be content with a desk-bound theology.”

In this exhortation, Francis throws a curve ball, and reminds theologians of their identity as evangelizers. It is the life of the Church that must be embraced. Pope Francis would repeat this call for theology to meet the people where they practice their faith (and not where they buy their books) in his Address at the Conclusion of the Synod on the Family (2015). In this address, Francis declares, “The true defenders of doctrine are not those who uphold its letter, but its spirit; not ideas

307 Ibid., 126.

308 Ibid., 133.

309 Ibid.

310 Ibid.
but people; not formulae but the gratuitousness of God’s love and forgiveness.”  

Finally, in his *Address during Meeting with the Participants in the Fifth Convention of the Italian Church* (2015), Francis urges his audience to reframe their concept of doctrine to incorporate the lived experience of the Church: “Christian doctrine is not a closed system, incapable of raising questions, doubts, inquiries, but is living, is able to unsettle, is able to enliven. It has a face that is supple, a body that moves and develops, flesh that is tender: Christian doctrine is called Jesus Christ.”

Richard Gaillardetz published an article in *Commonweal* in January 2017 entitled “A More Pastoral Magisterium: Papal Authority in the Francis Era.” In this article, he described the contemporary Church as “still struggling to move beyond a hypertrophied understanding of doctrinal teaching authority [that assumes] that on any given controverted issue, there is but one orthodox position, all other understandings of the faith being implicitly or explicitly heterodox.” Against this understanding, Gaillardetz sees Pope Francis as the pastoral leader who will allow the Church, its Magisterium and its theologians to follow a new pattern of consultation “that aspires to be more than a pragmatic public-relations maneuver [and] must attend to a wide range of voices, including those in ecclesial exile.” He also imagines (or perhaps hopes aloud) that Francis’ impromptu interviews aboard an Alitalia plane after his apostolic visits will become new teaching

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314 Ibid., 19.
instruments for the papacy. In this model, he wonders if formal declarations and lengthy encyclicals could be replaced by a pontifical yet informal question and answer session that would “represent a new form of the magisterium, one that is explicitly dialogical, improvisational, and provisional? Such an approach could create an expanded ecclesial space for Catholics to engage official church teaching in a more open and dynamic fashion.”

To justify his longings for the more pastoral magisterium represented by Francis’ version of Roosevelt’s fireside chats, Gaillardetz implies that the thoughts of John Henry Newman could support the shift in formality:

A pastoral magisterium calls for an exercise of teaching authority that never forgets that, as John Henry Newman put it, “truth is the daughter of time.” A pastoral magisterium does not claim to have all the answers, nor does it provide definitive solutions to every controverted issue. Rather, it acknowledges the normative character of current church teaching but keeps open the possibility of further insight. It is committed to cultivating an ecclesial atmosphere in which controverted questions can be freely debated, new insights can emerge, and the Spirit can work through the shared discernment of the whole People of God.

It has become vogue to claim that any progressive move in the Church is the result of Pope Francis and his innovation, but in some cases, Francis is simply following the programs of those who have gone before him. It may be true that he has taken these programs farther into the life of the Church than others may have dared, and it may be accurate to posit that Francis’ personal style has allowed these programs to flourish in a way that others could not accomplish, but to claim that Francis has developed a new system of theological and magisterial interaction would be an overreach. The connections are as important as the newness that Francis brings to the message, for in his words and his delivery, Francis is continuing the pastoral magisterial project that Newman

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315 Ibid., 21.

316 Ibid.
would also support. He may have brought it to further development; he has enlivened it with innovative words and new emotion, but he has not invented it, even though theologians such as Richard Gaillardetz want to give him that credit.
CONCLUSION

In the essay “On Consulting the Faithful in Matters of Doctrine,” Newman argued that the most complete ecclesiological expression was one where the bishops, clergy, and lay faithful contributed to the life of the Church fully and actively through the charismatic gifts given to each group. To support this claim, Newman turned to historical precedents, and found in the Church of the past examples of the lay faithful complementing the work of the Magisterium. He thereby “suggested that sensus fidei was a sort of instinct possessed by each individual believer ‘deep in the bosom of the Mystical Body of Christ,’ and that the Spirit of God arouses in all the faithful together ‘an instinct, an eminently Christian tact, which leads it to all true doctrine. That instinct possessed by all the faithful together is what we mean by sensus fidelium.’”317 In so doing, Newman continued his project of developing a well-educated lay faithful in the English Church. He believed that the lay faithful as a group and as individual believers were the best missionaries for the Gospel message. One hundred years later, the Fathers of the Second Vatican Council would incorporate some of Newman’s thought into the Dogmatic Constitution on the Church Lumen gentium and would implicitly allow Newman’s influence to be felt in the Dogmatic Constitution on Divine Revelation Dei verbum.

This does not mean, however, that Newman and this theological program has been accepted without question. As was seen in the arguments presented by authors such as Michael Slusser, Avery Dulles, and Joseph Komonchak, there are moments when Newman’s project failed to express the needs of the Church in its theological journey and at times, his historical approach

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collapsed under the weight of its own investigation. Other theologians have noted that in Newman’s development model, it becomes a dangerous trend to demand from the papal Magisterium certainty and definition while a topic was organically developing. Such a pronouncement could immediately end debate. As Donald Wuerl observes,

The final judgment on the authenticity of any particular gift—or any particular teaching—rests with the bishops who are charged to foster the unity of the Church. There can be no unity with multiple, contradictory teachings. Judgment does not mean that there is no discussion or even divergent views during the development of thought on a given subject, but at some point in dialogue, discussion, and even disagreement give way to decision.318

Newman saw development in the Church as the internal method for preventing Scripture and Tradition from becoming stagnant. He found in the Church’s history doctrines that have always been held as true, while those same doctrines have also been in a constant state of change and reimagining, so that the truth they hold can be communicated to new audiences, can evoke new responses of faith, and can form new communities. Newman asserted that both private judgment and public discussion have their limitations when it comes to the comprehension of theological truth and the deposit of faith. Therefore, all believers, Newman included, must “commit ourselves by anticipation to believe truths which at present we do not believe, because they have never come before us;—we limit henceforth the range of our private judgment in prospect by the conditions, whatever they are, of that dogma.”319 To this claim, Newman stated that when less significant truths are discussed, such as “private conclusions from premises, or are the dicta of theologians, … we are not bound to accept with an absolute faith what is not a dogma,


319 GA, 151.
or the equivalent of dogma, what is not *de fide*; such judgments, however high their authority, we may without loss of communion doubt, we may refuse to accept.”\(^{320}\)

General Conclusions

On April 28, 1990, Joseph Cardinal Ratzinger gave a presentation on the hundredth anniversary of the death of John Henry Cardinal Newman, in which he gratefully acknowledged how he was influenced as a seminarian in Freising by the thoughts of the English theologian. As Ratzinger explained, his seminarian prefect Alfred Läpple, who was working on a dissertation investigating the theology of conscience, first introduced him to Newman. From conversations with Läpple, Ratzinger found that “Newman's teaching on conscience became an important foundation for theological personalism, which was drawing us all in its sway. Our image of the human being as well as our image of the Church was permeated by this point of departure.”  

Ratzinger learned from Newman (through Läpple) that personalism was not equivalent to an individualism where whims and fancies ruled the day. Instead, personalism as bound by conscience “does not mean being free to make random choices – the exact opposite is the case.” From this personalism and its reliance on conscience, Newman proved that “conscience in its true sense is the bedrock of Papal authority; its power comes from revelation that completes natural conscience, which is imperfectly enlightened, and ‘the championship of the Moral Law and of conscience is its raison d'être.’”


2 Ibid.

3 Ibid.
Ratzinger also affirms the connection between his own theological concept of conversion and Newman’s theory of development, and he uses Newman’s life as an example of that connection:

In the concept of development, Newman's own life plays a role. That seems to become visible to me in his well-known words: “… to live is to change, and to be perfect is to have changed often.” … Throughout his entire life, Newman was a person converting, a person being transformed, and thus he always remained and became ever more himself. … Conversion is the iter - the roadway of a whole lifetime. And faith is always “development,” and precisely in this manner it is the maturation of the soul to truth, to God, who is more intimate to us than we are to ourselves. … In the idea of “development” Newman had written his own experience of a never finished conversion and interpreted for us, not only the way of Christian doctrine, but that of the Christian life.4

This dissertation has argued that just as it has contributed to the field of theology, so too does John Henry Newman’s concept of development present a workable model for the theologian’s contribution within the field of canon law. This dissertation presents a novel and innovative interpretation of Newman’s work, for while he is highly regarded in current theological discussion, his inclusion in canonical thought has been significantly limited at best, if not absent all together. Newman simply is not seen as a canonical or legal scholar, and his writings both in his former Anglican life and in his latter Roman Catholic life contain few contributions to the topic, either historically or in the Church of his day. To claim, however, that the dearth of writings devoted to the topic of canon law removes the works of John Henry Newman from discussions on canonical development or the role of the theologian in canon law is to misunderstand Newman’s core ecclesiological project entirely.

In his concept of development, Newman saw a three-fold process at work in the field of theology and, as this dissertation argues, in canon law by extension. The three elements present in

4 Ibid.
development do not work linearly, as if the process followed a flowchart moving from step A to steps B and C in succession. Instead, Newman recognized that the process is dynamic in that it moves freely between involved parties and the interaction of these parties is often less than organized. This dynamism allows the Church to react to new theological developments and present new canonical responses through a variety of ways.

This dissertation started its presentation with an explanation of Newman’s model of the theologian, beginning with his understanding of private judgment, which focused its reflections and investigations on the conscious reception of the teachings of the Church in the creeds. Newman saw private judgment in contrast to the process of accepting the creeds in the primitive Church, where faithful Christians never hesitated to believe after receiving the Church’s teachings contained in the creeds, and never questioned the content of the creeds recited at each liturgical celebration. For Newman, the Church of his day demanded its believers to canvass the truth contained in the creed in a slow and deliberate way, so that the believing Church in new and meaningful expressions can elaborate the truth.

From this private judgment, and the theological investigations that propose new insights gleaned from the creeds, Scripture, and Tradition, Newman recognized that not only was he as an individual believer engaged in such activity, but that other believers in other parts of the community were engaged in the same behavior and may be developing similar interpretations because of their investigations. Private judgment thereby moves into a communal context, where individuals come together to share their findings. This communal context lent itself to public discussion of theological investigations and their results, which in turn creates doctrinal development when the Church accepts the results or the proclamation of heresy when the results are rejected. In this stage of the process, Newman emphasized the part played by the believing
community through the *sensus fidelium*, which would prove useful in the theology presented by the documents of the Second Vatican Council. He also gave the university an important role in the promotion of the *sensus fidelium* through its incorporation of all scientific fields in the discussions surrounding new theological ideas.

In the third section of this first chapter, we looked at Newman’s understanding of hierarchical moderation within the theological process. This chapter necessarily involved the interplay between doctrinal development and infallibility, but also presented Newman’s notion of conscience, which he believed played as important a part in the moderation of theology and the pronouncements of the Magisterium since conscience guides the person in the probing of truth during his or her investigations. Infallibility and conscience are compatible notions and, for Newman, they became notions that worked together to determine the acceptability of new theological ideas. This section used Newman’s *Grammar of Assent* to argue that the elements of private judgment, public discussion, and moderation through both infallibility and conscience could work together in harmony to promote the theological process.

Following this first chapter on Newman, the dissertation moved to its second chapter that investigated the place of the theologian within canon law. This second chapter began by analyzing the historical development of the teaching function in the Catholic Church from its beginnings in the *Acts of the Apostles* through the sessions of the Council of Trent. This historical investigation was followed by a detailed look at the description of bishops and the Christian faithful contained in the 1917 *Codex Iuris Canonici* and the 1931 apostolic constitution *Deus scientiarum Dominus*. The third section of chapter two focused on the documents of the Second Vatican Council, specifically *Gravissimum educationis, Gaudium et spes, Lumen gentium, Apostolicam*
actuositatem, and Ad gentes, and how each document presented the notion of the Church’s teaching office, theology in general, and the place of the theologian in the Church.

In this chapter’s second half, the focus of the study shifted to the pontificate of John Paul II and the canonical understanding of the theologian presented not only in the 1983 Code of Canon Law, but also in the apostolic constitutions Sapientia Christiana (1979), Pastor bonus (1990), and Ex corde Ecclesiae (1990), the instruction Donum veritatis (1990), the encyclical Veritatis splendor (1993), and the apostolic letter motu proprio Ad tuendam fidem (1998). With the thorough investigation of each of these documents and the reaction of theologians and canonists to the statements contained in them, it was proven that the theological models presented in the Second Vatican Council grew more institutionalized through a hierarchically-based model in organizing educational institutions. In the chapter’s final section, the 2018 apostolic constitution Veritatis gaudium of Pope Francis became the focus of investigation with its subtle changes to the requirements for those who teach in the name of the Church.

The dissertation’s third chapter presented the connection between John Henry Newman’s theology of development and canon law. It first acknowledged Newman’s failure as the inaugural rector of the Catholic University of Ireland and investigated the structural and canonical issues that Newman faced as rector that he failed to overcome. Following this investigation, the chapter presented the critiques levelled against Newman by both his contemporaries and by modern theologians. It further showed how Newman’s theological perspective reached a nadir in the modernist controversies of the nineteenth and early twentieth centuries before growing in acceptance and influence during the second half of the twentieth century. It would take the Second Vatican Council for Newman’s thoughts, which percolated to the surface amidst the growing reform movements of nouvelle théologie, to take hold in the contemporary Church.
The final section of this chapter created a development model in canon law that highlighted the contribution of the theologian within a canonical system. The first part of this section discussed the thought of Francis Sullivan and Ladislas Örsy in relation to John Henry Newman and his theory of doctrinal development. Through this discussion, a system of orthodoxy and orthopraxy was created where Newman’s theology influenced canonical language through an emphasis of assent, a grounding of infallibility in the lived experience of the community, and a theologizing of canon law to give it proper perspective. This system in turn allows Newman’s concept of development to speak in a canonical milieu and extends Newman’s influence into canon law in a positive and novel way.

In the section’s second part, the dissertation discussed the key role played by the International Theological Commission in developing a system of interaction between theologian, community, and Magisterium. Special attention in this section was given to the documents Theology Today: Perspectives, Principles, and Criteria and Sensus Fidei in the Life of the Church, two documents that rely heavily on the thought of John Henry Newman in expounding the role of the theologian. A continued expansion of the specific notion of the sensus fidelium followed in the third part of this section, which included a lengthy investigation of the thoughts of Ormond Rush as they relate to Newman’s division of the sensus fidelium into three fields: the sensus laicorum, the sensus theologorum, and the sensus episcoporum. The final word in this section was given to Pope Francis and the apostolic exhortation Evangelii gaudium, where Francis advocates the development of a pastoral Magisterium that resembled Newman’s understanding of a teaching office that is both normative now and open to the possibility of further insight in the future.

As stated in the introduction to the work, this dissertation represents a unique effort to harmonize Newman’s concept of development and current canonical practice while proposing a
new model for integrating doctrinal development and canon law in the life of the Church. Newman remains a theologian “in vogue” within the contemporary Church, but this popularity leads to its own dangers. Newman has been described as an imaginative conservative,5 a theologian of “progressive illumination,”6 a conservative radical reformer,7 and “a source of inspiration to Catholic liberals [and] the most electrifying religious thinker and writer in English of the past 200 years”8 by none other than the *Financial Times* of London. That same *Financial Times* article claimed, “Catholic officialdom are presenting Newman as an exemplar of unquestioning papal allegiance. The Cardinal has been pontifically hijacked.”9 It is the position of this dissertation that these descriptions of Newman are not contradictory, and in fact, represent the proper development of doctrine and canon law that Newman stressed was always present in the Church. If he were to read the *Financial Times* description that he was “pontifically hijacked,” there is little doubt that Newman would have agreed with the need for papal allegiance and may have gone so far as to publicly support his position being hijacked in the name of that allegiance. Newman’s writings have proven continually that the appropriation of his positions often speak more about the perspective of the commentator than about Newman himself and could easily lead to theologians and canonists misinterpreting him. To allow Newman to speak in his own words on canonical


9 Ibid.
topics, as was done in this dissertation, is the first, novel step that allows future discussions on the contribution of the theologian within a canonical context, discussions that undoubtedly would serve both fields well. While Newman never claimed to be a theologian even when the title was bestowed upon him, and he rarely wrote on the canonical issues of his time, his theory of development in general, and of the development of doctrine specifically, provides a great service to the Church that is both theological in its mental activity and canonical in its organization.
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369


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