

THE ACADEMY AND CHURCH TEACHING AUTHORITY: CURRENT ISSUES

I

At the meeting of the Catholic Theological Society in June, 1978, a workshop was held which heard many of the papers later published in *Chicago Studies*¹ with the title "The Magisterium, the Theologian and the Educator." Several of the papers provide historical perspective on today's topic, and I think it would be useful to recall that history before we address the current issues which will be our focus. Some of that history is also recalled by Francis Sullivan in his book *Magisterium: Teaching Authority in the Catholic Church*.²

First of all, when I speak of church teaching authority or magisterium, I will be speaking of an authority vested in a special way in bishops in virtue of their office. There is no need to review here the witnesses to this tradition of episcopal teaching authority; it is clear that the role of bishops as the judges of faith in times of controversy and as *praecones et doctores fidei* (in the phrase of Gregory the Great), that is as heralds and preachers or pastors of the faith, is established early in the Catholic tradition. In fact, the term magisterium has been used of episcopal and papal teaching authority alone in the nineteenth and twentieth centuries. Even though Thomas Aquinas spoke of a *cathedra magisterii magistralis* as well as of a *cathedra magisterii pastoralis*, attempts to revive this double use of the term magisterium are regarded by some, apparently including Pope John Paul II,³ as a usurpation by theologians of an authority possessed only by bishops. I suspect that the cost of arguing for the term is excessive, although the question which lies beneath the issue of the terminology, that is, the relationship of theology and theologians to papal and episcopal teaching authority, is very much a current issue.

When I use the term, "academy," I will have in mind principally the contemporary university, especially the Catholic university, or at least a faculty of Catholic theology. That means that the academy is a place of both teaching and theological research. Institutions of other kinds, seminaries and colleges for example, or the individuals who teach in them, are also a part of the "academy" to the extent that they function not only to repeat what has been said by earlier generations of teachers, but to interpret the tradition and enlarge our store of theological knowledge through their research and writing. There is no time for a longer

¹*Chicago Studies* 7 (1978), 149-307.

²Sullivan, *Magisterium: Teaching Authority in the Catholic Church* (New York: Paulist Press, 1983).

³See *Origins* 14 (1985), 577: An Address in Lima, Peru.

account of the history of education. Those who wish a fuller definition of "theology" and "theologians" might consult the theological and canonical treatments of the notion of a "Catholic theologian" by Jon Nilson and John A. Alesandro in *Cooperation Between Theologians and the Ecclesiastical Magisterium*.⁴

I would like to point to some important matters about the university, however. First of all, the university is a medieval invention, and that is important for keeping straight the history of the relationships of church teaching authority and the academy. The beginnings of theology as a scholarly discipline are also medieval, and that means that the history of our topic is no older than that. There were great thinkers in both East and West before that time to be sure, including many who were bishops, but the relationship we are interested in dates from the Middle Ages.

The medieval university was for the most part a creation of the Church. Its origins were largely in cathedral and monastery schools, and the authority which exempted the new *universitas studiorum* from local episcopal control was papal authority. It was in virtue of church authority that the medieval university granted its *licentia docendi*, which, in the case of papally chartered universities, gave the recipient the right to teach anywhere in Christendom. In case of doctrinal disputes among theologians, it was the university theological faculty which made the initial determination of orthodoxy or unorthodoxy. It is from the period of the universities or their immediate predecessors in various schools that we find the first identification of propositions from theological writings and their condemnation by church authority. What developed was a system of theological notes and related censures that was used both by theological faculties and by bishops, popes and councils. Of course, universities had faculties other than theology. We will say more of them, but my focus is on theology.

It is helpful to recall, I think, that this system of university theology under the direction of the Church, more or less effectively at various times and places, continued in Catholic Europe to the time of the French Revolution and the Napoleonic Wars. This was the *studium* that along with the *sacerdotium* and the *imperium* constituted the pillars of medieval society. Final decisions in matters of doctrinal orthodoxy were made by the pope and bishops, often in council, but the role of the theological faculties was an important one.

The effectiveness of church control over the universities of course varied. Not only were there competing powers in the form of secular authorities and eventually the modern state, but problems of distance and communication meant that a large measure of oversight and control was exercised by chancellors and other local authorities, including principal bishops deputed by the pope.

All this changed abruptly almost everywhere in Europe and its colonies with the French Revolution and the Napoleonic Wars. Both the political and ecclesiastical map of Europe was changed by treaties and concordats. The medieval,

⁴"A Report of the Joint Committee of the Canon Law Society of America and the Catholic Theological Society of America," ed. Leo J. O'Donovan, S.J. (Washington, 1982). For a fuller account of the history of universities see James Bowen, *A History of Western Education*, Vol. III: *The Modern West: Europe and the New World* (New York: St. Martin's Press, 1981). See also the studies cited in note 1.

church-controlled university was gone, and in its place was a system of schools controlled and directed exclusively by the state, especially in states modeled on Napoleon's France—a highly centralized state which brooked no competition in areas of life it controlled. Higher education was one such area. Much of Catholic Church teaching and canon law on education in the nineteenth and twentieth centuries must be read as a reaction against the monopolistic claims of the state.

Into the vacuum created by the absence of the university theological faculties came the papacy, which sharply increased its teaching activity from the time of Gregory XVI. And from the time of Gregory XVI and Pius IX comes the problem of the relationship of the contemporary academy and church teaching authority.

The relationships I have been describing are almost entirely organizational and institutional. And I have suggested a definition of the academy that limits it to church institutions and to the teaching and study of theology. Some such limitation is needed for practical reasons.

But theological study at the university level is done in a larger context. As an academic discipline, or as a series of disciplines, theology relates to other academic disciplines within the academy, particularly the humanities and social sciences. Theology cannot, therefore, retreat from its efforts to adhere to the canons of disciplined scholarship if it is to retain some standing in the academy.

Moreover, theological study in the contemporary American university is carried on increasingly in conversation with other aspects of religious studies, including but not limited to comparative religion.

This audience is familiar with David Tracy's discussion of the three publics of theology: society, academy and Church, in the opening pages of *The Analogical Imagination*,⁵ and many of you have seen the section of the December, 1984 issue of *The Journal of the American Academy of Religion*⁶ on theology and religious studies: the report of the St. Louis University Project. While I cannot further discuss the issues raised in those places, they are nonetheless issues which we cannot ignore.

For practical reasons then, this paper succumbs to the Catholic temptation to discuss the relationship of theology and related disciplines to church teaching authority and to the academy in organizational and institutional terms. But there can be little doubt that one reason for the continuing intense interest in this matter is the tension academics feel between the Catholic Church both as an institution and as the source of a theological tradition and the expectations of the larger academic world within which they work.

Among those expectations is a very large measure of academic freedom. There is an inherent tension, I think, between that freedom and the accountability owed by theologians to the Church. It is but rarely that one hears or reads of the benefits to the Church of such freedom, so it is a pleasure to cite comments of Archbishop Rembert Weakland of Milwaukee, which he published in a column critical of a theologian:

⁵David Tracy, *The Analogical Imagination* (New York: Crossroads, 1981).

⁶JAAR 52 (1984), 727-57.

Major American Catholic universities . . . long ago adopted the standard American guarantees of academic freedom. This was done not as a compromise of ideal to secular reality, but as a way to make those institutions more effective in service to the church. They would be more effective because they could attract to their work more competent faculty and staff, and thereby enhance the cultural impact of their Catholic witness.

Academic freedom must not be interpreted to mean that truth and falsehood are the same, nor does it mean that one does not have a grave obligation to search for and teach the truth. Academic freedom in our Catholic universities has made them stronger and is a heritage that must not be jeopardized.

The risks of this are also clear . . . But the risks were taken for the greater good that could accrue to the church in America. Seeing, as I do, the immense contributions of . . . the assembly of American Catholic universities, and seeing around the world no collection of Catholic universities to compare with the American, I believe it was a risk well taken.⁷

One can only hope that such appreciations of the benefits of academic freedom in Catholic institutions will become more numerous in the face of opposing pressures. Only then will a healthy tension be maintained.

II

With that background, let me turn to some current issues. Attention to them is not new to this society, especially those which were the concern of the joint committee of the CTSA and the CLSA which produced proposals for promoting cooperation and resolving disputes between bishops and theologians. Other issues have been the concern of a joint committee formed in 1984 in the wake of the withdrawal of the *imprimatur* from the Wilhelm catechism and a book on moral theology by Philip Keane.⁸ This second committee has representatives from the CTSA, the Canon Law Society, the College Theology Society, and the National Conference of Diocesan Directors of Religious Education (NCDD). The CTSA charged me as its representative to deal with the issue of the *imprimatur* and also to stay informed about the handling of the proposed procedures for resolving disputes which were submitted to the National Conference of Catholic Bishops. My comments are in part a report on the work of that committee.

1. The first issue to which I would draw attention is the status of teachers of theology.

In the wake of the state monopolies I mentioned, the Church in Germany developed what was called a "canonical mission," which it demanded the right to grant and to withdraw from those who taught the Catholic religion in the German

⁷*The Catholic Herald*, March 21, 1985, p. 6. I have edited local references out of the text.

⁸Anthony Wilhelm, *Christ Among Us: A Modern Presentation of the Catholic Faith*, 3rd revised ed. (New York: Paulist Press, 1981); Philip S. Keane, S.S., *Sexual Morality: A Catholic Perspective* (New York: Paulist Press, 1978). The charge given to me is reported in *CTSA Proceedings* 39 (1984), 205. The other members of the joint committee are James Provost (CLSA), Kathleen Gaffney (CTS) and Thomas Ivory (NCDD).

schools at all levels including the university. After 1848, the right was conceded in various concordats between the Holy See and European and other states. Generally, it was stipulated in the concordats that the mission could be withheld or withdrawn in cases of unorthodox teaching or moral turpitude on the part of the teacher. In 1931, the requirement for the canonical mission was incorporated into *Deus Scientiarum Dominus*, the constitution of Pius XI governing pontifical universities and faculties, Art. 21.⁹ The constitution also mentions in general terms the usual conditions for withdrawing the mission. In addition, teachers in pontifical universities needed a *nihil obstat* from Rome before the chancellor granted the mission. The chancellor in modern canon law is usually the bishop-ordinary of the place where the university is erected.

The same requirement of a canonical mission and a *nihil obstat*, but without a statement of the conditions for its withdrawal, is found in the 1979 constitution *Sapientia Christiana*, Art. 27.¹⁰ The norms for the implementation of the constitution do, however, prescribe in Article 22 that a procedure be laid out in the statutes of the faculty for the handling of cases of withdrawal of the mission.

Most recently, the 1983 *Code of Canon Law* in canon 812 requires that all those who teach theological disciplines in institutes of higher studies of any kind are to have what is now called a "mandate." Earlier drafts of the code had used the term "mission" and in effect the two appear to be equivalent. Although the notion of mission or mandate has a clear history, the new code does not include any statement about criteria for granting or withdrawing the mandate or any procedures that are to be followed.

The rationale for the mission or mandate was, however, briefly set out in *Sapientia Christiana*: "Those who teach disciplines concerning faith or morals . . . do not teach on their own authority but by virtue of the mission they have received from the Church" (art. 27/1). This explanation of the role of theologians, or at least of theologians who teach, was enunciated by Pius XII in his 1954 allocution *Si Diligis*,¹¹ which was cited recently in the text of an address by Pope John Paul II to the bishops of Belgium.¹²

The New Testament gives ample witness both to the existence of various charisms of the Spirit within the Church and of the duty of those who exercise apostolic office to order those gifts for the upbuilding of the Church. The same vision of the relationship of charism and office is reflected in *Lumen gentium*, 12. But it is one thing to acknowledge the responsibility of church leaders to order the gifts of the Spirit for the good of the Church and something else to suggest that official deputation rather than the Holy Spirit is the source of the charism. There is need for theological work to develop a more adequate understanding of the relationship of church teaching authority to the gifts of theologians.¹³

⁹AAS 23 (1931), 241-62, with *Ordinationes*, *ibid.*, 263-84.

¹⁰AAS 71 (1979), 469-99, with *Ordinationes*, *ibid.*, 500-21. ET: Boston: St. Paul Editions, n.d.

¹¹AAS 46 (1954), 313-17.

¹²Text (in Italian translation) in *L'Osservatore Romano*, May 19, 1985, p. 6.

¹³See Sullivan, *op. cit.*, pp. 196-204.

John Alesandro has called attention to another dimension of this problem in his comments on the new code. He notes that the tendency of the new code is to shift from a system of negative vigilance by church leaders over theology to a system of positive deputation. The requirement for a mandate for teachers of theology is an example of this tendency.¹⁴ Apart from its dubious theological foundations, the new discipline seems to put upon the bishop issuing the required mandate a responsibility for the approved theologian which is not properly the bishop's and to load upon already busy bishops a substantial burden if the procedure is to be carried out fairly and in more than a *pro forma* fashion. It is unfortunate that the mission, which was developed as defense of the Church against the pretensions of the omniscient state, has become, at least in much of the English speaking world where such defenses are happily not needed, only a mechanism for hierarchical control of theological teaching—which is just what it was meant to be, as Alesandro notes.¹⁵

Let me emphasize that to say these things is not all to deny the need for accountability of theologians to church authority. It is only to agree with Alesandro that the move from negative vigilance to positive deputation appears to be unwise.

There is an additional note, and that has to do with the situation of theologians who have multiple relationships to church authority, particularly theologians who are ordained or who are members of religious communities. The "respectful silence" recently imposed upon Leonardo Boff by the Congregation for the Doctrine of the Faith together with the Congregation for Religious and Secular Institutes is a reminder of this situation. The action of the congregations was described in a Vatican press release as "disciplinary measures";¹⁶ and I cannot agree with those who described the actions as providing only a needed "sabbatical" for Fr. Boff.

The issue raised by such actions is whether in the final analysis the Church will be well served if theologians who can be reached by measures of this sort because they are clerics or religious cannot truly exercise their right as Christian believers to pursue theological inquiry (canon 218) and their right to express their views to those who hold pastoral office (canon 212, paragraph 3). The chilling effect of such actions on academic freedom is obvious and deprives the Church of its benefits. The seriousness of the deprivation should not be underestimated.

2. Closely related to these considerations is the status of the proposals made by the CTSA/CLSA Joint Committee and entitled "Doctrinal Responsibilities: Procedures for Promoting Cooperation and Resolving Disputes Between Bishops

¹⁴Alesandro, *art. cit.*, pp. 106-109.

¹⁵"The concept that all theological institutions should depend on ecclesiastical authority underlies these rules. This thinking appears in the *Relatio* of the Code Commission regarding canon 766 in which the reference to the possibility of establishing theological faculties, institutes and chairs in non-Catholic universities . . . was deleted and the matter left to church-state concordats. The reason given for this deletion was: 'Facultates Theologiae Catholicae ut Ecclesiae Magisterio fideles re vera maneant, debent ab Ecclesia dependere' (*Relatio*, p. 183)." I have omitted the text of the deleted canon. Cited from Alesandro, p. 105n.

¹⁶Text in *Origins* 15, 2, May 30, 1985, p. 18.

and Theologians."¹⁷ The report was approved by the two societies and submitted to the NCCB in late 1983. In a meeting with the doctrinal committee last fall, our newer joint committee was assured that the proposals would be considered by the Committee on Doctrine, and I have been assured that the bishops of the committee have the proposals. But, it is a matter of concern that the life of the present committee expires in November, and to date no action has been taken.

3. Another issue that has been a concern of our joint committee is the discipline of the *imprimatur*, a concern made more urgent by the actions of the CDF in requiring the removal of the *imprimatur* from the Wilhelm catechism (now reprinted without *imprimatur* by Harper & Row) and from the book on sexual ethics by Philip Keane.

The prior censorship of books about theology by the Church is roughly as old as the invention of printing. The legislation which is incorporated in the new Code of Canon Law is largely from 1975.¹⁸ One of the effects of the 1975 reform was to reduce considerably the range of books which must have the *imprimatur* before publication. For our purposes it is enough to note that *textbooks* in theology must have an *imprimatur*, but other works in theology do not need it, a significant change from the old code, although review is encouraged (canon 827/3).

The Congregation for the Doctrine of the Faith regards this as a significant liberalization of the rules regarding prior censorship of books—and in that the CDF is surely correct. The issue that remains, however, has to do with the significance of the *imprimatur*. Canon 823 of the new code says that the purpose of prior censorship or the denunciation of books already published is to preserve the integrity of the truths of the faith and morals of the Christian people. Theologians know from the long tradition of theological notes and censures related to them that the meaning of the phrases in the code is not as simple as might appear at first. The current issue then is not whether there is such a thing as legitimate diversity of opinion in the Church on matters related to faith and morals: that point is already conceded. The issue rather is how that legitimate diversity, long represented by what we have called "schools" of theological opinion and tradition in the Church, is to be distinguished from a diversity of opinion that harms the integrity of faith and morals. The question has become more acute in the light of the greatly increased activity of church teaching authority, especially the papal magisterium, in the last 150 years. Such teaching has often gone beyond core doctrine to matters of theological dispute.

That is a topic we will want to discuss. But let me just point out a difference in the cases of the books by Wilhelm and Keane. Current law requires the *imprimatur* for all catechisms: there simply is no such thing in the present law as a catechism which does not have the approval of church authority. I do not wish to argue the merits of the judgment made about whether the Wilhelm book is or is not a catechism in the sense of the code. The point is that when the *imprimatur*

¹⁷Text in *CTSA Proceedings* 39 (1984), 209-34.

¹⁸See the commentary by J. Coriden on Book III of the new code in *The Code of Canon Law: A Text and Commentary* (New York: Paulist Press, 1985), pp. 543-89; and J. Coriden, "The End of the *Imprimatur*," *The Jurist* 44 (1984), 339-56.

was withdrawn, the book could not function as a catechism. That may explain why the publisher was asked or at least decided to withdraw the book from circulation.

But in the new code there is such a thing as an unapproved book about theology, though there are not supposed to be unapproved *textbooks* in theology. So while the *imprimatur* was withdrawn from the book by Philip Keane, the book itself was not withdrawn from circulation.

4. But the issue still remains about the limits of legitimate diversity of opinion within the Church on matters regarding faith and morals. More specifically, one might ask whether we are moving again toward the position enunciated in *Humani generis* that theological questions on which a pope has seen fit (*data opera*) to make a pronouncement (*sententiam ferre*) are no longer open to theological discussion.¹⁹ It is well known that the council did not repeat this formulation and that its theological commission referred questions to the *auctores probati*, who, to be frank, are often not much help. To cite just one example, they tell us little about how the Church could move from the position on religious liberty of Gregory XVI to the decree *Dignitatis Humanae* of Vatican II without someone's being guilty of gross disobedience in the interval.²⁰

One possibly helpful line of inquiry has been suggested by Yves Congar. He calls attention to the dictum of the medieval canonists that it is more important to attend to *what* is said than to *who* said it. And Congar remarks that in the end in doctrinal matters only the truth has authority.²¹

It is not too much, I think, to see this same insight in the teaching of *Dei verbum*, 10 that the teaching authority of the Church is to serve the Word of God, an important statement that corrected *Humani generis*,²² in which Pius XII had declared false a theological method which would judge the clarity of magisterial pronouncements by the obscurity of the sources of revelation.

There is a serious need for a retrieval of the tradition cited by Congar and Tierney and its restatement in a way which does justice to the unquestioned responsibilities of hierarchical teachers, to the truth which is the ultimate norm of church teaching, and to the special gifts of what Newman aptly called the *schola theologorum*.²³

¹⁹AAS 42 (1950), 568.

²⁰See Sullivan, *op. cit.*, pp. 166-73; and J. Komonchak, "Ordinary Papal Magisterium and Religious Assent," in C. E. Curran, ed., *Contraception: Authority and Dissent* (New York: Herder and Herder, 1969), pp. 101-26.

²¹"La 'Réception' comme réalité ecclésiologique," *RSPT* 56 (1972), 369-403, also, in abridged form, in *Concilium* 77 (1972), 43-68; and Brian Tierney, "'Only Truth Has Authority': The Problem of Reception in the Decretists and in Johannes de Turrecremata," in *Law, Church, and Society: Essays in Honor of Stephen Kuttner*, ed. K. Pennington and R. Sommerville (Philadelphia: University of Pennsylvania Press, 1977), pp. 69-96.

²²AAS 42 (1950), 569.

²³J. H. Newman, *A Letter Addressed to His Grace the Duke of Norfolk, on Occasion of Mr. Gladstone's Recent Expostulation* (New York: The Catholic Publication Society,

5. Let me conclude by lingering a moment on that phrase. I wonder whether the emphasis in counter-Reformation Catholic theology on who speaks rather than what is said has also diverted attention from the fact that the individual theologian works as part of a larger whole. Is it really so important that an opinion on this or that is held by theologian X or Y or Z—apart from the reasons offered by the theologian for the opinion and the judgment which the *schola theologorum* makes of the validity of the argument? Is the single theologian's opinion all that important? If there is any single complaint which I hear about theologians from bishops, it is that theologians are not critical of one another. There is some validity to this complaint. Is it possible that theologians too have lost sight of their obligation to be mutually critical as part of their corporate responsibility as a *schola* within the Church?

No longer do we have the *Sacra facultas theologiae Parisiensis* to make pronouncements upon theology and theologians, exercising, if you will, a kind of professional discipline. I do not wish to romanticize a past that was often very imperfect, but surely we need to make better use of means such as meetings of societies like this one, books, journals, and other vehicles for critical exchange among scholars in theology. New vehicles are needed. Careful scholarly work also takes time, and that is a problem in this age of instant communication. The scholarly community needs to remind authoritative teachers in the Church of that fact along with the need for academic freedom and its benefits to the Church.

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1875). I am grateful to Professor John T. Ford, C.S.C., of The Catholic University for calling my attention to Newman's earlier discussion of the *schola theologorum* in his "Lectures on the Prophetic Office of the Church" published in 1837, during Newman's Anglican period. The lectures were republished with some retractions as vol. I of *The Via Media of the Anglican Church* (London: Pickering, 1877). See, e.g., pp. 249-52.