

THE DOCTRINAL VALUE OF THE ORDINARY TEACHING OF THE HOLY FATHER IN VIEW OF *HUMANI GENERIS*

In the *Nouvelle revue théologique* last fall, Father Jean Levie, S.J., wrote: "The Encyclical Letter *Humani generis* comes to us as an illuminating work destined to dispel a confusion which was tending to increase and which, in the present situation, could have become extremely harmful. From us it calls for that complete intellectual docility which seeks to understand fully in order to obey perfectly."¹ Father Levie, I think, has expressed admirably the spirit in which any theologian or group of theologians must approach the study of the Encyclical.

I have been asked to discuss the doctrinal value of the Ordinary Teaching of the Holy Father in view of *Humani generis*. As a preliminary, however, some few words must be said about the Ordinary Teaching Authority itself. While I do not believe that there is any real disagreement among Catholic theologians about the substance of their teaching on the Ordinary Magisterium, there definitely is a difference in the terminology employed—a difference that creates a difficulty in teaching the matter to theological students and might possibly be the cause of some confusion. Do we say, for instance, with Dublanchy, that the Pope can be infallible by virtue of his Ordinary Magisterium;² or do we, with Dieckmann, make equiva-

¹ "L'encyclique 'Humani generis,'" *NRT*, Sept.-Oct. 1950, p. 793.

² Cf. the article "Infaillibilité du Pape," *DTC*, VII, col. 1705. The text is reproduced below in footnote 18. It should be remarked here that Dublanchy's position on the Ordinary Magisterium of the Pope and the Ordinary and Universal Magisterium of the Church stems from that of Jean-Michel-Alfred Vacant, whose *Le magistère ordinaire de l'église et ses organes* (Paris-Lyon, 1887) is a pioneer work in the field. Vacant's own position is presented at such length and, it might be added, so diffusely, that an adequate exposition and *critique* would be impossible in a paper of this purpose and scope. Very briefly, Vacant held that the Pope was infallible in his Ordinary Magisterium: "Aussi vais-je avancer une proposition que je n'ai lue jusqu'ici, en termes exprès, dans aucun ouvrage, mais qui me paraît conforme à la doctrine de tous les auteurs qui ont soutenu l'infaillibilité du Pape, savoir que le Pape exerce personnellement son magistère infaillible non seulement par les jugements

lent terms of "Ordinary" Magisterium and "non-infallible" Magisterium? ³ Do we say, with Billot, that the Pope can speak infallibly without speaking *ex cathedra*; ⁴ or do we, with Zapelena, Diekamp and others regard an infallible pronouncement as, inevitably, also an *ex cathedra* one? ⁵ Are we to say that the Holy Father is infallible in his Ordinary Magisterium or that he is not? Are we to say that an infallible pronouncement is necessarily an *ex cathedra* pronouncement or that it is not? In what terms can we best express the reality involved? These, I submit, are questions that should be examined before we can discuss without nominal ambiguity the Ordinary Magisterium of the Pope.

solennels, mais encore par un magistère ordinaire qui s'étend perpétuellement à toutes les vérités obligatoires pour l'Église" (*op. cit.*, p. 98). In his defense of this position, Vacant argues at length from the *Syllabus* of Pius IX and its doctrinal force. Vacant also suggests that "il y a lieu de distinguer deux sortes de définitions *ex cathedra*: celles qui sont portées par des décrets solennels et celles qui sont portées par le magistère quotidien du Souverain Pontife" (*op. cit.*, p. 105). Vacant has a long and in general admirable treatment of the Ordinary Magisterium of the Church in his *Études théologiques sur les constitutions du Concile du Vatican*, II (Paris-Lyon, 1895), 89-121. However, the theology of the Ordinary Magisteria of Church and Pope has been extended and clarified since Vacant's time, and I do not think that many theologians today would accept all of his conclusions unreservedly.

³ Cf. H. Diekmann, S.J., *De ecclesia*, II (Frib.-Bris., 1925), 112-27: "De magisterio Romani Pontificis ordinario, non infallibili. . ."

⁴ Cf. L. Billot, S.J., *De ecclesia Christi*, 4th ed., I (Rome, 1921), 632. The text is reproduced below in footnote 20. Billot's position is adopted, it might be noted in the Tanqueray-Bord *Synopsis theologiae dogmaticae fundamentalis*, 25th ed. (Paris, Turin, Rome, 1947), cf. pp. 633 f. Another standard textbook author, J. M. Hervé, remarks (as does Tanqueray-Bord), that according to the Vatican definition, "R. Pontifex est per se infallibilis in exercitio magisterii sui *solemnis*; de actibus autem ejus magisterii ordinarii nil habetur in definitione Vaticana" (*Manuale theologiae dogmaticae*, 19th ed. [Westminster, Md., 1943], p. 563). Hervé, however, does not commit himself one way or another on the question of terminology with which this part of the present paper is concerned.

⁵ Cf. T. Zapelena, S.J., *De ecclesia Christi*, pars altera (Rome, 1940), 78; F. Diekamp-A. Hoffman, O.P., *Theologiae dogmaticae manuale*, I (Paris, Turin, Rome, 1944), 72 f. Cf. also M. d'Herbigny, S.J., *Theologica de ecclesia*, 3rd ed., II (Paris, 1928), 350; R. M. Schultes, *De ecclesia catholica* (Paris, 1931), p. 455; Christian Pesch, S.J., *Praelectiones dogmaticae*, I (Frib.-Bris., 1894), 310; J. V. Bainvel, *De magisterio vivo et traditione* (Paris, 1905), pp. 104, 107.

In the famous words familiar to every theologian, the Vatican Council thus defined the infallibility of the Pope:

. . . docemus et divinitus revelatum dogma esse definimus: Romanum Pontificem, cum ex cathedra loquitur, id est, cum omnium Christianorum pastoris et doctoris munere fungens pro suprema sua Apostolica auctoritate doctrinam de fide vel moribus ab universa Ecclesia tenendam definit, per assistentiam divinam ipsi in beato PETRO promissam, ea infallibilitate pollere, qua divinus Redemptor Ecclesiam suam in definienda doctrina de fide vel moribus instructam esse voluit; ideoque eiusmodi Romani Pontificis definitiones ex sese, non autem ex consensu Ecclesiae, irreformabiles esse.⁶

This definition of the Council must, of course, be the foundation for any treatment of the Catholic teaching on the infallibility of the Roman Pontiff. It must not be minimized, nor must it be exaggerated. The Council's words are clear, and they must be understood as meaning what they say—neither more nor less.

It is a divinely revealed dogma, according to the Conciliar definition, that the Roman Pontiff speaks infallibly *when he speaks ex cathedra*. The Council explains also just what it means by this "cum ex cathedra loquitur"; it goes on to say, "id est. . ."—that is when (1) in performance of his office as Pastor and Teacher of all Christians, (2) in the supreme exercise of his Apostolic Authority, (3) he defines a doctrine of faith or morals (4) to be held by the universal Church.

Clearly, then, *as far as the Vatican definition goes*, to say that the Pope speaks infallibly, and to say that he speaks *ex cathedra* are two ways of describing the same concrete act; they both mean that he has fulfilled the description given in the four conditions outlined in the definition. The fulfillment of the conditions equals an *ex cathedra* pronouncement equals an infallible pronouncement. This is just as true read backwards: an infallible pronouncement equals an *ex cathedra* pronouncement equals the fulfillment of the four conditions; or in any sequential arrangement that can be made of the three elements. In the language of logic, we would say that the Council's definition gives the same extension to "*ex cathedra*" that it

⁶ DB, 1839.

gives to "infallible": all *ex cathedra* pronouncements are all infallible pronouncements. Through whatever vehicle of dissemination he employs, when the Sovereign Pontiff speaks infallibly, he speaks *ex cathedra*.⁷

Does this mean that the Pope, in his Ordinary Magisterium, is

⁷ Zapelena, *loc. cit.*: "Conditiones infallibilitatis pontificiae continentur sub hac formula: 'quum ex cathedra loquitur.' Quam formulam ipsum Concilium sic explicat: 'Quum omnium Christianorum pastoris et doctoris munere fungens pro suprema apostolica auctoritate doctrinam de fide vel moribus ab universa Ecclesia tenendam definit.'" Diekamp, *loc. cit.*: "Summus Pontifex summa potestate Magisterii pollet et est infallibilis in definitionibus ex cathedra." Diekamp, speaking of the decrees of the Sacred Congregations of the Roman Curia (which are, of course, organs of the Ordinary Magisterium of the Pope), remarks that they do not become vested with infallibility by Papal approbation either common or special, "sed per hoc tantum, quod modo, quo omne dubium excluditur, ad dignitatem definitionis cathedralis elevantur." D'Herbigny, *loc. cit.*: "Immunitas ab errore in docendo . . . definitur non pro casu quocumque, sed solum quando Pontifex *ex cathedra* loquitur." Schultes, *loc. cit.*: "Leo XIII in plurimis suis magnificis Encyclicis doctrinam christianam et catholicam ut Rom. Pontifex, ut pastor omnium omnibus proposuit, at tantum insinuando, consiliando, exhortando, suadendo, simpliciter proponendo, non vero definiendo ex cathedra, adeoque non formaliter infallibiliter." Pesch, *loc. cit.*: "Si quaeris, quomodo dignosci possit, quae definitiones sint ex cathedra factae ideoque infallibiles, respondeo. . . ." Bainvel, *op. cit.*, "Non esse stricte infallibile nisi actum *ex cathedra* pronuntiantis. . . ." (p. 104); "Si quis tamen contendit esse actum infallibilem magisterii ordinarii (ut videtur intelligere Vacant), in suo sensu abundet. Inter utramque opinionem non tantum interest quantum primo adspectu videtur. Nam conciliatio fit fere in ratione *taciti* magisterii, quo proponitur potius quam imponitur doctrina quae aliunde fere imponitur. Nos hujusmodi Encyclicas ejusdem fere generis esse opinamur ac Decretum ad Armenos, vel editionem Pontificiam Vulgatae vel catechismum Tridentinum, quae ratione sui non important auctoritatem infallibilem, immo compatiuntur errorem. *N.B.*—In iis et sequentibus supponimus tum infallibiliter loqui Papam cum loquitur ex cathedra, id est, cum vult per supremam suam auctoritatem definitive pronuntiare in re doctrinali" (p. 107). Bainvel holds that, although the Pope is strictly speaking infallible only in *ex cathedra* pronouncements, nevertheless, by the Ordinary Papal Magisterium, "infallibiliter dirigi Episcopus et fideles. Ex quibus consequitur per actus fere non infallibiles procurari infallibiliter veritatem doctrinae et fidei" (pp. 104-105). While Bainvel seems to agree with the main position adopted in this paper, his general teaching is not as clear as it might be. Perhaps a little more sparing use of the too-convenient word "fere" might have helped.

not infallible? In answer to this question we must be very careful of our terminology, and understand well the reality underlying our words.

The Vatican Council defined that the Holy Father enjoys the same infallibility in defining doctrines concerning faith and morals that the Church possesses ("ea infallibilitate pollere, qua divinus Redemptor Ecclesiam suam in definienda doctrina de fide vel moribus instructam esse voluit"). Now the *ecclesia docens*, which is to say the residential bishops of the Church, "in union and agreement with and in subordination to the visible head of the Church,"⁸ teaches infallibly either in what is called the "Solemn" (or "Extraordinary") Magisterium—when the bishops are gathered in Ecumenical Council; or in what is called the "Ordinary" Magisterium—when the bishops are dispersed in their several dioceses, in agreement and in moral union among themselves and with the Holy Father.⁹ Since the Church is infallible both in its Extraordinary and in its Ordinary Magisterium, and the Pope—in the words of the Council—"enjoys the same infallibility that the Church possesses," should we not say that the Pope is infallible both in his Extraordinary and in his Ordinary Magisterium? The question is clear; but the answer will depend on what we mean by the Ordinary Magisterium.

First of all, let us not get away from the Conciliar definition. The Vatican Council does indeed attribute to the Pope the same infallibility that pertains to the Church, but it governs that attribution by the clause "cum ex cathedra loquitur"; in other words, the Pope, when he speaks *ex cathedra*, and only when he speaks *ex cathedra*, is infallible as the Church is infallible. If we are to say, then, that "the Pope is infallible in his Ordinary Magisterium," we must provide for an *ex cathedra* mode of pronouncement *within what we mean by the "Ordinary Magisterium."*

Incidentally (and I do not, of course, present this as an apodictical argument, but merely in the interests of a broader view of the

⁸ J. B. Franzelin, S.J., *Tractatus de divina traditione et scriptura* (Rome, 1870), p. 105.

⁹ Cf. Dieckmann, *op. cit.*, II, 73 f. for a good explanation of the *episcoporum consensus* and the *vinculum morale*.

question), from the *relationes* made to the Fathers of the Council by the Reporter of the Commission that prepared the text of the definition for approval in general session, we learn that the Pope's infallibility was characterized as the same as the Church's not with the thought of drawing a parallel between the Extraordinary and Ordinary Magisteria of the Church and the Extraordinary and Ordinary Magisteria of the Pope, but with another purpose in view. The definition was phrased as it is by those who wrote it in order that it might be clear that the Pope's infallibility was to be defined as having the same theological notation as the Church's regarding the "primary" and "secondary" objects of infallibility.¹⁰

What *is* meant by the "Ordinary Magisterium"? Well, we can consider it, of course, as Dieckmann does, precisely as that teaching of the Holy Father which is *not* infallible.¹¹ This has the advantage of simplicity and clarity, but it runs into a difficulty: for when we enumerate (once again as Dieckmann does, following Maroto¹²) such *organs* or *vehicles* of the Ordinary Magisterium as Constitutions, the "Motu Proprio," Apostolic Letters, Encyclicals, Instructions, etc., we are immediately struck by the fact that at least some of them can be and have been the chosen modes of promulgating infallible pronouncements.

Can we say that the Holy Father's Solemn or Extraordinary Magisterium implies a doctrinal *definition*, and that the Ordinary Magisterium implies a presentation, an explanation, an authoritative exposition of Catholic doctrine, but not a "definition"? Provided we employ a rigidly delimited sense of the word "definition," this terminology can not be called incorrect. But we must realize that, in a broad sense, "definition" may be applied to "any doctrinal decision of the Holy See";¹³ and the Holy Father, every time he makes a decision on doctrinal matters, certainly does not call upon

¹⁰ Cf. *Collectio Lacensis*, VII, cols. 416 f. Cf. Vacant, *Le magistère ordinaire* . . . , p. 110; Schultes, *op. cit.*, p. 456.

¹¹ Cf. *op. cit.*, II, 112-27

¹² Cf. Dieckmann, *op. cit.*, II, 113. Cf. P. Maroto, *Institutiones iuris canonici*, 3rd ed., I (Rome, 1921), 393 ff.

¹³ Cf. L. Choupin, *Valeur des décisions doctrinales et disciplinaires du Saint Siège*, 2nd ed. (Paris, 1912), p. 26.

the supreme exercise of his Apostolic Authority. It is true, however, that in the strict sense in which the word "definit" is obviously used in the Vatican Council text under discussion, it is a condition of an *ex cathedra* pronouncement and hence inextricably and inseparably bound up with one.

I submit for the consideration of the Members of this Society that it is in the term *ex cathedra*, to which we constantly return in any treatment of Papal infallibility, that we find the key to a consistent and accurate terminology with regard to the Extraordinary and Ordinary Magisteria of the Sovereign Pontiff. Might we not say the following three things:

(1) *The Pope employs his Extraordinary Magisterium when he speaks ex cathedra. This Extraordinary Magisterium is de se, always, and necessarily infallible.* (In explaining the term *ex cathedra*, Franzelin writes: "Neque enim *cathedra apostolica* aliud est, quam supremum authenticum magisterium, cujus definitiva sententia doctrinalis obligat universam Ecclesiam ad consensum."¹⁴ Bishop Gasser explained to the Fathers of the Council: "In ista definitione . . . continetur actus, seu qualitas et conditio actus infallibilis pontificiae definitionis; tum scilicet Pontifex dicitur infallibilis cum loquitur ex cathedra."¹⁵)

(2) *The Pope employs his Ordinary Magisterium when he speaks to the faithful, indeed as their supreme Pastor and Teacher, but in order to expound, explain, present Catholic teaching, or to admonish, persuade, enlighten, warn, and encourage the faithful; without calling upon the supreme exercise of his Apostolic Authority, and without, in the strict sense, defining a doctrine. In this case he does not speak ex cathedra¹⁶ and the Ordinary Magisterium is hence not de se infallible.*

(3) *However, the Pope may, if he chooses, employ a usual organ*

¹⁴ *Op. cit.*, pp. 108 f.

¹⁵ *Col. Lac.*, VII, col. 414.

¹⁶ Cf. Franzelin, *op. cit.*, p. 109: ". . . possunt esse et sunt Pontificum documenta publica, quibus circa doctrinam de fide vel moribus aliqua monere, suadere, reprehendere, prohibere propagationem alicuius sive opinionis sive erroris propositum est, quin intendant definitivam sententiam edicere, qua adstringatur tota Ecclesia; eoque ipso non est locutio ex cathedra."

or vehicle of the Ordinary Magisterium as the medium of an *ex cathedra* pronouncement. In this case, an Encyclical Letter, for example—certainly a type of document usually associated with the Ordinary Magisterium, may be used as the vehicle of the Extraordinary Magisterium, and hence as the vehicle of an infallible pronouncement. And, since the Encyclical Letter is most commonly used in the Ordinary, non-infallible Magisterium, if it should be made the organ of an *ex cathedra* declaration, this “elevation” of the Encyclical Letter, if we may so speak, will be clearly indicated in the language the Holy Father employs concerning the precise point on which he is speaking *ex cathedra*.

The Encyclical Letter has been taken as an example; obviously what has been said about it is equally applicable in this connection to the other usual organs of the Ordinary Magisterium. The reasons why this paper has chosen to deal specifically with the Encyclical are these: (1) *Humani generis* lays particular stress on the role of the Encyclical as an organ of the Ordinary Magisterium; and (2) theologians in discussing the question of infallibility and the Ordinary Magisterium often look to the Encyclical as “exhibit A.”

For instance, in his article “The Doctrinal Authority of Papal Encyclicals,” Father Joseph C. Fenton writes:

The Vatican Council, we must remember, also teaches that the Bishop of Rome makes an infallible *ex cathedra* definition when he defines “exercising his function as pastor and teacher of all Christians *pro suprema sua Apostolica auctoritate*.” The encyclicals must not be considered, obviously, as documents containing *ex cathedra* definitions except where the Holy Father speaks and teaches in them using “his supreme apostolic authority.”¹⁷

It seems to me that in this passage Father Fenton implies the tenability of the terminology suggested in the three points we mentioned a few moments ago.

It also seems clear, however, that Cardinal Billot and Father Dublanchy would not subscribe to the suggested terminology. In all justice and especially since they also use the Encyclical as an example, we should consider what they have to say.

¹⁷ *The American Ecclesiastical Review*, CXXI, 3 (Sept. 1949), 216.

In his article in the *Dictionnaire de théologie catholique* on the infallibility of the Pope, Dublanchy writes as follows:

Since, according to the decree of the Vatican Council, the Pope possesses the infallibility given by Jesus to His Church, and since, in the Church's case, this infallibility can extend to acts of the Ordinary Magisterium, in the measure and on the conditions indicated above . . . it must be affirmed that the Pope, teaching by himself alone, in virtue of his Ordinary Magisterium is infallible in the same measure and on the same conditions. In order for infallibility to be present, it is, then, required that the truth taught be proposed as having been already defined, or as having been believed or admitted always in the Church, or as being attested by the unanimous and constant agreement of the theologians as Catholic truth.¹⁸

Applying this principle, Dublanchy lists several Encyclical Letters which he considers to have contained infallible pronouncements.¹⁹

Two things should be remarked about Dublanchy's position. (1) It seems a curiously loose terminology to attribute infallibility to the Ordinary Magisterium on the mere grounds that in it the Pope may *repeat* something already infallibly true on *other, previous* grounds. Of course when the Holy Father states in an Encyclical, for instance, that Our Lord is truly present in the Holy Eucharist, he is stating something that is infallibly true; but when anyone, even the famous "simple theologian" repeats an infallible statement he is stating something infallibly true. One can hardly think that the Fathers of the Vatican Council, so careful to express the extension and limitations of the strict-sense Infallibility defined, would

¹⁸ "Puisque, selon le décret du concile du Vatican, le pape possède l'infaillibilité donnée par Jésus à son Église, cette infaillibilité peut s'étendre aux actes du magistère ordinaire, dans la mesure et aux conditions précédemment indiquées . . . on doit affirmer que le pape enseignant seul, en vertu de son magistère ordinaire, est infaillible dans la même mesure et aux mêmes conditions. Pour qu'il y ait infaillibilité, il est donc requis que la vérité enseignée soit proposée comme ayant été définie précédemment, ou comme ayant toujours été crue ou admise dans L'Église, ou comme étant attestée, par le consentement unanime et constant des théologiens, comme vérité catholique." *DTC*, VII, col. 1705. Cf., for the "conditions . . . indiquées," art. "Église," *DTC*, IV, cols. 2193 ff.

¹⁹ Cf. *ibid.*

have welcomed such a presentation as Dublanchy's. (2) Perhaps more importantly, Dublanchy, in drawing a parallel between the Ordinary Magisterium of the Pope as he understands it, and the Ordinary Magisterium of the Church, seems to weaken the true doctrine of the Church's Ordinary Magisterium; for the Ordinary Magisterium of the Church is *constitutively* infallible—i.e., a doctrine is infallibly true *because* it is taught by the Ordinary Magisterium.

In his *De ecclesia Christi*, Billot's position is as follows. Stating that the Pope may speak as Sovereign Pontiff (i.e., not as a private theologian), and to the Universal Church, but without making a "dogmatic judgment" in the strict sense, Billot explains:

. . . examples of [this] case are found in many Encyclical Letters of the more recent Pontiffs, where in performance of their Apostolic office the Popes indeed expound Catholic doctrine but not after the manner of defining, that is, not presenting a new doctrinal judgment, but rather instructing the faithful concerning those things which are contained in the preaching of the Church, the pillar and ground of truth. And although there seems no doubt whatsoever that in such documents addressed to the Universal Church the Pontiffs are infallible (certainly with regard to those things which are directly and *per se* proposed in the documents, as has been said elsewhere) there is not, however, here that *ex cathedra* utterance envisaged by the Vatican canon. . . .²⁰

I see no way of squaring this utterance of the great French theologian with the terminology I have suggested above; and I also have some difficulty squaring it with the rest of Billot's own treatment of Papal Infallibility. I cannot help but think that this isolated state-

²⁰ ". . . casus exempla sunt in permultis encyclicis recentiorum Pontificum, ubi pro munere suo apostolico doctrinam quidem catholicam exponunt, at non per modum definiendum, id est non interponendo novum doctrinale iudicium, sed magis instruendo fideles de his quae sunt in praedicatione Ecclesiae columnae ac firmamenti veritatis. Et quamvis nullatenus dubitandum videatur quin in documentis huiusmodi ad universalem Ecclesiam missis infallibiles sint Pontifices (utique quantum ad ea quae directe et per se in eis proponuntur, ut alias in simile dictum est), non tamen ibi ea locutio ex cathedra est, quam attendit canon Vaticanus. . . ." *Op. cit.*, I, 632.

ment of Billot's, if used as the basis of terminology with regard to infallibility, would lead into serious ambiguities and practical difficulties.

In bringing this all-too-long section to a close, may I suggest again that the key to a clear terminology lies not in any parallelism between the Ordinary Magisteria of Church and Pope, not in any somewhat "material" and too legalistic judgment based merely on the sort of document employed, not even on "definition" as the crucial word; but rather on the Vatican Council's central term *ex cathedra*. Papal Infallibility, in the last analysis, is a matter of Papal intention clearly expressed. And the Pope expresses his intention of speaking infallibly when he presents his judgment after the four-fold manner in which the Council concretizes the term *ex cathedra*.

With this background in mind, we can now direct our attention to what the Pope says about the Ordinary Magisterium in the Encyclical Letter *Humani generis*.

HUMANI GENERIS

Sections 18, 19, and 20 of *Humani generis*, in the NCWC numbering and translation, read as follows:

Unfortunately these advocates of novelty easily pass from despising scholastic theology to the neglect of and even contempt for the Teaching Authority of the Church itself, which gives such authoritative approval to scholastic theology. This Teaching Authority is represented by them as a hindrance to progress and an obstacle in the way of science. Some non-Catholics consider it as an unjust restraint preventing some more qualified theologians from reforming their subject. And although this sacred Office of Teacher in matters of faith and morals must be the proximate and universal criterion of truth for all theologians, since to it has been entrusted by Christ Our Lord the whole deposit of Faith—Sacred Scripture and divine Tradition—to be preserved, guarded and interpreted, still the duty that is incumbent on the faithful to flee also those errors which more or less approach heresy, and accordingly "to keep also the constitutions and decrees by which such evil opinions are proscribed and forbidden by the Holy See," is sometimes as little known as if it did not exist. What is expounded in the Encyclical Letters of the

Roman Pontiffs concerning the nature and constitutions of the Church, is deliberately and habitually neglected by some with the idea of giving force to a certain vague notion which they profess to have found in the ancient Fathers, especially the Greeks. The Popes, they assert, do not wish to pass judgment on what is a matter of dispute among theologians, so recourse must be had to the early sources, and the recent constitutions and decrees of the Teaching Church must be explained from the writings of the ancients.

Although these things seem well said, still they are not free from error. It is true that the Popes generally leave theologians free in those matters which are disputed in various ways by men of very high authority in this field; but history teaches that many matters that formerly were open to discussion, no longer now admit of discussion.

Nor must it be thought that what is expounded in Encyclical Letters does not of itself demand consent, since in writing such Letters the Popes do not exercise the supreme power of their Teaching Authority. For these matters are taught with the ordinary teaching authority, of which it is true to say: "He who heareth you, heareth me"; and generally what is expounded and inculcated in Encyclical Letters already for other reasons appertains to Catholic doctrine. But if the Supreme Pontiffs in their official documents purposely pass judgment on a matter up to that time under dispute, it is obvious that that matter, according to the mind and will of the same Pontiffs, cannot be any longer considered a question open to discussion among theologians.²¹

²¹ The Latin text from *AAS*, XXXXII, 11 [Sept. 2, 1950], 567 f. was provided for the convenience of the CTSA members in the preliminary outline. It runs as follows:

"Utique, proh dolor, rerum novarum studiosi a scholasticae theologiae contemptu ad neglegendum, ac vel etiam ad despiciendum facile transeunt ipsum Magisterium Ecclesiae, quod theologiam illam sua auctoritate tantopere comprobant. Hoc enim Magisterium ab ipsis tamquam progressionis sufflumen ac scientiae obex exhibetur; ab acatholicis vero quibusdam iam veluti iniustum frenum consideratur quo excultiores aliqui theologi a disciplina sua innovanda detineantur. Et quamquam hoc sacrum Magisterium, in rebus fidei et morum, cuilibet theologo proxima et universalis veritatis norma esse debet, utpote cui Christus Dominus totum depositum fidei—Sacras nempe Litteras ac divinam 'traditionem'—et custodiendum et tuendum et interpretandum concredidit, attamen officium, quo fideles tenentur illos quoque fugere errores, qui ad haeresim plus minusve accedant, ideoque 'etiam constitutiones et decreta

First, some general observations.

Humani generis insists clearly upon the Encyclical Letter as an organ of the Ordinary Magisterium. Pope Pius XII reprehends the position of those who would say that Encyclicals do not *per se* demand assent (*assensum*) because in them the Sovereign Pontiffs do not exercise the supreme power of their Teaching Authority. He calls to our attention the fact that what is taught by the Ordinary Magisterium is the living teaching of Christ in His Church, as well as what is taught by the Solemn or Extraordinary Magisterium.²² Note that there is no mention of infallibility here; the precise point is the assent demanded independent of infallibility; and the position reproved is that of the possibility of withholding assent on the

servare, quibus pravae huiusmodi opiniones a Sancta Sede proscriptae et prohibitaе sunt,' nonnunquam ita ignoratur ac si non habeatur. Quae in Romanorum Pontificum Encyclicis Litteris de indole et constitutione Ecclesiae exponuntur, a quibusdam consulto neglegi solent, ea quidem de causa ut praevaleat notio quaedam vaga, quam ex antiquis Patribus, praesertim graecis, haustam esse profitentur. Pontifices enim, ut ipsi dicitant, de his quae inter theologos disputantur iudicare nolunt, itaque ad pristinos fontes redeundum est et ex antiquorum scriptis recentiora Magisterii constitutiones ac decreta explicanda sunt.

"Quae etsi fortasse scite dicta videntur, attamen fallacia non carent. Verum namque est generatim Pontifices theologis libertatem concedere in iis quae inter melioris notae doctores vario sensu disputentur; at historia docet, plura quae prius liberae disceptationi subiecta fuerint, postea nullam iam disceptationem pati posse.

"Neque putandum est, ea quae in Encyclicis Litteris proponuntur, assensum per se non postulare, cum in iis Pontifices supremam sui Magisterii potestatem non exercent. Magisterio enim ordinario haec docentur, de quo illud etiam valet: "Qui vos audit, me audit"; ac plerumque quae in Encyclicis Litteris proponuntur et inculcantur, iam aliunde ad doctrinam catholicam pertinent. Quodsi Summi Pontifices in actis suis de re hactenus controversa data opera sententiam ferunt, omnibus patet rem illam, secundum mentem ac voluntatem eorumdem Pontificum, quaestionem liberae inter theologos disceptationis iam haberi non posse."—(*AAS*, XXXXII, 11 [Sept. 2, 1950], 567 f.)

²² The English text omits the word "also" in its translation of the sentence: "Magisterio enim ordinario haec docentur, de quo illud etiam valet. . . ." The obvious sense of the Holy Father is that even though the Ordinary Magisterium is not the supreme exercise of the Teaching Power, to the Ordinary Magisterium *also* may be applied the words, "He who heareth you, heareth me."

grounds that a Papal declaration is not infallible. The reigning Pontiff also reminds us that "plerumque quae in Encyclicis Litteris proponuntur et inculcantur, iam aliunde ad doctrinam catholicam pertinent." This statement, it will be remarked, states the same fact that led Dublanchy to predicate infallibility of the Encyclicals—a predication the Holy Father does not make. Let us be fair, however. *Humanis generis* cannot be used, I think, in support either of the terminology suggested in the first part of this paper, nor in support of the Billot-Dublanchy explanation. This question, theologically interesting as I believe it is, is not envisioned in *Humani generis*, and to use the words of the Encyclical in an attempt to prove either position would be merely dialectical exercise.

What *Humani generis* unquestionably does intend to do is to stress (in this section, obviously) two major points: the assent that is due to the pronouncements made by the Sovereign Pontiffs in their Encyclical Letters, and the fact that when the Popes *data opera sententiam ferunt* on a matter up to that time controverted, this matter can no longer be considered open to dispute among theologians.

The Assent Required

There are three general classes of assent involved when we speak of reception of the teachings of the Magisteria of the Church and Pope. Two of them are prompted by infallible utterances, and the third by non-infallible. We believe by what is called "divine and Catholic faith" those things which are contained in Sacred Scripture or the Apostolic Tradition and are proposed to us as divinely revealed, either by the Church's Solemn (Extraordinary) or Ordinary Magisterium, or by the Sovereign Pontiff speaking *ex cathedra*.²³ Secondly, the gift of infallibility also extends to those truths which are not in themselves revealed, but which are connected with Revelation, i.e., their accurate teaching is necessary for the integral presentation and protection of the revealed truths. To

²³ Cf. *DB*, 1792. This pronouncement of the Vatican Council deals directly with the Church's Magisterium; but of course it is to be applied also to the Papal Magisterium in the light of the definition of Papal infallibility, *DB*, 1839.

this secondary object of infallibility we give an assent probably best characterized as "fides mediate divina." This term well expresses the nature of the assent: we believe by divine faith in the infallibility of the Magisterial power, and through the medium of this divine faith we assent to truths which are in themselves not objects of divine faith because not included in the deposit of Revelation.²⁴ The third class of assent we give to non-infallible utterances. It is this assent which the Holy Father stresses in the Encyclical *Humani generis*. It is generally characterized as "internal religious assent."

Now the Holy Father may certainly, in his Ordinary Magisterium, propose a truth for which there is real *intrinsic* evidence. If the intrinsic evidence is present and perceived in its demonstrative force by the assentor, then the assent given is characterized as knowledge (*scientia*). There is, of course, no difficulty here. Where we must more carefully examine the psychological nature of the act of assent is in cases—the very frequent cases—where belief or opinion, and not knowledge, is involved. A truth may lack intrinsic evidence, or I may not be capable of grasping the force of the evidence; or the Papal pronouncement may deal with what is a matter of *opinion*, not of certain truth. But in these cases also, I am obligated to a real internal assent. It is on the strength of this fact that critics of the Church most often expatiate on what they regard as the intellectual tyranny of Rome.²⁵

Let us recall first how St. Thomas describes the acts involved:

The proper act of faith, although related to the will . . . nevertheless is in the intellect as subject, because its object is the true, which pertains properly to the intellect. Now there is a difference in the acts of the intellect. There are some habits of the intellect that entail an absolutely full certitude through the com-

²⁴ Cf. Franzelin, *op. cit.*, p. 113. "Fides ecclesiastica" is also used for this type of assent.

²⁵ Cf. for example George Barrois in "An Overlooked Encyclical," *The Christian Century*, LXVIII, 3 (Jan. 17, 1951), 78-80. There is an absurd issue of *The Biosophical Review* (X, 4) devoted largely to attacks on the "arbitrary," etc., nature of the definition of the Assumption. *Humani generis* is also viewed with great alarm.

plete vision of the thing known, as in the case of the habit of *intellectus*, which is the habitual vision of first principles, because one who has intellectual vision that every whole is greater than one of its parts sees this, and is certain. The same thing is true of the habit of knowledge, which, like *intellectus*, produces certainty and vision. Other states there are, however, which produce neither certainty nor vision—namely doubt and opinion. But faith holds the middle place between these two classes, because it is said that faith produces assent in the intellect. Now assent of the intellect may be produced in two ways. In one manner, because the intellect is moved to assent by the evidence of the object itself, which is knowable *per se*, as in the habit of first principles, or known through another thing *per se* knowable, as in the science of astronomy. In a second manner, [the intellect] assents to something not because of the evidence of the object, by which [the intellect] is not sufficiently moved. Hence [the intellect] is not certain, but either doubts—namely when it has no more reason for assenting to one side than to the other—or opines, if it has a certain reason not entirely satisfying for adhering to one side and is left with the fear that the other side may be true. Faith, however, cannot be simply classified in any of these divisions: not with the first [intellectual vision and knowledge] because it is not of itself evident; nor does it doubt, like the two latter, but is determined to one side with a sort of certainty and a firm adherence through some voluntary election.²⁶

²⁶ "Actus autem proprius fidei, etsi sit in ordine ad voluntatem . . . tamen est in intellectu sicut in subjecto, quia objectum ejus est verum, quod proprie pertinet ad intellectum. In actibus autem intellectus, differentia est. Quidam enim sunt habitus intellectus, qui important omnimodam certitudinem ad completam visionem ejus quod intelligitur, sicut patet de intellectu qui est habitus primorum principiorum, quia qui intelligit quod omne totum est majus sua parte, videt hoc, et est certus. Hoc etiam facit habitus scientiae, et sic talis habitus intellectus et scientia faciunt certitudinem et visionem. Quaedam vero alia sunt quae neutrum faciunt, scilicet dubitatio et opinio. Fides vero tenet medium inter ista, quia dictum est quod fides facit assensum in intellectu, quod potest esse dupliciter. Uno modo, quia intellectus movetur ad assentiendum ex evidentia objecti quod est per se cognoscibile, sicut in habitu principiorum; vel cognitum per aliud quod est per se cognoscibile, sicut patet in scientia astronomiae. Alio modo assentitur alicui non propter evidentiam objecti, a quo non movetur sufficienter, unde non est certus, sed vel dubitat scilicet quando non plus habet rationem ad unam partem quam ad aliam, vel opinatur, si habet quidem rationem ad unam partem, non omnino quietantem ipsum, sed cum formidine ad oppositum. Fides autem neutrum horum dicit simpliciter, quia nec cum primis est sibi evidens, nec cum duobus

In the light of these Thomistic principles, we can clarify the assent required in the case of Papal pronouncements in matters of belief and opinion.

Belief. When we accept a statement on the extrinsic grounds of the authority of him who states it, we make an act of belief. Thus, we *believe* things taught by the Pope in his Ordinary Magisterium. But this act of belief is by no means an unreasonable, or irrational act. My will does not "do violence" to my reason, and "force" it to accept something against which, on rational grounds, it rebels. This is, I grant, the picture that critics of the Church's Teaching Authority like to paint, but it is an absurd caricature.

Belief is not a sort of diminutive of knowledge. It is a way of attaining truth that otherwise could not be attained; for when intrinsic evidence is lacking—as it is for by far the great majority of the truths to which we assent, *there is no road by which we can arrive at truth except the road of belief.*

Now it is true that in every act of belief there is an act of will. As St. Thomas insists in the *Summa*, in belief the intellect assents to something, not because it is sufficiently moved to that assent by its own proper object, but because it is moved by the will.²⁷ The part played by the will in belief is so constantly stressed by the Angelic Doctor that it would be fastidious to pile up quotations. As samples merely: in the *Summa*, ". . . the intellect of the believer assents to the things believed, not because [the intellect] sees it either in itself or by means of resolution into principles seen *per se*, but because of the command (*imperium*) of the will";²⁸ in the *De veritate*, "In belief . . . there is no assent unless by command of the

ultimis dubitat, sed determinatur ad alteram partem cum quadam certitudine et firma adhaesione per quamdam electionem voluntariam" (*Super epist. Sti. Pauli ad Heb.*, Cap. 11, lect. 1). Cf. also *In Boet. de Trin.*, Q. 3, a. 1 c. What St. Thomas says in these passages (although he is speaking specifically of supernatural faith) is applicable to faith in general, including "natural faith" or "belief."

²⁷ Cf. *Sum. theol.*, II-II, Q. 2, a. 1, ad 3.

²⁸ ". . . intellectus credentis assentit rei creditae non quia ipsam videat vel secundum se vel per resolutionem ad prima principia per se visa, sed propter imperium voluntatis" (*Sum. theol.*, II-II, Q. 5, a. 2 c). Cf. also II-II, Q. 4, a. 2 c., and a. 1 c.

will.”²⁹ It must be noted immediately, lest a false implication be given, that for St. Thomas, belief (although the will enters into the act *causaliter*) remains an act of the intellect: “. . . belief is an act of the intellect, since the intellect is moved by the will to assent. . . . Belief, however, immediately, is an act of the intellect, because the object of this act is *the true*, which pertains properly to the intellect.”³⁰

How can we maintain the essential rationality of belief when we affirm that the will enters causally into the act? This is a question that cannot be answered from within the field of experimental psychology. Its answer lies in metaphysical analysis, not in psychological observation of the free act; and its ultimate foundation, in the coherent Thomistic system, is in ontology, and indeed on ontology's very frontiers. To develop the point fully would require far more time than is allotted for this entire paper, so a very brief summary will have to suffice.

In the act of belief, there is mutual causality of intellect and will, according to the axiom *causae ad invicem sunt causae*. “At one and the same time the will applies the intellect to judge what it must choose, and is directed by the intellect in its choice. There is here only *priority of nature* and reciprocal priority according to the point of view that one takes of it. In the order of extrinsic formal causality (directive idea), there is priority of judgment, since the judgment actually directs the will that it may choose in a certain manner; but in the order of efficient causality there is priority of volition which applies the intellect to judge in such a way, priority of volition which can suspend the inquiry of the intellect or let it proceed.”³¹

²⁹ “Credere . . . non habet assensum nisi ex imperio voluntatis” (*De ver.*, Q. 14, a. 3 c).

³⁰ “. . . credere est actus intellectus secundum quod movetur a voluntate ad assentiendum. . . . Credere autem est immediate actus intellectus, quia objectum huius actus est verum, quod proprie pertinet ad intellectum” (*Sum. theol.*, II-II, Q. 4, a. 1 c).

³¹ R. Garrigou-Lagrange, O.P., *Dieu: son existence et sa nature* (Paris, 1914), pp. 635-36. The English version quoted is from the standard translation, *God: His Existence and His Nature*, tr. Dom Bede Rose (St. Louis and London, Vol. I, 1934, Vol. II, 1936), II, 316.

Applying this to the assent of belief demanded by a pronouncement of the Ordinary Magisterium, this is what we find. When the truth to be believed is presented to us by the Pope, the intellect, lacking intrinsic evidence for the truth itself, nevertheless does have a tremendously powerful and eminently rational *extrinsic* reason for assent: the authority and doctrinal competence of the Supreme Teacher of Christendom.³² This reason, since it *is* extrinsic, does not coerce the intellectual assent; it is not a necessitating reason, but it is a *sufficient* reason; and only on the intellectual judgment that the Papal Teaching Authority *is* a sufficient reason does the will move the intellect to assent. The act of belief, then, involving the will as it does, is neither unmotivated nor merely spontaneous. It presupposes a sufficient reason which of itself *can* determine it; it does not and cannot, from the nature of the intellect and will presuppose a sufficient reason which *necessarily* determines it. The reason, as a reason, is ontologically to be classified as potential being.³³

May I repeat that our assent to the teaching of the Ordinary Magisterium is a fitting act for reasonable men because of the authority and competence of the Teacher who proposes the truth to be believed. Our belief is fundamentally a rational act and a justified act; and any charges of "intellectual tyranny" are just so much nonsense.

So far we have been dealing with the assent required for what is set forth by the Pope as a certain truth. Admittedly the truth is not guaranteed by the charisma of infallibility; also, in the case of belief, the certitude is neither metaphysical nor physical. But we do have a high degree of moral certitude of *the truth itself*. When the Pope, however, calls upon our assent in a matter of *opinion*, there are other elements to be considered.

³² Cf. Choupin, *op. cit.*, p. 53. Cf. also E. Mangelot, article "Encycliques," *DTC*, V, col. 15. He speaks of "un assentiment religieux, qui est fondé sur l'autorité du gouvernement universel de l'Église et qui relève, d'une certaine manière, de la vertu de foi," and also of an "assentiment intérieur de l'esprit, motivé sur l'autorité de l'Église."

³³ Cf. Garrigou-Lagrange, *op. cit.*, (tr.), II, 330-31.

Opinion. Opinion, of its very nature, does not include certitude of the proposition opined; certitude always involves freedom from any fear of error, but opinion "accipit alterum oppositorum cum formidine alterius."³⁴ It would seem that the assent required in the case of an opinion is more complex than that we give to a proposition set forth as containing a certain truth.

Before examining briefly the nature of the psychological act, however, it must be noted that the Sovereign Pontiffs certainly do require a dutiful submission to the Teaching Authority in matters of opinion. Pius XII, in *Humani generis*, recalls to attention the canon of the Vatican Council that stresses the obligation incumbent on the faithful not only to avoid heresy, but also those errors that more or less approach heresy, "and accordingly 'to keep also the constitutions and decrees by which such evil opinions are proscribed and forbidden by the Holy See.'"³⁵ In *Humani generis* the injunction (following the wording of the Council) is given a negative turn—the obligation to repudiate a proscribed opinion. There is an even stronger admonition—affirmatively or positively phrased—in the Encyclical *Immortale Dei*. Pope Leo XIII wrote:

If in the difficult times in which our lot is cast, Catholics will give ear to Us, as it behooves them to do, they will readily see what are the duties of each one in matters of opinion as well as action. As regards opinion, whatever the Roman Pontiffs have hitherto taught, or shall hereafter teach, must be held with a firm grasp of mind, and as often as occasion requires, must be openly professed.³⁶

³⁴ Cf. *In Boet. de Trin.*, Q. 3, a. 1 c.

³⁵ Cf. *DB.*, 1820.

³⁶ "Itaque in tam difficili rerum cursu catholici homines, si Nos, ut oportet, audierint, facile videbunt, quae sua cuiusque sint tam in opinionibus quam in factis officia.—Et in opinando quidem, quaecunque Pontifices Romani tradiderunt vel tradituri sunt, singula necesse est et tenere iudicio stabili comprehensa, et palam, quoties res postulaverit, profiteri" (*DB.*, 1880). The translation in that of *The Great Encyclical Letters of Pope Leo XIII* (New York: Benziger, 1903), pp. 129-30. For another statement on the necessity of avoiding *opinions* opposed to the teachings of the Ordinary Magisterium, cf. Pius IX, *Tuas libenter* (Dec. 21, 1863) (*DB.*, 1684).

What constitutes, exactly, the "internal religious assent" that we elicit in a matter of opinion? I think it is two-fold. As regards the opinion itself, we do not, of course, have certitude that what the proposition states is true. If we did have that certitude, we would no longer be in the field of opinion, and it is precisely *as an opinion* that the matter is presented to us. Motivated by the authority and competency of the Holy Father, we hold the matter precisely *as an opinion*. This is one aspect of the act of assent we make regarding a matter of opinion.

I believe, however, that there is something more than this required for the integral unconditional internal assent we owe to the Pontifical assent even in the field of opinion. We also assent unconditionally, with no fear of error, to the fact that the opinion the Pope sets forth is well founded and safe, and is the opinion that we as Catholics are to act upon and follow. This two-fold view of the act of assent safeguards both the psychological reality involved and the docility due to the Teaching Authority of the Holy Father.

There remains just one final word to be said in this section regarding the religious quality of the assent. Even where infallibility is not involved, nevertheless our assent, while not as intimately connected with divine faith as is the "*fides mediate divina*" we give to pronouncements regarding the secondary objects of infallibility, does ultimately depend upon our faith in the Teaching Authority of the Vicar of Christ on earth. We assent *as Catholics*; with the humility and docility and whole-heartedness proper to a religious act. We assent not hesitatingly, not grudgingly, but gladly; not as slaves but as men eminently free. For we have seen the Truth, and it is the Truth that makes men free.

Data opera sententiam ferunt

In the last sentence of the passage from *Humani generis* with which we are principally concerned in this paper, Pius XII says: "Quodsi Summi Pontifices in actis suis de re hactenus controversa data opera sententiam ferunt, omnibus patet rem illam, secundum mentem ac voluntatem eorundem Pontificum quaestionem liberae inter theologos disceptationis iam haberi non posse." Here the Holy

Father asserts that when the Popes *data opera sententiam ferunt* concerning some matter up to that time controverted, it is their clear intention by such action to put an end to the theological controversy that had hitherto centered around it.

Obviously, in order to understand the full import and force of this Pontifical statement, we must perceive the denotation and connotation of the phrases "data opera" and "sententiam ferre."

First, however, let us note that Pope Pius XII, reminding the faithful—the theologians especially—that a theological controversy is to be considered closed when the Pope, in his Ordinary Magisterium, makes a definite judgment with regard to the point at issue, was not stating something that had not been stated before. One of the most striking pronouncements *ad rem* was made by Pope Leo XIII in the Apostolic Letter on Anglican Orders, the *Apostolicae curae* of September 13, 1896. The Pope referred to the controversy lately sprung up as to the validity of Anglican Orders and mentioned the fact that even some Catholic writers had spoken in favor of their absolute or at least doubtful validity. He then quoted a number of Papal and Conciliar documents all, evidently, pronouncements of the Ordinary Magisterium, declaring the invalidity of Anglican orders both in general and in specific cases. Pope Leo XIII's comment was this: "Hence it must be clear to everyone that the controversy lately revived had been already definitely settled by the Apostolic See, and that it is to the insufficient knowledge of these documents that we must, perhaps, attribute the fact that any Catholic writer should have considered it still an open question."³⁷ The position of Pope Pius XII in *Humani generis* is the position implied in these words of Leo XIII.

How can we recognize a Papal pronouncement whose intended effect is to close theological discussion on the point with which it deals? Well, first, it will be a pronouncement made *data opera*.

³⁷ "Quae quum ita sint, non videt nemo controversiam temporibus nostris exsuscitatam, Apostolicae Sedis iudicio definitam multo antea fuisse documentisque illis haud satis quam oportuerat cognitiss, fortasse factum ut scriptor aliquis catholicus disputationem de ea libere habere non dubitarit" (*AAS*, XXIX [1896-97], 198).

Data opera. The NCWC translation renders *data opera* as "purposely." Msgr. Ronald Knox's translation of *Humani generis* in the London *Tablet* says ". . . when the Roman Pontiffs go out of their way to pronounce on some subject which has hitherto been controverted. . . ." ³⁸ The official French translation of the Encyclical uses "expressément." ³⁹

The Scheller-Riddle *Lexicon* gives "purposely" as the meaning of *data opera*.⁴⁰ Dr. Köstler's *Wörterbuch zum Codex Juris Canonici* defines it as "mit Absicht." ⁴¹

Data opera is used twice in Canon 1399 of the Code of Canon Law; in 3°: "[Ipso iure prohibentur] Libri qui religionem aut bonos mores, data opera, impetunt"; and in 6°: "[Ipso iure prohibentur] Libri qui . . . data opera ecclesiasticam hierarchiam, aut statum clericalem vel religiosum probris afficiunt." Woywod renders the phrase as "avowedly," and as having "the avowed aim." ⁴² Wernz-Vidal explain it as "ex professo"; ⁴³ Vermeersch-Creusen regard *data opera* as "of direct intention"; ⁴⁴ Capello says: "Dicitur '*data opera*' seu ex professo, non obiter et fere per accidens." ⁴⁵

The section on the prohibition of books in the Code follows closely the Apostolic Constitution issued with regard to the subject by Pope Leo XIII in February, 1896; and it is in Giuseppe Penacchi's commentary on that document that we find one of the most extensive treatments of *data opera*. He explains the phrase as "non incidenter," "non obiter," "studiose, de industria, consulto"; and among the Italian equivalents he lists are "studiosamente" and

³⁸ Sept. 2, 1950, p. 188.

³⁹ Paris: Bonne Presse, 1950, p. 10.

⁴⁰ I. J. G. Scheller-J. E. Riddle, *Lexicon totius latinitatis* (Oxford, 1835), s.v. "do, dare."

⁴¹ Rudolf Köstler, *Wörterbuch . . .* (Munich, 1927), s.v. "dare."

⁴² Stanislaus Woywod, O.F.M.-Callistus Smith, O.F.M., *A Practical Commentary on the Code of Canon Law* (New York, 1943), II, 130.

⁴³ F. X. Wernz, S.J.-P. Vidal, S.J., *Ius canonicum* (Rome, 1935), IV, 165 n.

⁴⁴ "Proscribuntur igitur opera pornographica et etiam quae bonos mores theoretice evertere satagunt, dummodo id faciant *data opera*, seu intentione directe contraria, idque in parte notabili" (A. Vermeersch, S.J.-J. Creusen, S.J., *Epitome iuris canonici*, II [Rome, 1934], 513).

⁴⁵ F. Capello, S.J., *Summa iuris canonici*, II, 4th ed. (Rome, 1945), 484.

"scientemente."⁴⁶ Pennacchi also distinguishes elaborately between *data opera* and *ex professo*⁴⁷—a distinction expressly and coldly rejected by Wernz-Vidal, who maintain that in common usage *data opera* and *ex professo* mean the same thing.⁴⁸ This latter view would seem to be supported by the phrasing of the May 3, 1927, Instruction of the Supreme Sacred Congregation of the Holy Office, which apparently uses the two phrases as corelatives, speaking of books "qui morum integritatem data opera vel ex professo laederent."⁴⁹ But Bouscaren translates the clause: "[all books] which of set purpose or openly attack the integrity of morals."⁵⁰

While there is a great deal of variety in these interpretations, I think it is safe to say that a *data opera* statement is one made with express intention and clear, positive application; it is the result of previous direct deliberation; it is not casual or incidental; it is not an *obiter dictum*.

Sententiam ferre. Humani generis characterizes the Papal controversy-closing statement as ". . . sententiam ferunt." In classical

⁴⁶ I. Pennacchi, *In Constitutionem Apostolicam. . . de prohibitione et censura librorum. . . brevis commentatio* (Rome, 1898), p. 164.

⁴⁷ Cf. *loc. cit.*: "Quae dictio [*data opera*] differt ab alia *ex professo*, quae importat aliquid scribere vel docere circa datam materiam enucleate et cum argumentorum serie atque delectu, ut lectores de re persuadeantur; aliis verbis *docere lectores id quod intenditur*, ut publici plus minus professores faciant, atque auctores qui de aliqua materia libros conficiunt quorum maxima saltem pars de illa agit. . . . Facciolati sensum optime assecutus est dum scripsit: *Ex professo est: non dissimulate, et quasi ex professione*. Haec autem verba a personis ad libros traducantur, et sensus dictionis apertissimus erit. Exinde: omne id quod *ex professo* agitur, etiam *data opera* agitur: sed non *e contra*, cum haec dictio non adeo se extendat, nec tanta complectatur quantum dictio *ex professo*."

⁴⁸ Cf. *loc. cit.*: "'*Ex professo*' licet a Pennacchi distinguatur a '*data opera*' vel similibus locutionibus, tamen ex *communi* usu loquendi, cui standum est, derelictis theoreticis distinctionibus, idem significant."

⁴⁹ Cf. *AAS*, XIX (1927), 188. This Instruction is included in the *Index librorum prohibitorum* (1940 ed.), pp. xix-xxiv. The connective "vel" usually means "or" in the sense of "it is indifferent," "it is a matter of choice," "if you will," etc.; whereas "aut" usually signifies an absolute or essential opposition ("aut Caesar aut nullus").

⁵⁰ T. Bouscaren, *The Canon Law Digest*, I (Milwaukee, 1934), p. 690.

Latin, the phrase is used in an official, juridical sense. It means the vote of a Senator in the Senate-house, or the verdict of a judge in a trial.⁵¹ In the Code of Canon Law, this juridical meaning is maintained. For instance, in the Titulus "De sententia," Canon 1870 reads: "Sententia ferri a iudice debet, expleta causae disceptatione; et si causa sit implicatior et contentionum vel documentorum mole difficilior, interponi potest congruum temporis intervallum." Woywod's paraphrase in part is: ". . . the judge may allow himself a proper interval of time before rendering the final sentence."⁵²

Now we must not read into *Humani generis* any technical meaning that is not clearly there, any legalistic limitation which we do not have sound reason for believing to have been intended by the Holy Father. However, considering the whole background, aura, and connotation of the phrase "sententiam ferre," I suggest that it means more than just any direct statement; it connotes something in the nature of a measured, decisive judgment with regard to some controverted point.

Looking then only at the words of *Humani generis*, and having as our single purpose to understand them accurately so as to be able to obey them completely, I submit that we may recognize the intention of the Sovereign Pontiff to remove a controverted matter from the field of debate when (1) he makes a definite, direct statement—not an *obiter dictum*; (2) which clearly and with recognizable intention applies to a hitherto controverted matter; and (3) which does at least implicitly manifest his will that the controversy be closed.

Obviously, however, no theologian would presume to construct a set of conditions and maintain that the Holy Father must fulfill them; just as no theologian would presume to assign a particular form of words for a Papal declaration. It is quite one thing to say, as this paper does, that when certain circumstances are present, we can

⁵¹ Cf. Scheller-Riddle *Lexicon*, s.v. "sententia." Cf. Cicero, *In Verrem*, II, 4, 47: "Pro di immortales, quem ego hominem accuso? . . . de quo vos sententiam per tabellam feretis?" also II, 2, 31: ". . . qui de bello et pace sententiam ferat."

⁵² *Op. cit.*, ad can. 1870.

recognize immediately the Pope's intention; it would be quite another thing to say, as this paper does not, that *unless* certain circumstances are present, the Pope surely does *not* have that intention. On the strength of the phraseology employed in *Humani generis*, though, we do appear to be justified in saying this: that when there is serious reason for doubting that in a given statement the Holy Father *data opera sententiam fert*, the *prima facie* presumption is that he does not intend that all theological discussion on the matter be closed.

Some Examples

In *Humani generis*, Pius XII gives, in effect, examples of Papal Encyclical declarations which closed—and should have been recognized by all as closing—discussion on the points involved. Mentioning some aberrations in teachings about Sacred Scripture, he comments:

Everyone sees how foreign all this is to the principles and norms of interpretation rightly fixed (*rite statutis*) by our predecessors of happy memory, Leo XIII in his Encyclical "Providentissimus," and Benedict XV in the Encyclical "Spiritus Paraclitus," as also by Ourselves in the Encyclical "Divino Afflante Spiritu."⁵³

He also makes specific mention, in similar fashion, of another of his own Encyclical Letters: "Some say that they are not bound by the doctrine, explained in Our Encyclical Letter of a few years ago, and based on the sources of revelation, which teaches that the Mystical Body of Christ and the Roman Catholic Church are one and the same thing."⁵⁴

⁵³ "Quae quidem omnia quam aliena sint a principiis ac normis hermeneuticis a Decessoribus Nostris fel. rec. Leone XIII in Encyclicis Litteris *Providentissimus*, et a Benedicto XV in Enc. Litt. *Spiritus Paraclitus*, itemque a Nobis ipsis in Enc. Litt. *Divino afflante Spiritu* rite statutis nemo est qui non videat" (*AAS*, XXXXII, 11 [Sept. 2, 1950], 570).

⁵⁴ "Quidam censent se non devinciri doctrina paucis ante annis in Encyclicis Nostris Litteris exposita, ac fontibus 'revelationis' innixa, quae quidem docet corpus Christi mysticum et Ecclesiam Romanam unum idemque esse" (*ibid.*, p. 571).

Now the obvious implication is that the Holy Father in *Mystici corporis*, teaching that the Mystical Body of Christ on earth is co-extensive with the visible Church so that anyone not a member of the Church is by that very fact not a member of Christ's Mystical Body, did wish to remove the matter from the field of theological dispute. It is interesting, in reading *Mystici corporis* in the light of *Humani generis*, to see how clearly the *data opera* and *sententiam ferre* provisions are fulfilled. The Pope makes a definite, direct statement of the doctrine;⁵⁵ he refers to the errors which had been put forth in its regard;⁵⁶ and he certainly makes clear his intention that there should be no further controversy on the point.⁵⁷

Among other Papal documents in which there is reference to a controversy, a definite judgment, and an explicit intention that there be no further controversy, we immediately think of Leo XIII's Apostolic Letter *Apostolicae curae*, and Pius XII's Apostolic Constitution *Sacramentum Ordinis* of November 30, 1947, defining the matter and form of the Sacrament of Holy Orders. However, there seems to be most solid ground for believing that these two documents are more than controversy-closing statements; that they are infallible, *ex cathedra* definitions, pronouncements of the Extraordinary Magisterium of the Pope.⁵⁸

⁵⁵ "Mystici Corporis Christi, quod est Ecclesia, ex ipsius Redemptoris labiis primitus excepta doctrina. . . ." "Iamvero ad definiendam describendamque hanc veracem Christi Ecclesiam—quae sancta, catholica, apostolica, Romana Ecclesia est—nihil nobilius, nihil praestantius, nihil denique divinius invenitur sententia illa, qua eadem nuncupatur 'mysticum Iesu Christi Corpus.' . . ." (*AAS*, XXXV [1943], 193, 199). A good part of the entire Encyclical is devoted to the integral presentation of this doctrine.

⁵⁶ E.g.: "Quapropter funestum etiam eorum errorem dolemus atque improbamus, qui commenticiam Ecclesiam sibi somniant, utpote societatem quandam caritate alitam ac formatam, cui quidem—non sine despicientia—aliam opponunt, quam iuridicam vocant" (*ibid.*, p. 224; cf. also pp. 198, 199 f., 211, 223).

⁵⁷ This is evident from the fact that he condemns the errors that had arisen on the point. Cf. J. C. Fenton, "The Use of the Terms Body and Soul with Reference to the Catholic Church," *AER*, CX, 1 (Jan. 1944), 48-57.

⁵⁸ The solemn terminology employed in the documents, the evident intention of defining with full Apostolic Authority in matters which fall within the ambit of the secondary objects of infallibility truths to be held irrevocably

There is one more example of the doctrinal value of the Ordinary Magisterium of the Holy Father that I should like to call to the attention of the members of this Society. In the Encyclical *Mystici corporis*, Pope Pius XII says that each bishop, as far as his own diocese is concerned, as a true Shepherd feeds the flock entrusted to him and rules it in the name of Christ; then the Pope continues: "Yet in exercising this office they are not altogether independent, but are subordinate to the lawful authority of the Roman Pontiff, although enjoying the ordinary power of jurisdiction, which they receive directly from the same Supreme Pontiff (*immediate sibi ab eodem Pontifice Summo impertita*)." ⁵⁹

Now what about this last clause? Msgr. Ottaviani, in the 1947 edition of his *Institutiones iuris publici ecclesiastici* writes that the bishop's power of jurisdiction is not unlimited, universal, and supreme, and hence must be ordered and determined by a superior power. This is clear, he says, particularly in the light of the thesis that the episcopal power is held through participation or derivation from the Roman Pontiff—a thesis which is, in the words of Msgr. Ottaviani, "up to now considered more probable, even common teaching: now however to be held as entirely certain (*omnino certa*) from the words of Pope Pius XII." ⁶⁰ The words of the Pope to which reference is made are, of course, those quoted a moment ago from *Mystici corporis*.

Msgr. Ottaviani evidently holds that the centuries-old controversy as to whether the bishops receive their episcopal authority immediately from Our Lord, or "mediante Romano Pontifice," has been settled by the words of *Mystici corporis*, so that the latter

by all the faithful—all this would seem to place in the *ex cathedra* category the judgments made. Cf. for *Apostolicae curae ASS*, XXIX (1896-97), esp. p. 202; for *Sacramentum Ordinis*, AAS, XL (1948), pp. 6, 7.

⁵⁹ ". . . id tamen dum faciunt, non plane sui iuris sunt, sed sub debita Romani Pontificis auctoritate positi, quamvis ordinaria iurisdictionis potestate fruuntur, immediate sibi ab eodem Pontifice Summo impertita" (AAS, XXXV [1943], 211 f).

⁶⁰ ". . . hucusque considerata probabilior, immo communis, nunc autem ut omnino certa habenda ex verbis Summi Pontificis Pii XII. . . ." (A. Ottaviani, *Institutiones iuris publici ecclesiastici*, 3rd ed. (Rome, 1947), I, 413.

teaching is now *omnino certa*, rather than *probabilior* or *communis*. On this side of the Atlantic, Father Joseph C. Fenton has written in complete agreement with Msgr. Ottaviani.⁶¹

Does this statement of Pope Pius XII, this simple clause in apposition—"immediate sibi ab eodem Pontifice Summo impertita"—stand in the light of *Humani generis* as *data opera*? Does it satisfy the requirements of the phrase "sententiam ferre"? Or is it an *obiter dictum*, and hence on *prima facie* presumption, not intended to close the theological discussion on the point?

I think most theologians would agree with Msgr. Ottaviani that the proposition is now, in the light of *Mystici corporis*, to be qualified with the note *doctrina certa*. It can be argued, I believe, that the statement is a true *sententia lata*, made *data opera*; it can also be argued, at least as plausibly, that, considering the grammatical form, the statement is an *obiter dictum*, but that the initial presumption against its being a controversy-closing statement yields to the facts of its nature and context. It can also be argued that there is not sufficient evidence, granting the form of the statement, that Pope Pius XII by his Apostolic Authority intended to put an end to all controversy on the point, but that this matter-of-fact Papal statement, crowning a thesis already held *probabilior* and *communis*, and defended by such names as Aquinas, Bellarmine, Suarez, Benedict XIV, and Billot,⁶² nevertheless does effectually settle the controversy once and for all.

I mention all these possibilities as a reminder that it is quite one thing to deal with more or less general principles, as we have done for the most part in this paper, and quite another to apply them when the case becomes a little difficult. Papal pronouncements, including *Humani generis*, are invaluable guidance and help in the work of the theologian; but the work of the theologian remains work.

There is only one more paragraph to this paper, and it is a short one. When the Popes *data opera sententiam ferunt*, theologians are no longer free to call the proposition into question; nor

⁶¹ Cf. "The Doctrinal Authority of Papal Encyclicals," *AER*, CXXI, 3 (Sept. 1949), 210-11.

⁶² Cf. Ottaviani, *loc. cit.*

can they present it to students as a question still open, nor can they discuss *pros* and *cons* of the matter as if the Pope had not spoken. However, theologians are not required to stop thinking about the matter, or to stop studying it; and if a theologian's special competence and careful study in the field of the—by hypothesis—non-infallible pronouncement lead him to the prudent decision that some modification should be made of the statement, then he should make respectful representations to that effect directly to the Holy See. These are the thoughts on *Humani generis* and the Ordinary Teaching of the Holy Father that I humbly present for the consideration and correction of the Catholic Theological Society of America.

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Digest of Discussion

Father Martin J. Healy opened the discussion of Father Benard's paper by remarking that the virtues of the paper and the amount of labor and research it represented were obvious, and needed no comment. The function of a discussion leader, he said, was to state as clearly and as succinctly as possible any problems a paper presented, and to bring forth the criticisms that might be made of the position the paper adopted.

Father Healy stated that he wished to outline several objections that might be made to certain of Father Benard's conclusions. He proceeded to suggest the following problems:

Can the words "ex cathedra" be equated absolutely with "infallible" in the Vatican definition? If they can, how does one explain the position of men like Dublanchy and Billot, and—in the current textbook field—Tanqueray-Bord? Would not their position be proximate to heresy?

Are we really justified in saying that the Ordinary Magisterium of the Pope is never infallible? Is there an adequate distinction between the Ordinary Magisterium of the Pope and the Ordinary Magisterium of the Church? Can we speak of the Pope's Ordinary

Magisterium alone—i. e., distinguishing it from that of the Church? Father Benard's position would seem to demand that we do just that; but then, can we say that the Pope possesses the *same infallibility* the Church possesses?

If the assent of which Father Benard speaks is a "religious assent," of what virtue is it an act? (Father Healy made clear that he was in complete agreement that the assent must properly be called religious, and was merely proposing a further detail to be developed. He suggested that the assent to a non-infallible statement of the Pope stems remotely from the virtue of faith.)

When the Holy Father intervenes to close a theological controversy, does not his action have a positive as well as a negative effect? This would at least be true in a case where one of the opinions hitherto presented is definitely discouraged by the Holy Father's statement. In that case, a teacher of theology may not only no longer treat the matter as open to free discussion, but must teach positively the opposite of the position the Holy Father's statement repudiates. Is it conceivable that this opinion now being taught by theologians should later be proved wrong?

Father Benard resumed the rostrum when Father Healy had finished his remarks. Father Benard began by thanking Father Healy for his clear presentation of objections and problems, stating that it was precisely in anticipation of such informed and searching criticism that he had ventured to present to the consideration of the society the ideas contained in his paper. He proposed to set forth as briefly as possible some answers that could be made to the questions asked by Father Healy.

He stressed first of all that the introductory part of his paper was concerned with the *terminology* to be employed in teaching to students the matter on the Ordinary Magisterium of the Pope. *As far as the Vatican definition goes*, he said, we are justified in equating "ex cathedra pronouncement" with "infallible pronouncement." In the definition we have a clear and definite basis for this terminology. If we go beyond the Vatican definition, and maintain that non-ex cathedra pronouncements may sometimes be infallible, we are opening up a "shadow-zone" that has no limits but the individual

theologian's opinion of its extent. In addition, in the cases which constitute the "classical" objections to Papal infallibility by non-Catholic theologians, such as the case of Galileo, we answer that the Pope was not speaking *ex cathedra*, and hence his infallibility was not involved. But if we admit that non-*ex cathedra* statements may be infallible, we are faced with a further task in answering these objections.

Father Benard agreed with Father Healy that the Vatican definition does not say that *only ex cathedra* pronouncements are infallible. It says that the Pope is infallible *when* he speaks *ex cathedra*. He also agreed that the Vatican definition does not preclude further pronouncements on Papal infallibility, but maintained that in the present state of defined doctrine on the point it is preferable to equate "ex cathedra pronouncement" and "infallible pronouncement."

Father Benard admitted the authority of Billot and Dublanchy and stated that he had hesitated long before adopting a position different from theirs. But there is certainly no question of proximate heresy in their cases, he said. This is a question only of the best terminology to be used in teaching, not of the substance of the doctrine on Papal infallibility, in which all Catholic theologians are agreed. He also pointed out that a number of competent theologians whose names he had mentioned in his paper seemed to favor the stand with regard to terminology that he had suggested.

With regard to his language in speaking of the Ordinary Magisterium of the Pope alone, i.e., not identifying it with the Ordinary Magisterium of the Church, Father Benard said that he was merely speaking as a number of Papal documents, including *Humani generis* spoke. He reiterated the statement made in his paper that the Ordinary and Universal Magisterium of the Church is infallible, but that the Ordinary Magisterium of the Pope is not *per se* infallible, although a usual vehicle of the Ordinary Magisterium may be and sometimes is used as the vehicle of an *ex cathedra*, and hence infallible pronouncement. According to the Vatican definition, he said, the Pope enjoys the same infallibility as the Church *when the*

Pope speaks ex cathedra. He maintained that the question at issue did not involve the further question of the precise relationship between the Pope and the Church with regard to infallibility.

The religious assent given to a non-infallible pronouncement, he agreed, pertains *reductive* to divine faith, since our faith is the ultimate foundation on which our religious and obediential assent is based.

Father Benard agreed that the Holy Father's action in closing a controversy has a positive as well as a negative effect. We give an internal and religious assent to the opinions proposed to us to be held and taught by the pronouncements of the Pope. But an opinion, which *ex hypothesi* is not infallibly presented as true, may be revised if, for example, new and conclusive evidence is uncovered.

The meeting was then opened to comments from the floor.

Father Edward F. Hanahoe, S.A., remarked on the care that must be used in adjudicating the force of the language used in Papal documents. He recalled the case of an Anglican bishop who had deprecated the force of the Apostolic Letter on the invalidity of Anglican orders, because the language was similar to that of the decree suppressing the Jesuits. Father Hanahoe carefully emphasized (amid laughter from the floor) that he was only quoting, and that he himself was not making any parallel between the two documents.

Father Benard agreed that the two documents were entirely and unmistakably different in scope, object, nature, and intention, and that the Anglican bishop's choice of examples had been singularly inept.

Father Eugene B. Gallagher, S.J., referred to the statement in *Casti connubii* on birth control, which many consider an infallible statement, although not a formal definition. Father Gerald Kelly, S.J., pointed out that the language used in this section of the encyclical—the Pope's reference to "the uninterrupted Christian tradition" and his words: "The Catholic Church . . . through Our mouth proclaims . . ."—might well be taken as denoting the statement by the Holy Father of something infallibly true from the Universal and Ordinary Magisterium of the Church.

Father William Murphy, S.S., spoke of the possibility and danger of overly restricting the field of infallibility. Father Benard agreed that theologians should be most careful in this regard. However, he said, the Vatican Council decree was a definite and safe guide—an infallible pronouncement whose scope must neither be minimized nor unduly extended.