

Conscience “Truly So Called” and Its Counterfeit: John Henry Newman and Thomas Aquinas on What Conscience Is and Why It Matters*

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For Romanus Cessario, O.P., on the occasion of his 70th birthday

Qui facit veritatem, venit ad lucem, ut manifestentur opera eius,
quia in Deo facta sunt.
—Jn 3:21 *Vulgate*

Lead, Kindly Light, amid the encircling gloom, Lead me Thou on!
—John Henry Newman

Where's thy conscience now?—I'll not meddle with it; it makes a man a coward;
a man cannot steal, but it accuseth him; a man cannot swear, but it checks him;
a man cannot lie with his neighbour's wife, but it detects him; . . . it is turned out
of all towns and cities for a dangerous thing; and every man that means to live
well, endeavours to trust to himself and live without it.
—William Shakespeare, *Richard III*, Act I, Scene iv

At the heart of liberty is the right to define one's own concept of existence, of
meaning, of the universe, and of the mystery of human life.
—Justice Anthony Kennedy, *Planned Parenthood v. Casey*

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Introduction

ON DECEMBER 27, 1874, England's arguably greatest theologian of that century, John Henry Cardinal Newman, at the age of 73, published what was to become a famous *Letter*. This open *Letter* was addressed to the Duke of Norfolk, who was a fellow Catholic and a graduate of Newman's oratory school in Birmingham, and was penned in response to an intensely polemical pamphlet, *The Vatican Decrees in Their Bearing on Civil Allegiance*, by the liberal Prime Minister of England, William Gladstone. In his diatribe, Gladstone had taken the promulgation of the dogma of papal infallibility at the Vatican Council in 1870 as an occasion to argue that Catholic subjects of her Majesty committed to papal infallibility could no longer "be trusted to participate loyally and thoughtfully in the nation's civic life."¹

In *A Letter to the Duke of Norfolk* Newman offered a bristlingly brilliant refutation of this and other related allegations advanced by Gladstone. More importantly, however, the *Letter* offered Newman a welcome opportunity to present a condensed account of his understanding of conscience—not only the conscience of Catholics, but conscience in general, what it is and why it matters. The treatment of conscience in the *Letter* represents the mature thought of the Catholic Newman. A lifetime of an intense preoccupation as preacher, polemicist, philosopher, and theologian with the phenomenon of conscience comes to fruition in this extraordinary piece of Catholic apologetics. Were Newman ever to be declared a "Doctor of the Church," he might most appropriately receive the title "Doctor of Conscience."² And possibly the most telling epitaph justifying this title can be found in the rightly famous concluding lines of the section entitled "Conscience:"

occasion of his seventieth birthday as an expression of deep gratitude. During a crucial period in my life, his contributions to sapiential moral theology and especially his personal witness and counsel contributed greatly to the formation of my conscience, truly so called.

¹ John Henry Newman, *Conscience, Consensus, and the Development of Doctrine*, ed. James Gaffney (New York: Doubleday, 1992), 432.

² "In Newman's thought, the primary factor is always conscience." J. H. Walgrave, O.P., *Newman the Theologian: The Nature of Belief and Doctrine as Exemplified in His Life and Works*, trans. A. V. Littledale (New York: Sheed & Ward, 1960), 25.

If I am obliged to bring religion into after-dinner toasts . . .
 I shall drink—to the Pope, if you please—still, to Conscience
 first, and to the Pope afterwards.³

What is Newman trying to say? Isolated from the thrust of the argument of Newman's *Letter*—which in the 1888 edition fills 203 pages—the concluding statement of the section on conscience has suffered the fate of being misinterpreted in a way that is in blatant contradiction to the thrust of the argument jumping off the pages of the *Letter*. This popular misinterpretation—mistaking conscience for its counterfeit—tends to go along the lines of the following syllogism. *Major premise*: Freedom of conscience signifies the sovereign act of my autonomous will to which all external instruction and guidance are secondary, be they divine or human. *Minor premise*: Papal teaching is an instantiation of external instruction and guidance. *Ergo*: Freedom of conscience trumps papal teaching. And therefore indeed: conscience (so called) first, the pope—if at all, at best—second.

The problem with this erroneous interpretation of Newman's after-dinner toast is twofold. The syllogism on which it relies rests, first, on a false major premise, a premise built upon the counterfeit of conscience; and, second, on an underdeveloped and hence at best misleading minor premise. In order to capture the true meaning of Newman's after-dinner toast and the precise understanding of freedom of conscience entailed in it, one must gain first a sound understanding of the notion of conscience with which Newman operates and secondly a fuller appreciation of the precise role of the Pope's magisterium in relationship to conscience in its true sense.

I shall argue in this essay that Newman—supported by Aquinas—holds conscience to be essentially theonomic, and that due to its theonomic nature, conscience gives rise to positive freedom, freedom in the truth. This freedom stands in sharp contrast to the negative freedom characteristic of the counterfeit of conscience, a freedom that protects

³ Newman, *Conscience*, 457. In the following, I shall also refer to an early standard edition of Newman's letter: John Henry Cardinal Newman, *Certain Difficulties Felt by Anglicans in Catholic Teaching*, vol. 2 (London: Longmans, Green, 1888; repr. Westminster, MD: Christian Classics, 1969), 175–378; 261.

the sovereignty of self-determination from interior and exterior interference.

But before entering into theoretical considerations about conscience, I shall illustrate briefly Newman's understanding of conscience in concrete operation by attending to two hypothetical cases he entertains in the *Letter*. The obvious occasion at hand for these cases was Prime Minister Gladstone's allegation of the inherently divided allegiance of Catholics between loyalty to their nation and obedience to the pope. Before Newman considers any concrete scenario, he makes a point of central importance for the context in which the cases of conflict must be understood. In virtue of the fundamentally different functions of state and Church, he states that "the circumference of State jurisdiction and of Papal are for the most part quite apart from each other; there are just some few degrees out of the 360 in which they intersect." But what if such a conflict would occur in the few degrees in which state and papal jurisdiction did indeed intersect?⁴

To address this worry, Newman considers several hypothetical cases. Here is one of them:

Were I . . . a soldier or sailor in her Majesty's service, and sent to take part in a war which I could not in my conscience see to be unjust, and should the Pope suddenly bid all Catholic soldiers and sailors to retire from the service . . . taking the advice of others, as best as I could, I should not obey him.⁵

Consider another hypothetical case Newman offers:

Suppose, for instance, an Act was passed in Parliament, bidding Catholics to attend Protestant service every week, and the Pope distinctly told us not to do so, for it was to violate our duty to our faith—I should obey the Pope and not the Law.⁶

It is not very difficult to transpose this hypothetical case into our con-

⁴ Newman, *Conscience*, 444; *Difficulties*, 240.

⁵ Newman, *Conscience*, 445; *Difficulties*, 241–42.

⁶ Newman, *Conscience*, 444; *Difficulties*, 240.

temporary context. Suppose a contemporary British, or for that matter, American government were to create laws that would require Catholics—by complying with these laws—to violate their duty to the faith and morals as taught by the Church and put themselves into the proximity of grave systemic moral evil or make themselves even cooperate with such grave moral evil? And let us assume that the pope together with the Catholic bishops of such a country had spoken out collectively and consistently against such laws? Newman's answer is clear: "I should obey the Pope and not the Law."⁷

What are some of the underlying assumptions hidden in Newman's two cases? First, popes are not infallible in particular political and practical judgments where a properly informed conscience might direct Newman (and others) to judge differently. However, when the pope authoritatively affirms matters of faith and morals that are held definitively by the ordinary universal episcopal magisterium, he teaches infallibly and is owed "assent of faith." And when the pope teaches on matters of faith and morals by way of his ordinary papal magisterium, he is owed a reverent obedience (*obsequium religiosum*) from all Catholics.⁸

Second, while the state has a legitimate claim upon the loyalty of all citizens and upon their due respect of its laws, the state has no legitimate authority in matters pertaining to the substance of faith and morals. Nor does the state have legitimate authority over matters that fall under the universal papal jurisdiction, that is, over matters that pertain to the specific organization of the life of faith, divine worship, the appointment of bishops, etc.

Third, conscience is the interior forum (*forum internum*) of moral truth, a forum where legitimate claims upon one's allegiance are distinguished from illegitimate claims upon one's allegiance, where moral truth and hence moral duty are perceived, and where consequently a more or less clear imperative is voiced toward a certain course of moral action. Each of Newman's cases presupposes, first, the existence and, secondly, the proper formation and operation of conscience. Moreover,

⁷ Newman, *Conscience*, 444; *Difficulties*, 240.

⁸ While Newman does not employ these technical terms in use since Vatican II (see especially *Lumen Gentium*, §25), he arguably implies already what they intend in the text referenced in footnote 91.

each case displays Newman's understanding of the freedom of conscience as positive freedom, as freedom in the truth.

But what is conscience in the first place? What, furthermore, does freedom of conscience as positive freedom in the truth precisely mean? And, finally, what is the counterfeit of conscience? In the following pages, I will answer these questions in conversation with two eminent Catholic theologians whose accounts of conscience, I shall show, complement each other: John Henry Newman and Thomas Aquinas. Since in his *Letter* Newman explicitly draws upon the *doctor communis* as an important point of reference and warrant for his own account, I shall take Newman's referral as the occasion to nuance and deepen Newman's Catholic doctrine of conscience with the help of Thomas's teaching.

John Henry Newman⁹

Newman is crystal clear about the fact that any proper understanding of conscience must first and foremost articulate the theonomic nature of conscience. Conscience is not simply a human faculty, but is in its root constituted by the eternal law, the Divine Wisdom communicated to the human intellect. It is upon its theonomic nature and upon it alone that the prerogatives and the supreme authority of conscience are founded. Newman states:

⁹ For an accessible introduction to Newman's treatment of conscience across his oeuvre, see Charles Morerod, O.P., "Conscience according to John Henry Newman," *Nova et Vetera* (English) 11, no. 4 (2013): 1057–79, and Gerard J. Hughes, "Conscience," in *The Cambridge Companion to John Henry Newman*, ed. Ian Ker and T. Merrigan (Cambridge: Cambridge University Press, 2009), 189–220. For the historical and biographical context, see Ian Ker, *John Henry Newman: A Biography* (Oxford: Oxford University Press, 1988), 651–93. For an informative account of the complex intellectual history of the concept of conscience from ancient to contemporary philosophy, see H. Reiner, "Gewissen," in *Historisches Wörterbuch der Philosophie*, vol. 3: G-H, ed. Joachim Ritter, K. Gründer, and G. Gabriel (Basel/Stuttgart: Schwabe, 1974), 574–92. For a comprehensive and nuanced treatment of conscience by a leading Catholic moral theologian, see Eberhard Schockenhoff, *Wie gewiss ist das Gewissen? Eine ethische Orientierung* (Freiburg: Herder, 2003). Schockenhoff offers clear and nuanced treatments of the biblical accounts of conscience, chapters on Augustine, Aquinas, Newman, and on the dignity of conscience according to Vatican II. The book culminates in a dense reflection on freedom and the truth—freedom for the sake of truth. I have learned much from Schockenhoff's study, although I do see a significantly greater compatibility and indeed complementarity between Aquinas's and Newman's accounts of conscience than he seems to do.

The Supreme Being is of a certain character, which, expressed in human language, we call ethical. He has the attributes of justice, truth, wisdom, sanctity, benevolence and mercy, as eternal characteristics in His nature, the very Law of His being, identical with Himself; and next, when He became Creator, He implanted this Law, which is Himself, in the intelligence of all His rational creatures. The Divine Law, then, is the rule of ethical truth, the standard of right and wrong, a sovereign, irreversible, absolute authority in the presence of men and Angels.¹⁰

In stark contrast to the widespread fiction of wishful projection—the voice of conscience being the indulgent voice of a transcendent affirmer of our whims and wishes, the echo of the pronouncements of our sovereign self-determination—Newman impresses on his readers the rather startling fact that “conscience . . . is a messenger from Him, who, both in nature and in grace, speaks to us behind a veil, and teaches and rules us by His representatives.”¹¹ Conscience, “truly so called,”¹² denotes the received standard of moral truth into the human intellect and is in this precise sense theonomic all the way down.

Even if one grants the theonomic nature of conscience, Newman’s stern specification might provoke objections: “The Divine Law”—which is God himself—“is a sovereign, irreversible, absolute authority in the presence of men and Angels”?¹³ Not only does Newman seem to be utterly insensitive to the tender feelings of all those who hold moral relativism and perspectivalism to be true, but what is worse, is Newman not invoking some obsolete, dark image of the medieval mind or possibly his own personal obsession with a dictatorial, all too Old Testament-like “Über-father,” an allegedly harmful notion that, as the story goes, was finally abolished once and for all at the Second Vatican Council? Hardly so. Rather, the magisterial reception and explication of Vatican II gives us strong reasons to assume that Newman’s understanding of conscience as essentially theonomic stands very much in the line of

¹⁰ Newman, *Conscience*, 447–48; *Difficulties*, 246.

¹¹ Newman, *Conscience*, 449; *Difficulties*, 248.

¹² Newman, *Conscience*, 454; *Difficulties*, 257.

¹³ Newman, *Conscience*, 447–48; *Difficulties*, 246.

theological thought affirmed by the council. For it is in the 1992 *Catechism of the Catholic Church*, in the context of the exposition of the teaching of Vatican II on conscience, where we find the citation of the above passage from Newman culminating in the beautiful and memorable statement: “Conscience is the aboriginal Vicar of Christ.”¹⁴ In short, the Catechism presents Newman as invoking nothing but the common Christian understanding of conscience. And this is indeed what Newman explicitly says in his *Letter*, where he points to the broad consensus on the theonomic nature of conscience between Catholics and most Protestant groups in nineteenth-century Great Britain:

When Anglicans, Wesleyans, the various Presbyterian sects in Scotland, and other denominations among us, speak of conscience, they mean what we mean, the voice of God in the nature and heart of man, as distinct from the voice of Revelation. They speak of a principle planted within us, before we have had any training, although training and experience are necessary for its strength, growth, and due formation. . . . They consider it, as Catholics consider it, to be the internal witness of both the existence and the law of God.¹⁵

However, even if British Protestants were able to assent to such an understanding of conscience as essentially theonomic, American mainline Protestantism now seems to accommodate the counterfeit of conscience—an accommodation perhaps not altogether surprising in a country founded on Enlightenment principles. Newman notes the counterfeit of conscience among British educated elites that became rapidly influential in the wake of the ascendancy of the natural sciences in the post-Enlightenment naturalist strands of modern thought. Newman observes, “it is fashionable on all hands now to consider [conscience] in one way or another as a creation of man.”¹⁶ Today, almost 150 years later, this counterfeit of conscience has ascended to

¹⁴ CCC (1992), §1778.

¹⁵ Newman, *Conscience*, 448; *Difficulties*, 247–48. For Luther and Calvin on conscience, see Appendix 1.

¹⁶ Newman, *Conscience*, 448; *Difficulties*, 247.

the status of conventional wisdom among politicians, journalists, and the so-called person on the street. Among those still in the throngs of the modern turn to the subject, conscience, so called, is regarded as at best “a desire to be consistent with oneself,”¹⁷ as Newman aptly put it, a consistency constructed between the discrete dictates of the sovereign self-determination. For those who in more recent years have drunk from the wells of a neuro-scientifically informed, neo-Darwinian sociobiology, conscience has become nothing but a noble word for “a long-sighted selfishness,”¹⁸ a selfishness of a configuration of genes that determine one particular species of niche-producing organisms—*homo sapiens sapiens*—in short, a selfishness of forces beyond human control, forces “beyond good and evil.”¹⁹

¹⁷ Newman, *Conscience*, 449; *Difficulties*, 248. For an account that differentiates well between the shallow self-consistency of sovereign self-determination and a proper human authenticity—which cannot come about without following conscience, truly so called—see Charles Taylor, *The Ethics of Authenticity* (Cambridge, MA: Harvard University Press, 1991).

¹⁸ Newman, *Conscience*, 449; *Difficulties*, 248. For a recent popular neo-Darwinian sociobiology with ethical aspirations that is as consistent as it is comprehensive in scope, see Richard Dawkins, *The Selfish Gene*, 30th anniv. ed. (Oxford: Oxford University Press, 2006).

¹⁹ Cf. Friedrich Nietzsche, *On the Genealogy of Morals*, Second Essay, “‘Guilt,’ ‘Bad Conscience,’ and the Like,” in *On the Genealogy of Morals and Ecce Homo*, trans. Walter Kaufmann and R. J. Hollingdale; *Ecce Homo*, trans. Walter Kaufmann; ed. with commentary by Walter Kaufmann (New York: Vintage Books, 1989). In the sixteenth section of the second essay, Nietzsche displays the full import of embracing the counterfeit of conscience with complete awareness of the logical consequences: “Hostility, cruelty, joy in persecuting, in attacking, in change, in destruction—all this turned against the possessors of such instincts: that is the origin of the ‘bad conscience’” (85). And in the seventeenth section he states openly: “This *instinct for freedom* forcibly made latent . . . this instinct for freedom pushed back and repressed, incarcerated within and finally able to discharge and vent itself only on itself: that, and that alone, is what the *bad conscience* is in its beginnings” (87). The instinct for freedom is nothing but the “will to power” (87), sovereign self-affirmation and self-determination (“to possess . . . the right to *affirm oneself*” [section 3; 60]). This is the counterfeit of conscience pursued with consistency. Since the best form of defense is the attack, it is only consequent that Nietzsche should identify the residual evidence of theonomic conscience as bad conscience and should attempt to discard it by way of a naturalist genealogy. From the perspective of the counterfeit of conscience, theonomic conscience can only be a bad conscience best dismissed by submitting it to a naturalist genealogy. No recent neo-Darwinian “new atheist” and despiser of Christianity has been able to match Nietzsche’s radical consistency “beyond good and evil.” Compared to him, the new atheists remain residually—bourgeois, beholden to beliefs about scientific enlightenment and historical progress toward an ever brighter transhuman future.

Newman already felt the early waves of this dramatic denial of the onomic conscience implanted in the human intellect throughout most of his adult lifetime:

All through my day there has been a resolute warfare, I had almost said conspiracy, against the rights of conscience. . . . We are told that conscience is but a twist in primitive and untutored man; that its dictate is an imagination; that the very notion of guiltiness, which that dictate enforces, is simply irrational, for how can there possibly be freedom of will, how can there be consequent responsibility, in that infinite eternal network of cause and effect, in which we helplessly lie? And what retribution have we to fear, when we have had no real choice to do good or evil?²⁰

On the assumption that God does not exist and that human beings are causally determined in their acts, be it by the survival interests of their genes, or by their socioeconomic environments and family systems, or by their respective “id” or subconsciousness—or by a combination of all three factors—in other words, on the assumption that the threefold humiliation of human conscience and moral agency at the hands of Darwin, Marx, and Freud obtains, what is the point of continuing to appeal to one’s own conscience or to that of others?²¹ It being presumably pointless, one would expect that in an increasingly secular culture the appeal to conscience would have faded away. But this is not the case, as any observer of public and political life in late modern secularist democracies is only too well aware of. Newman was uncannily prescient in anticipating what has by now become a distinctly late modern way of appealing to the counterfeit of conscience:

When men advocate the rights of conscience, they in no sense mean the rights of the Creator, nor the duty to Him, in thought and deed, of the creature; but the right of thinking, speaking, writing, and acting, according to their judgment or their hu-

²⁰ Newman, *Conscience*, 449; *Difficulties*, 249.

²¹ For a nuanced engagement of conscience in the discussion of contemporary psychology, see Schockenhoff, *Wie gewiss ist das Gewissen?*, 142–51.

mour, without any thought of God at all. . . . Conscience has rights because it has duties; but in this age, with a large portion of the public, it is the very right and freedom of conscience to dispense with conscience, to ignore a Lawgiver and Judge, to be independent of unseen obligations. It becomes a licence to take up any or no religion, to take up this or that and let it go again. ...It is the right of self-will.²²

Unmoored from its theonomic anchorage, the word “conscience” comes to mean its counterfeit, the word now denoting nothing but the decisions posited as acts of sovereign self-determination. Such sovereign self-determination refers first and foremost to what is now regarded as one’s property (which according to Locke is the principal object over which to exercise freedom of indifference), namely one’s body and all the life choices that pertain to oneself as sovereign owner of this property: gender identity; sexual activity; choice of kind and number of intimate partners; conceived children in the womb; number and genetic characteristics of children; and finally, the choice of the time and conditions of the end of one’s life.²³ The only delimitation of

²² Newman, *Conscience*, 450; *Difficulties*, 250. The ideological breeding ground of the negative freedom of sovereign self-determination is a misguided liberalism, falsely conceived as neutralism. In a striking engagement of David A. J. Richards, *Tolerance and the Constitution* (New York: Oxford University Press, 1986), the philosopher Ronald Beiner advances a scathing indictment of Richards’ strategy of legitimizing sovereign self-determination by appealing to the freedom of *conscience*: “The spuriousness of this recurrent appeal to the sacredness of conscience is very clearly displayed in the discussion of pornography. How can this possibly be a matter of conscience? What is at issue here, surely, is the sacredness of consumer preferences. The individual’s sovereign prerogative to purchase magazines like *Penthouse* and *Hustler* has little to do with free speech (let alone rights of conscience); the only liberty at stake is that of unhindered consumption. ... Or again consider the following passage: ‘The right to drug use, if it is a right, is a right associated with the control of consciousness and thus with the right of conscience itself’ (Roberts, 281). By this contorted reasoning, the decision to snort cocaine constitutes an act of conscience” (Ronald Beiner, *Philosophy in a Time of Lost Spirit* [Toronto: University of Toronto Press, 1997], 29–30). Beiner is putting his finger here on the inner consistency of the counterfeit of conscience as it continues to unfold the full consequences of sovereign self-determination.

²³ On the erroneous modern idea of self-proprietorship and its philosophical roots in the thought of Descartes, Hobbes, and Locke, see Bernd Wannenwetsch, “Owning our Bodies? The Politics of Self-Possession and the Body of Christ (Hobbes, Locke and Paul),” *Studies in Christian Ethics* 26 (2013): 50–65.

this freedom of indifference is the liberal principle of harm: all choices are permissible as long as they are at least indifferent to the freedom of indifference of everyone else.²⁴ No one gave a clearer definition of this negative freedom than Newman's contemporary, John Stuart Mill, when he opined that "that the only freedom which deserves the name" consists in "pursuing our own good in our own way."²⁵ Consider Allan Bloom's striking characterization of the concrete forms this negative freedom of sovereign self-determination has taken from the 1970s on when increasing numbers of the educated professional elites in Europe and the United States embraced and deeply interiorized it:

They can be anything they want to be, but they have no particular reason to be anything in particular. Not only are they free to decide their place, but they are also free to decide whether they will believe in God or be atheists, or leave their options open by being agnostic; whether they will be straight or gay, or, again, keep their options open; whether they will marry and whether they will stay married; whether they will have children—and so on endlessly. There is no necessity, no morality, no social pressure, no sacrifice to be made that militates going in or turning away from any of these directions, and there are desires pointing toward each, with mutually contradictory arguments to buttress them.²⁶

As it has become increasingly clear in more recent years, Bloom's all too accurate description only captures a particular moment of a deeper

²⁴ The Achilles heel of this principle, of course, is the scope of "everyone else." The useless, the unwanted, the unexpectedly self-imposing, the unproductive, and the inconveniently needy might not fall under the scope of "everyone else." Without a robust metaphysical concept of human nature, the beginning of human life, the human soul, and the corresponding understanding of the dignity of the human person, secularist liberal democratic régimes stand in danger of reducing the liberal principle of harm to a community of the self-elected with everyone else becoming discardable—abortable, euthanizable, or institutionalizable.

²⁵ John Stuart Mill, "On Liberty [1859]," in *On Liberty and Other Essays*, ed. Jonathan Gray (Oxford: Oxford University Press, 1991), 17.

²⁶ Allan Bloom, *The Closing of the American Mind* (New York: Simon & Schuster, 1987), 87.

fall. For the modern “self”—a precondition for sovereign self-determination—presently undergoes its postmodern disintegration or “fluidification.” In light of allegedly ground-breaking insights in neurobiology, a journalistic evolutionary scientism with a missionary impulse urges people in the Western Hemisphere to embrace a life “after the self”—to resign themselves to the life of an advanced primate, a hominid, equipped with consciousness and desires, but devoid of conscience, truly so called.²⁷ By internalizing the false premises of this subscientific and aphiloosophical biologism, to employ Robert Spaemann’s striking statement, “the human being becomes an anthropomorphism to itself.”²⁸ Enlightened by the deliveries of scientism, humans are induced to think they know—scientifically—they are but primates, determined by their instincts and desires, while in their everyday life they must nevertheless continue to pretend to be persons, holding others accountable for their actions and being held accountable for their own actions. The result is a profound estrangement from our own immediate and irreducably moral experience of ourselves and others as acting persons.

In light of the dramatic transignification of conscience during Newman’s own lifetime, it is of special significance that he does not deem it necessary to advance some philosophical demonstration that

²⁷ For two popularizing accounts of this reductive materialist scientism, see Richard Dawkins, *The God Delusion* (New York: Houghton, 2006), and Daniel C. Dennett, *Breaking the Spell: Religion as a Natural Phenomenon* (New York: Viking, 2006). Consider the construal of “memes” as units of imitation that have a distinct survival value: “Just as genes propagate themselves in the gene pool by leaping from body to body via sperms or eggs, so memes propagate themselves in the meme pool by leaping from brain to brain via a process which, in the broad sense, can be called imitation. . . . When you plant a fertile meme in my mind you literally parasitize my brain, turning it into a vehicle of the meme’s propagation in just the way that a virus may parasitize the genetic mechanism of a host cell. . . . [T]he meme for, say, ‘belief in life after death’ is actually realized physically, millions of times over, a structure in the nervous systems of individual men the world over” (Dawkins, *Selfish Gene*, 192). The “meme” serves as a functionalist replacement of complex human thought, insight, belief, and most fundamentally, of the intuition of first principles and of intentionality. Without the intuition of first principles and intentionality, however, human agency collapses into behavior, a properly amoral, descriptive category of biology that reductive scientism now propagates as the true causal account of what appears to the scientifically unenlightened as moral truth and moral agency, a presumptive account that should henceforth inform the self-understanding of human beings.

²⁸ Robert Spaemann, “Ende der Modernität?,” in *Philosophische Essays*, 2nd ed. (Stuttgart: Reclam, 1994), 240: “So wird der Mensch selbst sich zum Anthropomorphismus.”

would prove the existence of a theonomic conscience. For those who have faith, divine revelation and the Church's consistent teaching about conscience authoritatively establish in one stroke the existence and theonomic nature of conscience. Moreover, Newman would assume that those who have faith would also experience the theonomic reality of conscience in a perspicuity that a philosophical demonstration could hardly improve upon. For those without faith and for those who hold a notion of conscience warped by erroneous opinions, Newman seems to assume that the inescapable experience of the interior forum would eventually produce the kind of evidence of the theonomic conscience that no philosophical demonstration could hope to achieve. Theonomic conscience, in Newman's eyes, is an aboriginal datum of the human mind conveying the first principles of moral truth, principles similar to the principle of noncontraction. As the principle of noncontradiction cannot be demonstrated but serves as the basis for proving other truths, in a similar way the first principles of the theonomic conscience cannot be demonstrated by a proof. Rather, their self-evidence serves as the basis for proving other truths (for Newman, the existence of God).²⁹

So faced with the counterfeit of conscience, Newman simply trusts that the ontological truth of theonomic conscience, its objective reality, and its eventual operation will again and again break through the layers of self-deception and thereby establish the only persuasive evidence of its existence. And therefore, in the very presence of the counterfeit of conscience, Newman continues to use "the word 'conscience' in the high sense . . . as a dutiful obedience to what claims to be a divine voice,

²⁹ See "The Proof of the Existence of God from Conscience," in Walgrave, *Newman the Theologian*, Appendix E, 358–63. Consider also the famous passage from the *Apologia pro vita sua*, where Newman states: "Starting then with the being of a God, (which, as I have said, is as certain to me as the certainty of my own existence, though when I try to put the grounds of that certainty into logical shape I find a difficulty in doing so in mood and figure to my satisfaction), I look out of myself into the world of men, and there I see a sight which fills me with unspeakable distress. The world seems simply to give the lie to that great truth, of which my whole being is so full; and the effect upon me is, in consequence, as a matter of necessity, as confusing as if it denied that I am in existence myself. . . . This is, to me, one of those great difficulties of this absolute primary truth, to which I referred just now. Were it not for this voice, speaking so clearly in my conscience and my heart, I should be an atheist, or a pantheist, or a polytheist when I looked into the world" (Walgrave, *Newman the Theologian*, 23).

speaking within us; and that this is the view properly to be taken of it, I shall not attempt to prove here, but I shall assume it as a first principle.”³⁰

Drawing in the *Letter* upon the rich and nuanced tradition of Catholic teaching on conscience, Newman understands conscience to have two distinct functions. There is first and foremost what he calls the echo of the divine voice within us, this echo being nothing but the presence of the first principles of moral truth in the intellect. And there is secondly the practical dictate about what here and now is to be done as good or avoided as evil. Conscience “bears immediately on conduct, on something to be done or not done.”³¹ It is interestingly at this very point that Newman turns to Thomas Aquinas and draws upon his doctrine of conscience.

Thomas Aquinas³²

First Newman points to the deep congruence between Augustine and Thomas on the theonomic nature of conscience: “‘The eternal law,’ says St. Augustine, ‘is the Divine Reason or Will of God, commanding the observance, forbidding the disturbance, of the natural order of things.’”³³ But how are the eternal law and conscience connected? In order to answer this question, Newman turns from Augustine to Thomas and interprets the latter thus:

The natural law, says St. Thomas, “is an impression of the Divine Light in us, a participation of the eternal law in the rational creature.” . . . This law, as apprehended in the minds of

³⁰ Newman, *Conscience*, 453; *Difficulties*, 255.

³¹ Newman, *Conscience*, 453; *Difficulties*, 256.

³² For Thomas Aquinas’s understanding of *synderesis*, see Dennis J. Billy, C.Ss.R., “Aquinas on the Content of Synderesis,” *Studia Moralia* 29 (1991): 61–83; Vernon J. Bourke, “The Background of Aquinas’s Synderesis Principle,” in *Graceful Reason: Essays in Ancient and Medieval Philosophy Presented to Joseph Owens, C.Ss.R.*, ed. Lloyd P. Gerson (Toronto: Pontifical Institute of Medieval Studies, 1983), 345–60; Michael Bertram Crowe, “Synderesis and the Notion of Law in Saint Thomas,” in *L’homme et son destin d’après les penseurs du moyen âge*, Actes du Premier Congrès International de Philosophie Médiévale, 1958 (Louvain: Éditions Nauwelaerts, 1960), 601–9; and Odon D. Lottin, “Syndérèse et conscience aux xiie et xiiie siècles,” vol. 2, pt. 1: *Problèmes de morale* (Louvain: Abbaye de Mont César, 1948), 101–349.

³³ Newman, *Conscience*, 448; *Difficulties*, 246–47.

individual [human beings], is called “conscience”; and though it may suffer refraction in passing into the intellectual medium of each, it is not therefore so affected as to lose its character of being the Divine Law, but still has, as such, the prerogative of commanding obedience.³⁴

Newman draws on a crucial distinction at the very center of Thomas’s doctrine of conscience, a distinction between an ontological level of an innate first principle and first precept—Thomas calls this *synderesis*—and an operative level, the intuitive bearing of the first principle and first precept upon a particular case, a judgment of practical reason that Thomas calls *con-scientia*, the “knowing together” of the first principle and precept with a concrete case, prospectively or retrospectively, in a specific interior judgment.

In order to name the ontological level of conscience, Thomas uses a technical term provided by the tradition and employed by the theologians of his day: *synderesis*. In his treatment of *synderesis*, Thomas draws upon, clarifies, and advances the thought of his principal teacher, the Dominican Albert the Great and of his elder theological contemporary and colleague at the University of Paris, the Franciscan Bonaventure.³⁵ He also integrates the patristic tradition, especially Jerome and Augustine, and the classical Greek traditions, especially those of Aristotle and the Stoics. The Dominican Servais Pinckaers, doyen of post-Vatican II sapiential moral theology, helpfully observes, how Thomas

went to the trouble of explaining St. Jerome’s comparison [of *synderesis* with the “spark of conscience”] and made the distinc-

³⁴ Newman, *Conscience*, 448; *Difficulties*, 247.

³⁵ For the biblical, patristic, and medieval background of the *synderesis* principle, see Bourke, “Background of Aquinas’s Synderesis Principle”; for the arguments that St. Thomas adduces for its existence (first principles cannot be proven in a strict sense), see Crowe, “Synderesis and the Notion of Law in Saint Thomas”; and for a lucid summary of the ways Thomas draws upon Albert and Bonaventure and also differs from them, see Daniel Westberg, *Right Practical Reason: Aristotle, Action, and Prudence in Aquinas* (Oxford: Clarendon Press, 1994), 100–105. The only comprehensive monograph on the function of synderesis in the moral theology of Thomas Aquinas remains the important study by Oskar Renz, *Die Synteresis nach dem Hl. Thomas von Aquin* (Münster: Aschendorff, 1911).

tion between the spark, the purest part of fire, which shoots out above the flame and the fire itself which is mixed with alien matter that alters its purity. The spark is *synderesis*, the pure light of truth; the fire is conscience, which can err accidentally by attaching itself to a particular object that is inferior to reason. *Synderesis* is, strictly speaking, the spark of conscience, the origin of the light that illuminates it.³⁶

In a nutshell, Thomas understands *synderesis* as “a natural *habitus* of first principles of action, which are the universal principles of the natural law.”³⁷ *Synderesis* names practical reason “perfected by a completely determined *habitus*.”³⁸ As Pinckaers aptly put it, *synderesis*

offers a solid base for the recognition of the universal and permanent character of moral laws coming from within us in the form of a light that illuminates our intellect. The strength of moral law derived from this light does not come to [human beings] from a merely exterior will; it has its root in [our] intellect and is at the origin of [our] freedom.³⁹

³⁶ Servais Pinckaers, O.P., “Conscience, Truth, and Prudence,” in *Crisis of Conscience: Philosophers and Theologians Analyze Our Growing Inability to Discern Right from Wrong*, ed. John M. Haas (New York: Crossroad, 1996), 79–92, 88. Cf. *De veritate*, q. 17, a. 2, ad 3; English translation: St. Thomas Aquinas, *Truth*, vol. II: Questions X–XX, trans. James V. McGlynn, S.J. (Indianapolis/Cambridge: Hackett, 1994), 325. In his commentary on Ezekiel (PL 25, 22), in the context of Ezekiel’s vision of the four creatures in human form (Ezek 1:4–12), Jerome makes reference to the term συντήρησις as the Greek equivalent of the Latin “scintilla conscientiae,” the spark of conscience. John Mahoney rightly points out that this word is not the result of a copyist’s error for συνειδησις (con-scientia), as was wrongly held in the latter part of the twentieth century, but rather reflects the use of the verb συντηρέω in late antique Greek. See John Mahoney, S.J., *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Oxford University Press, 1987), 187n41, 187n42.

³⁷ *De veritate*, q. 16, a. 1, resp.; *Truth* II, 304. See also his *In II Sent.* d. 24, q. 2, a. 3, and *Summa theologiae* I, q. 79, a. 12. (All citations from the *Summa theologiae* [ST] are taken from the translation of the Fathers of the English Dominican Province [New York: Benziger Bros., 1948; reprint Christian Classics, 1981]. Alterations are indicated by brackets. Translations from other works of Thomas Aquinas, if not indicated otherwise, are mine.) For a discussion of then-Cardinal Joseph Ratzinger’s proposal to replace *synderesis* with *anamnesis*, see Appendix 2.

³⁸ *De veritate*, q. 16, a. 2, ad 5; *Truth* II, 310.

³⁹ Pinckaers, “Conscience, Truth, and Prudence,” 88.

Being at the very root of the intellect, the natural determination of practical reason consists in “a primordial perception of the good proper to [the human being].”⁴⁰ It is, however, important not to misunderstand this fundamental point. The content of *synderesis* is not provided by way of divine illumination or some innate apprehension. Rather, the intellect in its theoretical and in its practical aspect intuitively self-evident principles (*lumen habituale*) antecedent to rational deliberation, but consequent to learning the terms of these principles through basic sense experience.⁴¹

Let us now consider the operative level of conscience.⁴² *Con-scientia*, “knowing together,” names, first, the actualization of the natural *habitus* of the first principles of moral truth (*ST* I, q. 79, a. 13, resp.)⁴³ in the form of a concrete judgment, and second, the application of this knowledge to action, a kind of dictate or command of reason (*ST* I-II, q. 19, a. 5, resp.). This is the aspect of conscience that Newman understands to be a particular dictate bearing immediately on what is to be done. Thomas calls conscience “the practical judgment or dictate of reason, by which we judge what *hic et nunc* is to be done as being good, or to be avoided as evil.”⁴⁴ The late Thomist philosopher Ralph McInerny put it thus: “Conscience . . . is a particular judgment as to what is to be done in the light of a common principle. The term means the *act* of application, but *conscience* can also mean the judgment made, as when someone tells us what his

⁴⁰ Servais Pinckaers, O.P., *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble, O.P. (Washington, DC: The Catholic University of America Press, 1995), 384.

⁴¹ Thomas explains this matter succinctly in the context of discussing the question whether any *habitus* is natural, that is, innate: “The understanding of first principles is called a natural habit. For it is owing to the very nature of the intellectual soul that [a human being], having once grasped what is a whole and what is a part, would at once perceive that every whole is larger than its part: and in like manner with regard to other such principles. Yet what is a whole, and what is a part—this he cannot know except through the intelligible species which he has received from phantasms: and for this reason, the Philosopher at the end of the *Posterior Analytics* shows that knowledge of principles comes to us from the senses” (*ST* I-II, q. 51, a. 1, resp.).

⁴² The Greek term for this actualization is *συνείδησις*, and its Latin literal translation is *con-scientia*. By the time the Apostle Paul wrote his letters, both terms were common in popular everyday usage of Greek and Latin. Paul uses *συνείδησις* frequently (Rom 2:15; 1 Cor 8:7, 10, 12; 10:28–29; 2 Cor 1:12–13; 1 Tm 1:19; Ti 1:15).

⁴³ See also *De veritate*, q. 17, a. 1, and *In II Sent.* d. 24, q. 2, a. 4.

⁴⁴ Newman, *Conscience*, 453; *Difficulties*, 256.

conscience tells him.”⁴⁵ Thomas spells out the dynamic of this judgment of conscience in instructive detail:

Conscience is said to witness, to bind, or incite, and also to accuse, torment, or rebuke. And all these follow the application of knowledge or science to what we do: which application is made in three ways. One way in so far as we recognize that we have done or not done something; *Your conscience knows that you have often spoken evil of others* (Eccles. vii, 23), and according to this, conscience is said to witness. In another way, so far as through the conscience we judge that something should be done or not done; and in this sense, conscience is said to incite or to bind. In the third way so far as by conscience we judge that something done is well done or ill done, and in this sense conscience is said to excuse, accuse, or torment. Now, it is clear that all these things follow the actual application of knowledge to what we do. Wherefore, properly speaking, conscience denominates an act. (*ST* I, q. 79, a. 13, resp.)

Thomas's account of the ways the judgment of conscience occurs is not only remarkably comprehensive but also empirically accurate. The judgment of *con-scientia* may occur prospectively, antecedent to the execution of a specific exterior act. But it also may occur retrospectively, consequent to the execution or the omission of this specific exterior act. The judgment of conscience for the most part quite evidently bears witness, exhorts, commands, forbids, or permits prospectively and retrospectively evaluates either positively or negatively.

In unison with Thomas, Newman does regard the natural *habitus* of *synderesis* as universal, incorruptible, and infallible, yet the concrete exercise of *con-scientia* as considerably vulnerable to personal defects (ignorance, imprudence, or habituation in vice) and to collective sociopolitical corruption over longer historical periods. Hence, as already discussed earlier, Newman can forego any attempt at proving the ex-

⁴⁵ Ralph McInerny, “Conscience and the Object of the Moral Act,” in *Crisis of Conscience: Philosophers and Theologians Analyze Our Growing Inability to Discern Right from Wrong*, ed. John M. Haas (New York: Crossroad, 1996), 93–110, 97.

istence of conscience to its detractors. While those who embrace the sovereign rule of self-will can deny, suppress, and flee from the interior forum, they can never escape the eventual interior manifestation of theonomic conscience.⁴⁶

Three aspects of Thomas's doctrine of conscience are of crucial importance in order to understand its contrary, the counterfeit of conscience: first, the innate *habitus* of *synderesis*; second, the important relationship between conscience and the virtue of prudence; and finally third, the complex phenomenon of the erroneous conscience.

Synderesis

Synderesis is the natural *habitus* of the intellect that contains the first principle ("good is that which all things seek after") and the first precept of practical reason ("good is to be done and pursued, and evil is to be avoided"; *ST* I-II, q. 94, a. 4, resp.).⁴⁷ Thomas understands the natural law fundamentally as the rational creature's participation in the eternal law, which "is nothing else than the type of Divine Wisdom, as directing all actions and movements" (*ST* I-II, q. 93, a. 1, resp.).⁴⁸ Rational creatures are "partakers of a share of providence, by being both provident for [themselves] and for others" (*ST* I-II, q. 92, a. 2, resp.). The essence of this specific participation in the eternal law *qua* rational creature occurs by way of the natural inclination of practical reason to the proper act and end of the rational creature: "On the part of practical reason, [the human being] has a natural participation of the eternal law, according to certain general principles" (*ST* I-II, q. 91, a. 3, ad 1). In his concluding summary of his response to the question whether there is a natural law in us (*ST* I-II, q. 91, a. 2), Thomas indicates quite clearly the theonomic character of *synderesis*

⁴⁶ For Immanuel Kant's instructive but problematic account of the interior forum, see Appendix 3.

⁴⁷ I am bracketing a discussion of the various proposals advanced of how the first precept relates to the first principle. Some make a simple distinction, others derive the precept from the principle, and others again identify the precept and the principle. For the relevant literature, see Billy, "Aquinas on the Content of *Synderesis*," 65n.11.

⁴⁸ For an instructive treatment of this crucial aspect of Thomas's sapiential moral theology, see John Rziha, *Perfecting Human Actions: St. Thomas Aquinas on Human Participation in Eternal Law* (Washington, DC: The Catholic University of America Press, 2009), esp. 199–230.

that appears here as “light of natural reason” (*lumen rationis naturalis*) yielding the first principle and the first precept of the natural law:

The Psalmist after saying (Ps 4:6): *Offer up the sacrifice of justice*, as though someone asked what the works of justice are, adds: *Many say, Who showeth us good things? In answer to which question he says: The light of Thy countenance, O Lord, is signed upon us*: thus implying that the light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the Divine light (*impressio divini luminis in nobis*). It is therefore evident that the natural law is nothing else than the rational creature’s participation of the eternal law. (ST I-II, q. 91, a. 2, resp.)

Yet the eternal law indicates nothing else than an encompassing teleology for the whole of creation. God is the first cause and the final end of the universe, and the Divine Wisdom directs all acts and movements to the common good of the universe, which is God. In order for the human being to be able to participate *qua rational being* in the eternal law, it does not suffice to be equipped with the apprehensive and appetitive faculties animals display. Voluntary agency, rather, presupposes not only the perception of an end or good but rather also its character (*ratio finis*) and the agent’s relationship to it. This more perfect kind of cognition allows the rational being to move by way of deliberation to the end or not to move to it. Furthermore, genuine human participation in the eternal law requires the mutual influence of intellect and will such that both faculties include one another in their acts: “The intellect understands that the will wills and the will wills the intellect to understand. In the same way good is contained in truth, inasmuch as it is an understood truth, and truth in good, inasmuch as it is a desired good.”⁴⁹ The desire to know truth is a specific good (knowledge perfects the intellect) and only the good that

⁴⁹ ST I, q. 82, a. 4, ad 1; see also ST I, q. 16, a. 4, ad 1; ST I-II, q. 9, a. 1, resp. Truth is the specific good of the intellect toward which the will moves the intellect as an efficient cause; and the intellect moves the will as formal cause by providing the formality or character of good. Improperly speaking, by thus providing the understood good, the intellect moves the will *per modum finis*, but, properly speaking, what is perceived by the intellect under the character of good (*bonum apprehensum*) moves the will as a final cause.

is understood as good attracts the will.⁵⁰ Hence, owing to the profound interaction of intellect and will in practical reason, there must be a first principle and a first precept of *synderesis*: in respect to what is proper to the intellect, *synderesis* has the character of first principle, the formality of the understood good (*bonum apprehensum*), and in respect to what is proper to the will (desiring the understood good), *synderesis* has the character of first precept:

Good is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good. Consequently, the first principle in practical reason is founded on the notion of good, i.e. that good is that which all things seek after. Hence this is the first precept of law, that good is to be done and pursued, and evil is to be avoided. (ST I-II, q. 94, a. 2, resp.)

Interpreting Thomas, Servais Pinckaers helpfully elucidates this first precept: "It does not primarily signify an obligation to do the good. Rather, it expresses the attraction of the good. . . . It is this urgency of the truth within the good, within the very attraction of the good, that is at the heart of the intimate awareness of duty and obligation."⁵¹ The first precept of the natural law is therefore not to be confused with Kant's categorical imperative expressing a purely formal duty of practical reason. The first precept, rather, expresses the inherent attraction of the good as understood good. The natural *habitus* of first principle and first precept enable the rational creature not only to move to some perceived good but to realize the *ratio finis*, the character of the good. Because good is the perfection that all created being desires (ST I, q. 5, a. 1) and to which all created being moves as its final end (ST I, q. 5, a. 4), *synderesis* enables the rational creature to realize the teleology of the good *qua rational*

⁵⁰ "The will moves the intellect as to the exercise of its act; since even the true itself which is the perfection of the intellect, is included in the universal good, as a particular good. But as to the determination of the act, which the act derives from the object, the intellect moves the will; since the good itself is apprehended under a special aspect as contained in the universal true" (ST I-II, q. 9, a. 1, ad 3).

⁵¹ Servais Pinckaers, O.P., *Morality: The Catholic View*, trans. Michael Sherwin, O.P. (South Bend, IN: St. Augustine's Press, 2001), 100.

creature by participating through the natural law in the eternal law. In his excellent book *Perfecting Human Actions*, John Rziha rightly points out how genuine human freedom arises precisely from the participation of the rational creature in the eternal law:

For Thomas, freedom does not come from a blind movement of the will or sense appetites but comes from the will and sense appetites being determined by human reason to intend and choose acts in accord with the ultimate end of humanity. . . . Hence, freedom is bound up in rationality, which derives its light and intellectual forms from the eternal law. . . . [A]uthentic human freedom is first and foremost caused by the eternal law and only caused by the human through the soul's participation in the eternal law.⁵²

It is for this reason that conscience truly so called is indispensable for achieving the perfection of human freedom, that is, positive freedom, freedom in the truth.

On the supposition of the fundamental teleological ordering of the universe as reflected in the innate *habitus* of *synderesis*, the so-called naturalistic fallacy—the allegedly illicit naturalistic or metaphysical transition from “is” to “ought,” the fallacy invented by David Hume and the term coined by G. E. Moore—is a mute concern.⁵³ As creatures of the extant teleologically ordered universe, human beings—as all other beings—are teleologically constituted by way of fundamental natural inclinations (*ST* I-II, q. 94, a. 2, resp.) and as rational creatures

⁵² Rziha, *Perfecting Human Actions*, 265.

⁵³ One can, of course, argue that *synderesis* does not exist. But the burden of the proof rests with the one who advances such an argument. For the overwhelming empirical evidence in human history speaks for the existence of *synderesis*. For a modern discussion of the problem raised by Hume expressly in his anonymously published 1739/40 *Treatise of Human Nature Being an Attempt to Introduce the Experimental Method of Reasoning into Moral Subjects* (III, I, 1) and coined as “naturalistic fallacy” by G. E. Moore in his 1903 *Principia Ethica* (chap. 2), see *The Is-Ought Question*, ed. William Donald Hudson (London: Macmillan, 1969), and for a substantive treatment of this problematic and an in-depth analysis of Aquinas's philosophical justification for the transition from “is” to “ought,” see Piotr Lichacz, “Did St. Thomas Aquinas Justify the Transition from ‘Is’ to ‘Ought’?,” STD dissertation, University of Fribourg (Switzerland), 2008.

they are endowed with *synderesis*, “an habitual light” (*lumen habituale*),⁵⁴ in virtue of which they understand the formality or character of good so that as soon as something is apprehended in some respect as good, their rational appetite, the will, is attracted by it. Hence, *synderesis* is not only a formal but a teleological principle interior to practical reason itself. As a tendency to its proper end or good, the “ought” is embedded in the “is,” the substantial form, of every being, and therefore also in those beings that realize their perfection through the exercise of practical reason.

There is one further implication given with the interior teleological constitution of practical reason. Because *synderesis* is a habitual light, it prevents the dictates of conscience from ever turning into some imposed heteronomy. For the dictates of conscience truly so called are nothing but the concretization by way of judgment of those principles and precepts that are constitutive of the teleological ordering of practical reason itself. For this very reason, a teleological ethics centered on *synderesis* as well as the natural inclinations remains untouched by the dichotomy between heteronomy and autonomy that haunts most modern moral philosophy.⁵⁵ Because the human being is a creature of a very unique kind, a rational being created in the image of God, the innate first principles of understanding and acting are a proprium of human nature. Turning away from *synderesis* and with it from the teleological order of reality and embracing instead the negative freedom of sovereign self-determination, the counterfeit of conscience is condemned to a never-ending vigilance against the constant threat of a hostile “takeover” by what it can only perceive as someone else’s self-will, be it some human “other” or the Divine “Other.” Sovereignty of self-will takes care of the first threat and atheism takes care of the second threat—and voilà, there are the two characteristic features of modern nihilism’s will-to-power.⁵⁶

⁵⁴ *De veritate*, q. 16, a. 3; *Truth* II, 312.

⁵⁵ See J. B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge: Cambridge University Press, 1998). *Synderesis* is nothing but a participated theonomy that transcends the paralyzing opposition of heteronomy and autonomy in which the late modern counterfeit of conscience is fatefully caught. See Pope John Paul II, *Veritatis Splendor*, §41.

⁵⁶ For an instructive study of the emergence of modern nihilism from its root in late

Conscience and Prudence

In order to gain a deeper understanding of conscience truly so called and its counterfeit we must consider briefly how conscience relates to the principal cardinal virtue, prudence, which Thomas defines as “right practical reason.” For Thomas, conscience and prudence are not identical but profoundly related.⁵⁷ Pinckaers emphasizes the difference between conscience and prudence when he observes that “conscience . . . although it judges the moral quality of our behavior, is not a virtue; it is the application of *synderesis* in the appraisal of acts we have carried out or will carry out.”⁵⁸ Yet while different from each other, conscience and prudence are nevertheless profoundly related. In his analysis of their relationship according to Thomas, McInerny cuts to the core of the matter:

To have cognitive knowledge of what I ought to do here and now is not a function of, is not dependent upon, being related to the good known as good. A bad [person] can have a correct conscience. The correctness of conscience does not of itself guarantee that action and choice will be in accord with it.⁵⁹

The morally weak person, the incontinent person “knows what he ought to do, his conscience is all right, but his knowledge of the good is not complemented by an effective appetitive disposition to good as good. That is why in the crunch, in choosing (which is a meld of mind and appetite), he goes wrong.”⁶⁰ In short, the antecedent judgment of *conscientia* remains testificatory and mandatory, and its consequent judgment evaluatory (accusatory or excusatory). It is not, in and of itself, efficacious in choosing and doing the good. Among the three acts of the virtue of prudence—to

medieval voluntarism, via its flowering in early modern sovereign self-determination to its late modern fruition in and celebration of the will-to-power, see Michael Allen Gillespie, *Nihilism before Nietzsche* (Chicago: University of Chicago Press, 1995).

⁵⁷ *ST* II-II, q. 47, a. 6, ad 3: “*Synderesis* moves prudence, just as the understanding of principles moves science” (“*synderesis movet prudentiam sicut intellectus principiorum scientiam*”).

⁵⁸ Pinckaers, “Conscience, Truth, and Prudence,” 87ff, 89.

⁵⁹ Ralph McInerny, “Prudence and Conscience,” *The Thomist* 38 (1974): 291–305, 303.

⁶⁰ *Ibid.*, 303.

take counsel (*consiliari*), to judge (*iudicare*), and to command (*praecipere*)—*con-scientia* comprises the second act when this judgment is right and certain, that is, when it is indeed properly formed by the acquired or infused *habitus* of prudence (ST II-II, q. 47, a. 8). But what remains indispensable for efficaciously choosing and doing the good, are the two other acts of the virtue of prudence, counsel,⁶¹ and command, in concert with the remaining cardinal virtues justice, fortitude, and temperance. Rightly formed conscience convicts the adulterer of the act of adultery, but cannot on its own prevent an act of adultery; nor can conscience truly so called prevent on its own the adulterer's habituation in this vice, let alone free the habitual adulterer from the vice. *Con-scientia* lacks the power of execution.⁶² Judgments of *con-scientia* are, nevertheless, absolutely indispensable for moral goodness and, indeed, holiness of life (1 Jn 3:3). But without being carried forward by the four cardinal virtues under the primacy of prudence, and more importantly, in light of the supernatural end of the human life, by the infused moral virtues and the gifts of the Holy Spirit, into the realization of morally good acts, and more importantly into

⁶¹ In ST II-II, q. 53, a. 3, resp., Thomas lays out the contours of the ideal act of taking counsel, which comprises five steps: “Memory [*memoria*] of the past, *intelligence* [*intelligentia*] of the present, *shrewdness* [*solertia*] in considering the future outcome, *reasoning* [*ratiocinatio*] which compares one thing with another, *docility* [*docilitas*] in accepting the opinions of others. He that takes counsel descends by these steps in due order.” That these five steps are not solitary events in the agent's mind but, on the contrary, reflect primarily distinct aspects of the dynamic of social interaction of deliberation becomes clear when one considers Thomas's important statement in ST I-II, q. 14, a. 3, resp: “Counsel properly implies a conference held between several; the very word (*consilium*) denotes this, for it means a sitting together (*considium*), from the fact that many sit together in order to confer with one another.” I am indebted to Raymond F. Hain IV for having learned to think about counsel as a primarily social activity. Cf. the section “Is Consilium a Social Activity?” in his instructive dissertation “Practical Virtues: Instrumental Practical Reason and the Virtues,” PhD dissertation, University of Notre Dame, 2009, 177–82.

⁶² Command (*imperium*) is an act of the intellect moved by the will (ST I-II, q. 17, a. 1). When *imperium* is an act integral to the virtue of prudence (instead of being the result of precipitation or thoughtlessness), Thomas calls it *praecipium*, command as informed by right judgment. Indeed, Thomas regards the act of command (*praecipere*) as the principal act of prudence. Practical reason is directed to action. Therefore, after counsel or deliberation and judgment, the third act of prudence is “to command [*praecipere*] which act consists in applying to action the things counselled and judged. And since this act approaches nearer to the end of practical reason, it follows that it is the chief act of the practical reason, and consequently of prudence” (ST II-II, q. 47, a. 8, resp.).

the realization of meritorious acts informed by the theological virtue of charity, the antecedent judgments of *con-scientia* remain powerless. What carries them through into right action is the virtue of prudence in unity with the other cardinal virtues and what perfects them is “the sympathy and connaturality for Divine things” that “is the result of charity, which unites us to God.”⁶³ Bereft of the virtues, moral and theological, and the gifts of the Holy Spirit, such judgments are at the very best true judgments of a morally incontinent, or worse, of a vicious person with a properly formed and therefore bad conscience made up of nothing but accusatory consequent judgments.⁶⁴

At its very best, that is, when it is right and certain, the antecedent judgment of *con-scientia* is an integral component of the virtue of prudence. Once the *habitus* of prudence has been diminished or completely lost due to contrary acts of imprudence (*ST* II-II, q. 53) and the act of counsel prevented by precipitation (*ST* II-II, q. 53, a. 3) or by thoughtlessness (*ST* II-II, q. 53, a. 4), the flight from the *synderistic* indicator of

⁶³ “Huiusmodi autem compassio sive connaturalitas ad res divinas fit per caritatem, quae quidem unit nos Deo” (*ST* II-II, q. 45, a. 2, resp.). Thomas makes this statement in the context of considering the gift of wisdom, a gift that has its cause in the will, but its essence in the intellect, “a gift of the Holy Spirit to judge aright about [Divine things] on account of connaturality with them” (*ibid.*). *Nota bene*: The judgment of wisdom is the supernatural analogue of the judgment of *con-scientia*. The judgment of *con-scientia* applies the principles of *synderesis*; the judgment of wisdom applies via connaturality what pertains to the eternal law: “Wisdom denotes a certain rectitude of judgment according to the Eternal Law” (*ibid.*).

⁶⁴ The relationship between conscience and prudence bestows an important lesson. While *synderesis* and *con-scientia* are indispensable, the exercise of the virtue of prudence, acquired as well as infused, is of a surpassingly greater significance for the moral life and especially for the *viator* on the pilgrimage to the supernatural final end, the communion with the blessed Trinity in the beatific vision. (Of equally great importance are the gifts of the Holy Spirit, in our context especially the gift of counsel; *ST* II-II, q. 52). Hence it is to be expected that in Thomist moral theology the acquired and the infused virtues together with the gifts of the Holy Spirit take center stage, while *synderesis/con-scientia* hold a subordinate, though indispensable position. When post-Tridentine Catholic moral theology, especially from the eighteenth century on, shifted the emphasis from grace, the gifts of the Holy Spirit, and the beatitudes to conscience and law, many of the best insights of Thomist sapiential moral theology fell by the wayside. For an instructive analysis of the problem, see Pinckaers, *Sources of Christian Ethics*, 254–79, and for a lucid analysis of the precise role of the gifts of the Holy Spirit for the Christian moral life, see Steven A. Long, “The Gifts of the Holy Spirit and Their Indispensability for the Christian Moral Life: Grace as *Motus*,” *Nova et Vetera* (English) 11, no. 2 (2013): 357–73.

moral truth and from the interior forum prepares the indulgence in the counterfeit of conscience. Regarding its own decisions as intrinsically infallible expressions of a sovereign self-determination, the counterfeit foregoes counsel, the interior as well as exterior source leading to a rightly formed judgment of *con-scientia*. The decisions the counterfeit posits, create the semblance of a true and therefore good conscience precisely because the counterfeit's decisions are held as infallible, as quasi-certain. The sovereign self-determination guarantees consistency with oneself, which is to replace the *synderistic* truth indicator. Eschewing the *forum internum* and embracing the attitude of sovereign self-determination, the counterfeit of conscience now blocks access to the synderistic root of right judgment.

The Erroneous Conscience

This phenomenon, the counterfeit of conscience producing a simulacrum of the true and therefore good conscience, raises, third, the complex issue of the erroneous conscience. First, a brief word on Thomas's distinct approach. Because Thomas is engaged in an objective analysis of the principles and judgments of conscience in respect to truth and goodness, he distinguishes the objective stance of the science of *sacra doctrina* that is in possession of the first principles and the correct inferences of more remote principles, from the subjective stance of the moral agent. An integral component of *sacra doctrina* is sapiential moral theology. It is only from the objective perspective of sapiential moral theology that the distinction between a conscience that is subjectively good (a judgment based on a good intention) but objectively erroneous, can be meaningfully introduced and defended. The objective perspective in its perfection is identical with the divine knowledge itself. Only through a participation in this divine knowledge, the eternal law, by way of the natural law, reason's participation in the eternal law, *as affirmed and perfected by the revealed principles of the divine law*, is the objective perspective accessible in an imperfect but completely reliable form to sapiential moral theology and by way of instruction to the faithful. The objective perspective is, to a certain degree, also accessible to philosophical wisdom that is able to infer correctly secondary principles and precepts from the first principle

and precept of *synderesis*.

Thomas stresses that the antecedent judgment of *con-scientia*, the application of the universal principles of *synderesis* to a particular case, is not infallible. When properly informed by prudence, that is, when conformed to right intention according to the principles and precepts of *synderesis* and when subjectively certain, the judgment of *con-scientia* is practically true and right. But the agent might suffer from ignorance and hence is objectively burdened by an erroneous conscience. Hence the characteristic deficiency of an erroneous conscience is ignorance, which can be voluntary or involuntary, vincible or invincible (*ST* I-II, q. 76).

Since the dictate of conscience binds and must be obeyed, a dictate issuing from an objectively erroneous conscience must nevertheless subjectively be obeyed. If the objective perspective were completely available this side of the beatific vision, then the only relevant perspective would be the agent's perspective. And from the agent's perspective the only way to sin would be to act against one's conscience, to act from a consciously bad intention. This was, of course, famously Peter Abelard's position to which Thomas is implicitly responding.⁶⁵ Consider how Thomas distinguishes between the objective and the subjective perspective:

Conscience is said to bind in so far as one sins if he does not follow his conscience, but not in the sense that he acts correctly if he does follow it. . . . Conscience is not said to bind in the sense that what one does according to such a conscience will be good, but in the sense that in not following it he will sin. . . . A correct

⁶⁵ The thesis to which Thomas responds here can be found in Abelard's *Ethica seu liber dictus scito te ipsum*: "Peccatum non est nisi contra conscientiam" (*PL* 178, col. 653C). In a remarkable act of anticipation of essentially modern moves, Abelard elevates subjective conscience to the highest norm of morality and thereby contributes to the eventual invention of the counterfeit of conscience. This is not a matter of purely antiquarian interest. For Abelard's approach to conscience found a sophisticated modern advocate in the voice of Karl Rahner, who penned an influential essay published originally in *Orientierung* 48 (1983): 246B–250A, under the title "Vom irrenden Gewissen." See Appendix 4 for further discussion of Rahner's construal of conscience. For a lucid treatment of this difficult issue and an incisive interrogation of Rahner's construal, see Théo G. Belmans, O. Praem., "Le paradoxe de la conscience erronée d'Abélard à Karl Rahner," *Revue Thomiste* 90 (1990): 570–86.

conscience and a false conscience bind in different ways. The correct conscience binds absolutely and for an intrinsic reason; the false binds in a qualified way and for an extrinsic reason.⁶⁶

The erroneous conscience does indeed bind, not because it is correct, but because the judgment of *con-scientia* is all a person can go by—at the moment. Nevertheless, the erroneous conscience can be identified eventually as such because it depends upon the logical priority of the correct conscience, which applies the principles of *synderesis* rightly. From the agent's perspective the way to find out whether one has acted from an erroneous conscience or not occurs in light of instruction, counsel, or self-examination by way of a consequent judgment of *con-scientia*, either in form of a moral self-critique that elicits regret and remorse in the case of a formerly erroneous conscience or in form of a simple retrospective affirmation that one's true and therefore good conscience has indeed also been right. Precisely because of the innate *habitus* of *synderesis*, the principle and therefore the concrete possibility of self-correction always obtains. For this reason it is the case that while the erroneous conscience indeed binds, it does not automatically excuse. Thomas explains:

If . . . reason or conscience should err voluntarily, either directly or because of negligence, being in error about something one is held to know, then such error does not prevent the will which is in accord with erring reason or conscience from being evil. (*ST* I-II, q. 19, a. 6, resp.) Similarly, supposing error of reason or conscience which proceeds from a non-excusing ignorance, evil in the will necessarily follows. However, such a man is not perplexed, because he can correct his error, since his ignorance is both vincible and voluntary. (*ST* I-II, q. 19, a. 6, ad 3)

Culpable erroneous conscience is caused either by negligence (see *ST* II-II, q. 54; lack of due solicitude), which makes it indirectly voluntary,

⁶⁶ *De veritate*, q. 17, a. 4, resp.; *Truth* II, 331–32; see also *ST* I-II, q. 19, a. 5, resp. Thomas holds the correct conscience to bind absolutely and for an intrinsic reason because a judgment of *con-scientia* that is practically true is necessarily also right.

or by willful ignorance (see *ST I-II*, q. 76), which makes it directly voluntary. In his *Commentary on the Sentences*, the young Thomas offers a pithy summary of this complex matter: To follow one's erring conscience means to be unable to avoid sinning, but to act against one's conscience means simply to sin.⁶⁷ The person who acts against the antecedent judgment of conscience always sins, because the only way the *synderistic* truth indicator is applied is by way of a judgment of antecedent conscience. To turn intentionally against such a judgment is always culpable because it means that one cuts oneself off from the very possibility of following moral truth. To follow one's erring conscience means to do what seems subjectively right but what is objectively wrong. McNerny aptly summarizes:

An erroneous conscience is an instance of ignorance, of not knowing the correct assessment of a proposed course of action. If the ignorance in which one acts is voluntary, then it does not excuse. . . . It may be indirectly voluntary if it is a matter of negligence, of one not putting his mind to know what he is held to know.⁶⁸

Hence, in order to achieve moral rectitude, it does not suffice simply to follow subjectively one's conscience. Rather, moral rectitude requires striving to have a right conscience, which entails study, seeking counsel, docility to proper authority, and the regular examination of conscience (that is, permitting, seeking, and encouraging the consequent judgments of *con-scientia*). In light of the supernatural final end (*ST I-II*, q. 1, a. 8; q. 3, a. 8), these prerequisites and their goal, moral rectitude, while indispensable, are however radically insufficient. The faithful in a state of grace will rely heavily on the infused virtue of prudence, especially on εὐβουλία (*ST II-II*, q. 51, aa. 1 and 2) and on the infused gift of counsel (*ST II-II*, q. 52) that will allow them to immerse themselves more deeply into the Church's teaching on faith and morals and to be directed as though counselled by God. Thomas reminds his readers: "That a [person] be counselled by God as to what he ought to do in matters necessary for salvation is common to all holy persons" (*ST II-II*, q. 52, a. 1, ad 2).

⁶⁷ *In II Sent.* d. 39, q. 3, a. 3. Cf. also his later *Quodl.* III, q. 12, a. 2, ad 2.

⁶⁸ McNerny, "Conscience and the Object," 99.

Invincible Ignorance

Finally, a brief word is apposite on the borderline case of a conscience affected by invincible ignorance. Vatican II's pastoral constitution on the Church in the Modern World, *Gaudium et Spes*, states that "conscience frequently errs from invincible ignorance without losing its dignity."⁶⁹ This is, of course, right: even a conscience that errs due to invincible ignorance carries the dignity of conscience. But in order not to commit a serious misunderstanding, the following is crucial to keep in mind: *Gaudium et Spes* emphasizes explicitly that the very obedience to the law written by God into the heart is the dignity of the human person: "Man has in his heart a law written by God; to obey it is the very dignity of man" (§ 16). Drawing upon this principle in his encyclical letter *Veritatis Splendor*, Pope John Paul II concludes: "It is always from the truth that the dignity of conscience derives" (§63). Hence when erroneous due to invincible ignorance, the dignity of conscience derives from its infallible theonomic root, from the first principle and precept of *synderesis* and ultimately from the divine origin of the infallible and incorruptible habitual light that makes possible the judgments of *conscientia*. Quite obviously, the dignity of conscience cannot be grounded in the judgments of *conscientia* themselves, whether correct or erroneous.⁷⁰

⁶⁹ *Gaudium et Spes*, §16: "In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience. Always summoning him to love good and avoid evil, the voice of conscience when necessary speaks to his heart: do this, shun that. For man has in his heart a law written by God; to obey it is the very dignity of man; according to it he will be judged. (Cf. *Rom.* 2:15-16.) Conscience is the most secret core and sanctuary of a man. There he is alone with God, Whose voice echoes in his depths. (Cf. Pius XII, Radio address on the correct formation of a Christian conscience in the young, March 23, 1952: AAS [1952], p. 271.) In a wonderful manner conscience reveals that law which is fulfilled by love of God and neighbor. (Cf. *Matt.* 22:37-40; *Gal.* 5:14.) In fidelity to conscience, Christians are joined with the rest of men in the search for truth, and for the genuine solution to the numerous problems which arise in the life of individuals from social relationships. Hence the more right conscience holds sway, the more persons and groups turn aside from blind choice and strive to be guided by the objective norms of morality. Conscience frequently errs from invincible ignorance without losing its dignity. The same cannot be said for a man who cares but little for truth and goodness, or for a conscience which by degrees grows practically sightless as a result of habitual sin" (available at Vatican website: www.vatican.va).

⁷⁰ This dignity is absent from the counterfeit of conscience to which *Gaudium et Spes* obliquely refers at the very end of the above cited section (note 69) of §16: "The same

Less obviously but of even greater importance, the dignity of conscience does not derive from some alleged transcendental experience of freedom and responsibility that would presumably surpass in significance, ontologically antecede, and possibly even replace *synderesis*.⁷¹

Furthermore, invincible ignorance cannot simply be a state of ongoing moral existence but rather denotes an extraordinary temporary phenomenon (though one that can last for a considerable amount of time) arising from a unique constellation of subjective obstacles none of which, however, are in principle insurmountable. In other words, invincible ignorance can never be a proper attribute of theonomic conscience *per se*; it can only be an accidental attribute denoting a contingent deficiency that one might call circumstantial ignorance or perplexity (*perplexitas*).⁷² The state of moral perplexity—seeing sin on both sides, on the side of commission and on the side of omission—can never be unconditional. It rather always pertains to the unavoidability of sin under

cannot be said for a man who cares but little for truth and goodness, or for a conscience which by degrees grows practically sightless as a result of habitual sin" (my emphasis).

⁷¹ See Appendix 4 for a brief discussion of Karl Rahner's influential construal of such a position.

⁷² Invincible ignorance in its maximum state occurs, according to Thomas, only in those who, due to profound mental or psychological impediments are unaccountable for their doings: "Ignorantia iuris non excusat a peccato, nisi forte sit ignorantia invincibilis sicut est in furiosis et amentibus; quae omnino excusat" (*Quodl.* III, q. 12, a. 2, ad 2). McNerny rightly concludes that "an act performed in invincible ignorance—an ignorance for which one can in no way be held accountable—would fail to qualify as a human act" (McNerny, "Conscience and the Object," 100). McNerny's point is not evaluative (as if a person "acting" in such a way would offer a "sub-human" performance). Rather, his point is conceptual. A genuinely human act is essentially intelligible and voluntary and therefore always entails minimal accountability. Absolute ignorance would entail the absence of all intelligibility in which case such a doing would fail as a candidate of human act. Thomas puts the matter tersely in *ST* I-II, q. 1, a. 1, resp.: "Those acts alone are properly called human [*actiones humanae*] which are of his own deliberate willing [*ex voluntate deliberata*]. Others that may be attributed to him may be called 'acts of man' [*hominis actiones*], but not 'human acts' [*actiones humanae*], since they are not his precisely as a human being [*non sint hominis inquantum est homo*]" (trans. Thomas Gilby, O.P.). On the intelligible act as the most basic unit of human action, see the instructive essay by Alasdair MacIntyre, "The Intelligibility of Action," in *Rationality, Relativism, and Human Sciences*, ed. J. Margolis, M. Krausz, and R. M. Burian (Dordrecht: Nijhoff, 1986), 63–80.

certain conditions; it denotes “an instance of ignorance, of not knowing the correct assessment of a proposed course of action.”⁷³

The Erroneous Conscience and the Counterfeit of Conscience

What is to be learned from the erroneous conscience and how does it differ from the counterfeit of conscience? First, from the objective perspective afforded by *sacra doctrina* and its entailed moral science, the reality of an erroneous conscience presupposes an objective moral order and reliable knowledge of it. For a consistent moral subjectivism and the concomitant rule of self-will, on the contrary, an erroneous conscience is an utterly meaningless notion. By positing its own dictates of self-will, the subjectivist counterfeit of conscience is, by definition, infallible and therefore quasi-certain. Because it is the law of its own dictates, there is nothing in light of which the counterfeit of conscience can possibly err.⁷⁴ One of the most astute recent descriptions of the subjectivist nature of the counterfeit of conscience was penned by Pope John Paul II in *Veritatis Splendor*:

The individual conscience is accorded the status of a supreme tribunal of moral judgment which hands down categorical and infallible decisions about good and evil. To the affirmation that one has a duty to follow one's conscience is unduly added the affirmation that one's moral judgment is true merely by the fact that it has its origin in the conscience. But in this way the inescapable claims of truth disappear, yielding their place to a criterion of sincerity, authenticity and “being at peace with oneself” so much so that some have come to adopt a radically subjectivist conception of moral judgment. (§32)

The use of the language of the “primacy of conscience” by ethicists and

⁷³ McNerny, “Conscience and the Object,” 99. For a discussion that is as learned as it is lucid on conditional perplexity, see Richard Schenk, O.P., “*Perplexus supposito quodam*: Notizen zu einem vergessenen Schlüsselbegriff thomanischer Gewissenslehre,” *Recherches de théologie ancienne et médiévale* 57 (1990): 62–95.

⁷⁴ Johann Gottlieb Fichte's subjective idealism offers probably the most consistent but also most problematic account of the inherently infallible conscience. See Appendix 5 for a brief discussion.

moral theologians in recent years is a strong indication that the point of reference under discussion might not be conscience truly so called—which would call for the primacy of the “rule of ethical truth”⁷⁵ implemented by the virtue of prudence—but might rather be the counterfeit of conscience, sovereign self-determination authenticated by emotive self-affirmation.

Second, from the agent’s perspective, the very possibility of an erroneous conscience entails an antecedent and a consequent personal duty. The antecedent duty is to avoid ignorance and imprudence. Formulated positively, the antecedent duty is always to seek counsel, to have one’s conscience formed by those one regards as wiser and better informed than oneself, and first and foremost, to avail oneself of the instruction by and guidance of those whose specific vocation is to offer to theonomic conscience the instruction of the natural and the revealed law. The consequent duty is to avoid negligence and indifference by way of a regular examination of conscience, a sincere review of past judgments, and repentance of acts done due to an erroneous conscience.

This means, third, that for the Catholic faithful the prime tutor of conscience must be the Church’s own moral instruction undertaken by those appointed to teach authoritatively about faith and morals, the universal ordinary magisterium of the bishops in communion with the pope in regard to their respective dioceses and in regard to the Church universal the ordinary magisterium of the pope.

Fourth, in light of Thomas’s doctrine of conscience, the counterfeit of conscience is objectively a result of willful ignorance or at least of negligence and thoughtlessness. In the worst case, the counterfeit is an intentional, self-conscious flight from conscience, truly so called: by positing decisions of the self-will, a person acts in direct opposition to the judgments of a correct conscience. Does this mean that the counterfeit of conscience is able to extinguish *synderesis*? Thomas addresses this question explicitly in *De veritate*, q. 16, a. 3. He denies that *synderesis* can be extinguished in its root, *qua* innate *habitus*, “for this light belongs to the nature of the soul, since by reason of this the soul is intellectual.”⁷⁶ But in regard to actualizing the *habitus*, *synderesis* can be interfered with com-

⁷⁵ Newman, *Conscience*, 447; *Difficulties*, 246.

⁷⁶ *De veritate*, q. 16, a. 3, resp.; *Truth* II, 312.

pletely and it can, indeed, be deflected toward the contrary of *synderesis*. The former “happens in those who do not have the use of free choice or of reason because of an impediment due to an injury to the bodily organs from which our reason needs help.”⁷⁷ Only the latter pertains to the counterfeit of conscience:

The act of *synderesis* is deflected toward the contrary of *synderesis*. It is impossible for the universal judgment of *synderesis* to be destroyed in this way, but in a particular activity it is destroyed whenever one sins in choice. For the force of concupiscence, or of another passion, so absorbs reason that in choice the universal judgment of *synderesis* is not applied to the particular act.⁷⁸

It is here that Thomas points to what we might call the dark secret of the counterfeit of conscience. What looks to the person fleeing theonomic conscience like the sovereignly posited decisions of self-determination is indeed the product of a profound self-deception. The flight from theonomic conscience and thereby from the “habitual light” of *synderesis* that informs reason actually makes the moral agent subject to the power of the passions and the variegated desires of the will to which they give rise. The postmodern experience of the self as a mere conscious bundle of passions and desires meets with Thomas’s harmatological analysis. Because *synderesis* cannot be destroyed, but only fled from or suppressed, the counterfeit of conscience remains an inherently unstable construal of self-deception that must be willfully maintained, directly or—more frequently—indirectly. For all the decisions the counterfeit sovereignly posits remain exposed to the “habitual light” that the first principle and the first precept of *synderesis* shed on the agent’s reason. The counterfeit is therefore inherently unable to gain the peace that is characteristic of a conscience, truly so called, that is both subjectively true and therefore good and objectively correct.⁷⁹

⁷⁷ *De veritate*, q. 16, a. 3, resp.; *Truth* II, 312. One of the most famous relevant cases that illustrate Thomas’s point is that of Phineas Gage. During a work accident, this nineteenth-century workman had a tamping iron driven through his head. Gage survived the accident, but his personality was altered for the worse.

⁷⁸ *De veritate*, q. 16, a. 3, resp.; *Truth* II, 312.

⁷⁹ But even for a conscience, truly so called, such a peace remains a fragile reality un-

**Thomas Aquinas and John Henry Newman:
Comparing Apples and Oranges?
Or Complementary Accounts of Conscience?**

It will by now have become clear that according to the argument of this essay Newman's and Thomas's accounts of conscience complement each other in such a way that Newman indeed had good reasons to turn in his *Letter* to the *doctor communis*. It also seems quite obvious that Newman's reasons for drawing upon Thomas were of a substantive theological and conceptual nature. They did not reflect, as some might suppose, a merely tactical display of ecclesiastical *obsequium* to a papal initiative of Catholic philosophical renewal, retrospectively called "Neo-Scholasticism." Newman's *Letter* appeared five years before Pope Leo XIII promulgated his famous 1879 encyclical letter *Aeterni Patris* in which he called all Catholic teachers of philosophy and theology to return to the sound philosophical principles of Thomas Aquinas. But was Newman's turn to Thomas a defensible move? Have we not learned in recent years that the two are supposedly representing incompatible philosophical approaches to the theological task?

There are two differences between Newman and Thomas that must briefly be addressed, the first is a seeming difference, the second a surmountable difference. First, the seeming difference of incompatible approaches: throughout his long life as preacher and writer, Newman advanced an astute phenomenological (*avant la lettre*) account of conscience from the experiential perspective of one whose own conscience was exceedingly acute, well formed, and undergirded by the Christian faith. In short, Newman analyzed conscience primarily from the agent's first person perspective. Thomas undertook his formal analysis of the principles and operation of conscience from the third-person-perspective characteristic of the inquiry into causes and principles. In his excellent *Introduction to Phenomenology*, Robert Sokolowski has recently averred that phenomenology complements Thomist thought. While Newman was no phenomenologist in the proper sense of the term, his proto-phenomenological approach to conscience and Thomas's account

less it is one of the fruits of the Spirit (*ST* I-II, q. 70), the peace that comes from following the motions of the Holy Spirit made possible by the Spirit's gifts, especially the gifts of wisdom and counsel (*ST* II-II, q. 45 and q. 52).

of conscience as developed in the framework of a sapiential moral theology do not contradict but complement each other. Hence, in the *Letter* where Newman pursued an objective exposition and defense of the Catholic doctrine of conscience, it was for substantive reasons he turned to Thomas's doctrine.

Second, the surmountable difference consists in the potential tension if not conflict that obtains regarding the precise conceptualization of the theonomic root of conscience. Is it a direct interior divine address or illumination—and in some passages Newman seems to understand it in that way—or is it an innate *habitus* of the first principle and precept of practical reason as Thomas teaches? This tension can be resolved if one takes Newman's characterization in the *Letter* ("conscience is the aboriginal Vicar of Christ"⁸⁰) first and foremost as a *theological* identification of the root of conscience and his characterization from the *Grammar of Assent* ("the echo of a voice"⁸¹) as a phenomenological description of the mode in which this root of conscience is present in human reason. Not only does the metaphor of the "echo" reflect more accurately the empirical evidence of conscience's theonomic root, it also comports well with the notion of *synderesis* as an innate *habitus*. An echo suggests indirectness. In order to understand clearly what an echo conveys, one must strain one's hearing and intentionally realize the "voice" in one's mind in form of a judgment in order to understand how it pertains to what is to be done here and now. Analogically, in Thomas's terms, the natural *habitus* of *synderesis* is partially an act in so far as it is a distinct determination of a potency. But only when the *habitus* is fully reduced to the particular judgment as to what is to be done here and now, is *conscientia* realized. The "echo" and *synderesis* refer to the self-same reality—the rational creature's participation of the eternal law. And for Thomas as well as for Newman this participation pertains first and foremost to the intellect. Law—eternal, natural, revealed—is for neither of them heteronomous because it informs reason, which is the rule and measure of human acts. Newman turns to Thomas precisely in order to affirm this fun-

⁸⁰ Newman, *Conscience*, 449; *Difficulties*, 248–49.

⁸¹ *An Essay in Aid of a Grammar of Assent*, introduction by Nicholas Lash (Notre Dame, IN: University of Notre Dame Press, 1979), 99.

damental point: God “implanted this Law, which is Himself, in the intelligence of all His rational creatures.”⁸²

Last but not least, Thomas and Newman share a philosophical point of reference—Aristotle, to be precise, his analysis of the virtue of prudence, *phronēsis*, in Book VI of the *Nicomachean Ethics*.⁸³ While Thomas as well as Newman correlate conscience with the virtue of prudence, the way each of them relates various aspects of the operation of conscience to prudence reflects their different but complementary approaches. Pursuing the objective approach of sapiential moral theology, Thomas stresses the function of the first principles of practical reason in human action: “*Synderesis* is said to be the law of our mind [*lex intellectus nostri*],⁸⁴ because it is a [*habitus*] containing the precepts of the natural law, which are the first principles of human actions” (*ST* I-II, q. 94, a. 1, ad 2). In the practical order, the first principle, *synderesis*, appoints the end to moral virtues to which they consequently tend. The virtue of prudence disposes the means to the end, and is itself moved to the end by *synderesis* as a final cause.⁸⁵ Consistent with the comprehensive theological view of sapiential moral theology, the principal cardinal virtue, prudence, and the practical order to which it relates are embedded in an encompassing teleological order established by the eternal law. As stated above, *synderesis* is the root of the rational creature’s participation in this encompassing teleological order. As an innate *habitus*, *synderesis* appoints the end and prudence, moved by *synderesis*, regulates the means to reach the end. In

⁸² Newman, *Conscience*, 447; *Difficulties*, 246. For Thomas, see *ST* I-II, q. 90, aa. 1–4.

⁸³ Thomas as well as Newman had a deep familiarity with the *Nicomachean Ethics*. Thomas, of course, wrote an extensive commentary on it, and Newman taught Aristotle’s ethics at Oriel College, Oxford, where he was a fellow from 1822 to 1845. The version Newman used for his teaching was *Aristotelis Ethicorum Nicomacheorum libri decem*, 4th ed., ed. G. Williamson (1818). Newman’s copy of this edition is kept in the archives at the Birmingham Oratory.

⁸⁴ This is an oblique reference to John of Damascus, *De fide orthodoxa*, iv, 22, to which Thomas makes an explicit reference in *ST* I, q. 79, a. 12, resp.

⁸⁵ “Natural reason known by the name of *synderesis* appoints the end to moral virtues. . . . The end concerns the moral virtues, not as though they appointed the end, but because they tend to the end which is appointed by natural reason. In this they are helped by prudence, which prepares the way for them, by disposing the means. . . . Yet *synderesis* moves prudence, just as the understanding of principles moves science” (*ST* II-II, q. 47, a. 6, ad 1 and ad 3).

this way Thomas integrates Aristotle's profound inquiry into *phronēsis* in the much wider and elevated horizon of sapiential moral theology without diminishing the integrity of Aristotle's acute analysis. Consider Thomas's way of appealing to a section of book VI of the *Nicomachean Ethics* in his "on the contrary" of the question whether prudence appoints the end to the moral virtues:

The philosopher says (*Ethics* VI, ch. 12) that "moral virtue ensures the rectitude of the intention of the end, while prudence ensures the rectitude of the means." Therefore it does not belong to prudence to appoint the end to moral virtues, but only to regulate the means. (*ST* II-II, q. 47, a. 6, sc)

What Thomas does not say here explicitly but rather implies are two things: first, that *synderesis* makes possible in the first place the rectitude of the intention of the end. Precisely because *synderesis* is a natural *habitus* and not an innate illumination of the intellect with certain ideas and because the intellect provides the will with the formality or character of goodness (*bonum apprehensum*), the first principle and the first precept pertain primordially to the intellect as well as to the will. Second, he implies that this *habitus* must be actualized in the judgment of *con-scientia* in order to enable prudence to regulate and command the means to that end.

From the experiential and phenomenological approach of the agent's perspective, Newman, on the other hand, emphasizes a faculty that in relation to religion he calls "moral sense." It has "truth for its direct object." Newman understands it to be one specific aspect of the faculty that Aristotle calls *noûs*.⁸⁶ For Aristotle, *noûs* (in Latin *intellectus*) comprises

⁸⁶ Cardinal Newman, *Stray Essays on Controversial Points, Various Illustrated* (privately printed, 1890), 97–98. Cf. Aristotle, *Nicomachean Ethics* VI, trans. H. Rackham, chaps. 10–11 (1143a35–1143b5): "Intelligence [*noûs*] apprehends the ultimates in both aspects—since ultimates as well as primary definitions are grasped by Intelligence [*noûs*] and not reached by reasoning: in demonstrations, Intelligence [*noûs*] apprehends the immutable and primary definitions; in practical inferences, it apprehends the ultimate and the contingent fact, and the minor premise, since these are the first principles from which the end is inferred, as general rules are based on particular cases; hence we must have perception of particulars, and this immediate perception is Intelligence (*noûs*). This is why it is thought that these qual-

the basic capacity of the immediate perception of particular cases as well as the fully fledged virtue of the intellect that by process of induction apprehends undemonstrable first principles.⁸⁷ In order to account for the *de facto* operation of the judgment of conscience, Newman's exclusive concern is the former aspect of *noûs*, the immediate perception of the particular and the relevant minor premise of the practical syllogism. Lest his quite specific line of argumentation be burdened with unnecessary theoretical baggage, Newman brackets the second aspect of *noûs*. This intuitive element of prudence, the immediate apprehension of the contingent particular together with the relevant minor premise of the practical syllogism,⁸⁸ is indispensable for the judgment of *con-scientia*. In order to apply the first principle and precept of *synderesis* at all, one must have some immediate apprehension of the contingent particular act in order to apply the principle and the precept meaningfully at all.

For the concrete judgment of *con-scientia*, both aspects of *noûs* are absolutely indispensable, but only in the context of consideration, counsel, and the examination of one's conscience do the secondary precepts of *synderesis* become explicit in the agent's perspective. And precisely in order to avoid ignorance of "secondary and more detailed precepts" (ST I-II, q. 94, a. 6, resp.), the formation of conscience is necessary, that is, the expansion of the pool of secondary, more detailed precepts that are held by the innate *habitus* of *synderesis*. This *habitus* can be expanded

ities are a natural gift, and that a man is considerate, understanding and intelligent by nature, though no one is a wise man by nature." For Thomas's discussion of the relevant passages of the *Nicomachean Ethics* VI, see his *Sent. Eth.* VI, lec. 9 (Marietti nr. 1247–49). (Commentary on the *Nicomachean Ethics*, trans. C. I. Litzinger, O.P. [South Bend, IN: Dumb Ox Books, 1993], 393–94).

⁸⁷ Aristotle, *Nicomachean Ethics* VI, chap. 6 (1141a5–8). For Thomas's discussion of the relevant passages of the *Nicomachean Ethics* VI, see his *Sent. Eth.* VI, lec. V (Marietti nr. 1175–83) and VII (Marietti nr. 1214–16) (*Commentary on the Nicomachean Ethics*, 373–75, 384–85).

⁸⁸ Just in order to clarify what I mean by "particular" and "minor premise," I simplify and update Aristotle's example of a practical syllogism from his *De motu animalium* VII (701a17–20). Major premise: I need covering (covering satisfies a need). Minor premise: A raincoat is a covering. The conclusion of the practical syllogism is an action: I have to buy a raincoat. The practical syllogism is triggered by the "particular," the raincoat I perceive and immediately recognize as such while hurrying by a shop window as rain is beginning to pour down vehemently.

and strengthened by an increasing number of specifications of the first precept that we acquire by way of instruction, counsel, and reflection.

Conscience and the Magisterium

The proper operation of conscience requires regular attention to two essentially vincible imperfections and their due repair: ignorance and thoughtlessness (*inconsideratio*). We avoid or repair ignorance by way of the ongoing formation of conscience and thoughtlessness by way of the regular examination of conscience. Yet formation and examination require concrete social contexts of accountability, distinct practices of formation and examination, and last but not least a proper authority equipped to teach and guide the examination of conscience; in short, magisterial competency and authority. Bereft of these three conditions, in the present context, the formation of conscience stands in great danger of turning into an unintended acculturation into the counterfeit of conscience and the examination of conscience turning into a therapeutic exercise in self-exculpation and self-affirmation.

To many a contemporary Catholic, in Europe as well as in North America, any strong notion of magisterial competency, let alone authority, and especially infallibility, in matters of faith and morals, is very hard, if not impossible to swallow.⁸⁹ For such a notion seems to contradict the very dignity and freedom of conscience. Newman is keenly aware of the danger for Catholics living under the dominant condition of modern subjectivity to capitulate to the counterfeit of conscience. This danger of capitulating to or willingly embracing the counterfeit of conscience only increases when Catholics find themselves in a democratic régime where the “nation” regards itself as “church” and where “democracy” becomes a hegemonic program of immanent salvation advanced by an ideology of sovereign secularism, a program where the optimum of progress coincides with the maximization of “democracy” culminating in a secularist global “democratization.” In such a political constellation, the counterfeit of conscience advances all too quickly into a publicly accepted prejudice, supported and advanced by the government and legally cod-

⁸⁹ For an astute treatment of this urgent topic, see Kevin E. O'Reilly, O.P., “The Church as the Defender of Conscience in Our Age,” *Nova et Vetera* (English) 12, no. 1 (2014): 193–215.

ified and enforced by courts of law. Eventually, the willing embrace of the collective prejudice by each and every citizen will be regarded as an indispensable entailment of loyal citizenship and as the proper expression of the national identity. When Catholics instead insist on following the judgments of a well-formed theonomic conscience, the political and ideological acolytes of such a secularist democratic régime will predictably conclude—to put it in Gladstone's words—that such Catholics can no longer “be trusted to participate loyally and thoughtfully in the nation's civic life.”⁹⁰

Consider how alarming and indeed extravagant must sound to the acolytes of such a secularist democratic régime—not to mention to Catholics thoroughly acculturated in the seductive material comforts and consolations these usually affluent societies afford—what Newman has to say about the manner in which a well-formed conscience (truly so called) must regard papal instruction, even in those matters to which the infallibility of the pope's extraordinary magisterium does not pertain but that rather fall under the pope's ordinary magisterium:

When [conscience truly so called] has the right of opposing the supreme, though not infallible Authority of the Pope, it must be something more than that miserable counterfeit which, as I have said above, now goes by the name. If in a particular case it is to be taken as a sacred and sovereign monitor, its dictate, in order to prevail against the voice of the Pope, must follow upon serious thought, prayer, and all available means of arriving at a right judgment on the matter in question. And further, obedience to the Pope is what is called “in possession”; that is, the *onus probandi* of establishing a case against him lies, as in all cases of exception, on the side of conscience. Unless a man is able to say to himself, as in the Presence of God, that he must not, and dare not, act upon the Papal injunction, he is bound to obey it, and would commit a great sin in disobeying it. *Primā facie* it is his bounden duty, even from a sentiment of loyalty, to believe the Pope right and to act accordingly. . . . He must vanquish that mean, ungenerous, selfish, vulgar spirit of his nature,

⁹⁰ Newman, *Conscience*, 432.

which, at the very first rumour of a command, places itself in opposition to the Superior who gives it, asks itself whether he is not exceeding his right, and rejoices, in a moral and practical matter, to commence with skepticism.⁹¹

What then—according to Newman now rightly understood—is the proper relationship between theonomic conscience and the magisterium of the Catholic Church?

It is by now sufficiently obvious that Newman holds that there are two very different vicars of the one Christ who is the eternal Word of God through whom the world was created, who became incarnate, who was “handed over to death for our sins, and raised to life for our justification” (Rom 4:25).

As to the first vicar of Christ: the Word of God issues the spark of conscience, *synderesis*, the origin of the light that illumines reason by providing the natural *habitus* of the first principles of moral truth. Thomas rather tersely identifies the office of *synderesis* as “inciting to good and murmuring at evil” (*ST* I, q. 79, a. 12, resp.). Newman is pointing to no other reality at all when with characteristic rhetorical force he states: “Conscience is the aboriginal Vicar of Christ, a prophet in its informations, a monarch in its peremptoriness, a priest in its blessings and anathemas.”⁹² As already discussed above, Newman offers here an explicit theological identification of the theonomic root of conscience, indeed a quite explicit Christological allusion to the threefold office of Christ as prophet, king, and priest. But *nota bene*: this theological identification is not to be confused with the phenomenological description of the mode in which this theonomic root of conscience is present in human reason.

The second vicar of Christ is, obviously, the historical vicar, the pope. Either directly through his ordinary magisterium or indirectly through the universal magisterium of the bishops in union with him, the pope informs, educates, instructs, and sharpens conscience. Newman rightly emphasizes an obvious, but often forgotten truth. The pope’s instruction presupposes the reality of conscience—without the reality of con-

⁹¹ Newman, *Conscience*, 454–55; *Difficulties*, 257–58.

⁹² Newman, *Conscience*, 449; *Difficulties*, 248–49.

science, the pope's instruction could not be properly received. Newman drives home the point:

Did the Pope speak against Conscience in the true sense of the word, he would commit a suicidal act. He would be cutting the ground from under his feet. His very mission is to proclaim the moral law, and to protect and strengthen that "Light which enlighteneth every man that cometh into the world." On the law of conscience and its sacredness are founded both his authority in theory and his power in fact. . . . [I]t is by the *universal sense of right and wrong*, the consciousness of transgression, the pangs of guilt, and the dread of retribution, as *first principles* deeply lodged in the hearts of men, it is thus and only thus, that [the Pope] has gained his footing in the world and achieved his success.⁹³

At the same time, conscience needs the pope's protection from being muted or repressed by its counterfeit, the sovereign rule of self-will. Newman states:

It is [the Pope's] claim to come from the Divine Lawgiver, in order to elicit, protect, and enforce those truths which the Lawgiver has sown in our very nature, it is this and this only that is the explanation of his length of life more than antediluvian. The championship of the Moral Law and of conscience is [the Pope's] *raison d'être*. The fact of his mission is the answer to the complaints of those who feel the insufficiency of the natural light; and the insufficiency of that light is the justification of his mission.⁹⁴

Newman is keenly aware that while *synderesis* will eventually always break through with its own interior evidence, this echo of the divine voice can nevertheless be all too easily ignored, muted, or distorted such that the judgments of conscience become erroneous:

⁹³ Newman, *Conscience*, 451–52 (my emphasis); *Difficulties*, 252–53.

⁹⁴ Newman, *Conscience*, 452; *Difficulties*, 253.

The sense of right and wrong . . . is so delicate, so fitful, so easily puzzled, obscured, perverted, so subtle in its argumentative methods, so impressible by education, so biassed by pride and passion, so unsteady in its course that, in the struggle for existence amid the various exercises and triumphs of the human intellect, this sense is at once the highest of all teachers, yet the least luminous; and the Church, the Pope, the Hierarchy are, in the Divine purpose, the supply of an urgent demand.⁹⁵

Newman's view is consonant with Thomas's teaching. If the secondary precepts of the natural law are "blotted out from the human heart," the sense of right and wrong can be seriously obscured or perverted. In *ST I-II*, q. 94, a. 6, Thomas explicitly addresses the question of whether the law of nature can be abolished from the heart of man. His response is unequivocal:

There belong to the natural law, first, certain most general precepts, that are known to all; and secondly, certain secondary and more detailed precepts, which are, as it were, conclusions following closely from first principles. As to those general principles, the natural law, in the abstract, can nowise be blotted out from men's hearts. But it is blotted out in the case of a particular action, in so far as reason is hindered from applying the general principle to a particular point of practice, on account of concupiscence or some other passion, as stated above [*ST I-II*, q. 77, a. 2]—But as to the other, i.e., the secondary precepts, the natural law can be blotted out from the human heart, either by evil persuasions, just as in speculative matters errors occur in respect of necessary conclusions; or by vicious customs and corrupt habits, as among some men, theft, and even unnatural vices, as the Apostle states (Rom 1), were not esteemed sinful. (*ST I-II*, q. 94, a. 6, resp.)

The Church's mission through the universal magisterium of the bishops and especially through the ordinary magisterium of the pope is nothing

⁹⁵ Newman, *Conscience*, 452; *Difficulties*, 253–54.

but to support and strengthen the divine spark of conscience, *synderesis*, by reaffirming explicitly the first principles of moral action, and to form the conscience by making explicit the precepts of the natural law—the general as well as the more detailed principles—and by confirming and extending them through the catechesis of the divine law.⁹⁶

And so it is indeed the case, as McNerny states, that “St. Thomas would . . . agree with the order of precedence in Newman’s toasts: first to conscience, then to the pope, since this means, God first, then the pope.”⁹⁷ For Newman’s sequence presupposes the theonomic constitution of conscience to obtain and not, as all too many have wrongly assumed, its very counterfeit, the sovereign rule of self-will. Consider once more Newman’s formulation, but remember that for Newman the notion of “religion” is virtually identical with the notion of “theonomy,” for religion is all about the knowledge of and the obedience to the holy will of God: “If I am obliged to bring religion into after-dinner toasts . . . I shall drink—to the Pope, if you please,—still, to Conscience first, and to the Pope afterwards.”⁹⁸

In his encyclical letter *Veritatis Splendor*, Pope John Paul II explicitly affirms the sequence of conscience and magisterium as argued by Newman:

The authority of the Church, when she pronounces on moral

⁹⁶ Regarding the Church’s competence to interpret and apply the natural law, and thereby to instruct the theonomic conscience not only of Catholics but of all persons of good will, Pope Pius XII stated unambiguously: “The power of the Church is not bound by the limits of ‘matters strictly religious,’ as they say, but the whole matter of the natural law, its foundation, its interpretation, its application, so far as their moral aspects extend, are within the Church’s power. For the keeping of the natural law, by God’s appointment, has reference to the road by which man has to approach his supernatural end. But, on this road, the Church is man’s guide and guardian in what concerns his supreme end” (*Acta Apostolicae Sedis* 46 [1954]: 671–72; trans. J. R. Leach, “Teaching Authority of the Church,” *New Catholic Encyclopedia* 13 [1967]: 964).

⁹⁷ McNerny, “Conscience and the Object,” 106.

⁹⁸ Newman, *Conscience*, 457; *Difficulties*, 261. For Newman’s understanding of “religion,” consider his poignant statement in the second of his famous University Sermons, “The Influence of Natural and Revealed Religion Respectively”: “What is Religion but the system of relations existing between us and a Supreme Power, claiming our habitual obedience” (John Henry Newman, *Fifteen Sermons Preached before the University of Oxford between A.D. 1826 and 1843*, introduction by Mary Katherine Tillman [Notre Dame, IN: University of Notre Dame Press, 1997], 19).

questions, in no way undermines the freedom of conscience of Christians. This is so not only because freedom of conscience is never freedom “from” the truth but always and only freedom “in” the truth, but also because the Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather, it brings to light the truths which it ought already to possess, developing them from the starting point of the primordial act of faith. The Church puts herself always and only at the *service of conscience*, helping it to avoid being tossed to and fro by every wind of doctrine proposed by human deceit (cf. *Eph* 4:14), and helping it not to swerve from the truth about the good of man, but rather, especially in more difficult questions, to attain the truth with certainty and to abide in it. (§64)

Because conscience truly so called is theonomic in nature, the freedom of conscience can only be a freedom in the truth. Rather than being a negative freedom bent on safeguarding sovereign self-determination, the freedom in the truth is positive freedom that—enlightened by the spark of *synderesis*—is realized in seeking the due moral good. The formation of conscience by way of the magisterium serves and facilitates the realization of positive freedom.

**Freedom of Conscience as Freedom in the Truth:
How Is It Achieved and How Is It Sustained
under the Public Rule of Its Counterfeit?**

The natural *habitus* of *synderesis* is an active potency, innate and determined, that requires activation by way of practical reason’s concrete judgment (*con-scientia*) and operative realization by way of prudence’s order (*praeceptum*). The positive freedom characteristic of theonomic conscience always seeks its ongoing formation by way of counsel and instruction. Characteristic of theonomic conscience is the interior forum that gives rise to the inner dialogue of the human being with him- or herself, an inner dialogue that is open—and indeed ordered—to the interior dialogue between the human person and God—who is not only the author of the law but also the Triune one in whose image the hu-

man being is created and who is the final end of the human being.⁹⁹ As Pinckaers observes, conscience truly so called

makes judgments in the presence of God by listening to his sovereign voice . . . [and] lets itself be judged by God and guided by his law through a fruitful, open, and intelligent obedience. One sign that helps us distinguish true from false is certainly that true conscience always presents a challenge, like the steep and narrow way of the Gospel that stands in stark contrast to the broad and easy way that leads to eternal sorrow. At the same time, true conscience gives those who follow it a peace and joy that no external thing can trouble, while false conscience without fail provokes doubt and division, compromise and confusion.¹⁰⁰

The counterfeit of conscience is indeed nothing but one particularly subtle and powerful instantiation of a false conscience—it is a false conscience in the very the state of self-justification as good conscience. As Pinckaers rightly points out, a false conscience has distinctive characteristics, and so does the counterfeit of conscience. Wherever an appeal to the freedom of conscience functions as a conversation stopper and very often as an emotionally charged last resort that brings any inquiry into the grounds for judgments made and actions done to an immediate halt, there is a strong indication that we are dealing with the counterfeit of conscience. This simulacrum camouflages the dictates of the sovereign self-determination that has no other reasons to offer than its own *de facto* positing of a decision: theonomic conscience engenders judgments; the counterfeit of conscience posits decisions.¹⁰¹ The counterfeit of conscience betrays itself in its eagerness of appealing rhetorically to the primacy of conscience precisely in order to protect the sovereignty

⁹⁹ “The importance of this interior *dialogue of man with himself* can never be adequately appreciated. But it is also a *dialogue of man with God*, the author of the law, the primordial image and final end of man” (Pope John Paul II, *Veritatis Splendor*, §58).

¹⁰⁰ Pinckaers, *Morality*, 57.

¹⁰¹ Decisionism in modern moral and legal philosophy rests on the assumption that neither God nor law (in the sense of natural law participating in the eternal law) exists. Differently put, there seems to obtain a direct correlation in philosophical ethics between the theoretical dismissal of theonomic conscience and the ascendancy of decisionism.

of one's self-determination from the challenges of the interior dialogue and from the probings of exterior moral interrogation.¹⁰²

The inner dialogue occurring in the interior forum of the human being is, however, a proprium of mature personhood. Anamnestic witness, prospective exhortation, and retrospective evaluation (accusatory or excusatory) are essential aspects of this inner dialogue. This dialogue can indeed be repressed or avoided thanks to the stratagems of the self-will but only at the cost of diminishing one's own personhood and of foregoing the positive freedom that is realized when the theonomic conscience is properly formed and heeded.¹⁰³

What if the negative freedom of the counterfeit of conscience becomes dominant in a culture—by way of force, law, custom, or prejudice? The sovereign rule of self-will and the concomitant appeal to the coun-

¹⁰²The very flight from theonomic conscience is therefore perfectly compatible with the surprisingly frequent rhetorical appeal in the public life of secularist democratic régimes to conscience, that is, of course, to the counterfeit of conscience.

¹⁰³Thoughtlessness, distraction, negligence, indifference, or subjection to strong passions (fear, lust, hatred) might be proximate causes for avoiding the interior forum and thus muting the inner dialogue. Such consistent muting of the interior dialogue amounts to a culpable self-debasement, a rejection of the *synderistic* root of one's human dignity. In her haunting book *Eichmann in Jerusalem*, Hannah Arendt encounters this phenomenon in Eichmann and calls it "thoughtlessness." (*Eichmann in Jerusalem: A Report on the Banality of Evil*, rev. and enlarged ed. [New York: Penguin, 1977, 287–88]). Thomas identifies thoughtlessness (*inconsideratio*) as a special sin included in the vice of imprudence (*ST* II-II, q. 53, a. 4). For Aquinas as well as Arendt, thoughtlessness does not name a psychological or epistemological defect, but rather a profound moral problem. The counterfeit of conscience is so pernicious because by muting the inner dialogue it engenders thoughtlessness. In contemporary secularist democratic régimes, there is a dangerous self-congratulatory complacency abroad caused by the erroneous conviction that such thoughtlessness has disappeared together with the totalitarian régimes of the last century. One can make, however, a reasonable case that, on the contrary, since then such thoughtlessness has become more widespread. Such a case can be, at least indirectly, supported by Neil Postman's far from outdated book, *Amusing Ourselves to Death: Public Discourse in the Age of Show Business* (New York: Penguin, 1985). Life on the Internet, Facebook, Twitter, YouTube, and Netflix hardly encourages attending to the interior forum and the inner dialogue. With few exceptions, a life immersed in superficiality and distraction in cyberspace inculcates routines and habits that are the ideal breeding ground for thoughtlessness. The exercise of theonomic conscience, on the contrary, requires mindfulness, empathy, and moments of interior and exterior silence necessary for recollection, which is a prerequisite for the examination of conscience, truly so called.

terfeit of conscience might even become concentrated in a dominant political party or symbolically represented in a political leader. To those who grew up in the second half of the twentieth century, Nazism and Communism have taught an important lesson: deny the reality of theonomic conscience, discourage, ridicule, and even attempt to suppress its proper and rightful exercise, and the outcome is a system of moral and political barbarity. *Nota bene*: democratic régimes are not per se immune to this danger. If democratic régimes embrace as publicly normative a materialist or naturalist secularism and a concomitant moral and legal decisionism and are bent on imposing this ideology upon the body politic, such secularist democratic régimes are prone to produce their own subtle and refined versions of barbarity—versions albeit devoid of the cynical cruelty typical of totalitarian regimes. Already in 1991, in his encyclical letter *Centesimus Annus*, Pope John Paul II expressed a warning that has become only more urgent: “Authentic democracy is possible only in a State ruled by law, and on the basis of a correct conception of the human person. . . . As history demonstrates, a democracy without values turns into open or thinly disguised totalitarianism.”¹⁰⁴ Remove normatively the supposition of the theonomic conscience, as is characteristic for ideological secularism, and the inherent dignity of the human person from birth to natural death becomes unintelligible and the reliable and objective perception of the “standard of ethical truth”¹⁰⁵

¹⁰⁴ *Centesimus Annus*, §46. Because of its striking relevance, it is worth recounting the passage from *Centesimus Annus* in full: “Authentic democracy is possible only in a State ruled by law, and on the basis of a correct conception of the human person. It requires that the necessary conditions be present for the advancement both of the individual through education and formation in true ideals, and of the ‘subjectivity’ of society through the creation of structures of participation and shared responsibility. Nowadays there is a tendency to claim that agnosticism and sceptical relativism are the philosophy and the basic attitude which correspond to democratic forms of political life. Those who are convinced that they know the truth and firmly adhere to it are considered unreliable from a democratic point of view, since they do not accept that truth is determined by the majority, or that it is subject to variation according to different political trends. It must be observed in this regard that if there is no ultimate truth to guide and direct political activity, then ideals and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism” (Pope John Paul II, *Centesimus Annus*, §46).

¹⁰⁵ Newman, *Conscience*, 447; *Difficulties*, 246.

inconceivable. Pope John Paul II articulated this looming consequence with great clarity in his 1995 encyclical letter *Evangelium Vitae*:

When freedom, out of a desire to emancipate itself from all forms of tradition and authority, shuts out even the most obvious evidence of an objective and universal truth, which is the foundation of personal and social life, then the person ends up by no longer taking as the sole and indisputable point of reference for his own choices the truth about good and evil, but only his subjective and changeable opinion or, indeed his selfish interest or whim. (§19)

This flight from theonomic conscience does not remain without dire political consequences, consequences that become increasingly tangible in the political and social life of Western secularist democratic régimes. Pope John Paul II clearly names the causes for the subtle but pervasive disease and misery characteristic of the day-to-day life in contemporary affluent secular societies in the Western Hemisphere:

This view of freedom leads to a serious distortion of life in society. If the promotion of the self is understood in terms of absolute autonomy, people inevitably reach the point of rejecting one another. Everyone else is considered an enemy from whom one has to defend oneself. Thus society becomes a mass of individuals placed side by side, but without any mutual bonds. Each one wishes to assert himself independently of the other and in fact intends to make his own interests prevail. Still, in the face of other people's analogous interests, some kind of compromise must be found, if one wants a society in which the maximum possible freedom is guaranteed to each individual. In this way, any reference to common values and to a truth absolutely binding to everyone is lost, and social life ventures on to the shifting sands of complete relativism. At that point, everything is negotiable, everything is open to bargaining: even the first of the fundamental rights, the right to life (§20).

Not so very long ago it was, of course, quite obvious to every person with a well-formed theonomic conscience that the government of a

body politic, in which the laws of the state have a constitutional and de facto correlation to the “rule of ethical truth” as reflected in the natural law, cannot be expected legally to exempt individual appeals to conscience that serve as warrants for breaking the law.¹⁰⁶ A murderer is to be punished by law whether he or she appeals for the crime to conscience or not. But that same person with a well-formed theonomic conscience might now ask: What if the laws of an explicitly and consistently secularist democratic régime become—suddenly or incrementally—unmoored from the natural law and the “rule of ethical truth” and come to encode nothing but the arbitrary will of varying political majorities and their particular predilections—predilections that blatantly contradict the moral law and bear witness to a flight from theonomic conscience and to the identification of the common good with the contingent interests of whatever constitutes a statistical majority in opinion polls? Again, in *Evangelium Vitae* Pope John Paul II foresaw the political consequences entailed in the flight from theonomic conscience, consequences that since then have become quite tangible in the dominant political reality of the Western Hemisphere:

When the sense of God is lost, there is also a tendency to lose the sense of man, of his dignity and his life; in turn, the systematic violation of the moral law, especially in the serious matter of respect for human life and its dignity, produces a kind of progressive darkening of the capacity to discern God’s living and saving presence. (§21)

Is it completely unthinkable that the United Nations might eventually give in to the political pressure of strictly secularist democratic

¹⁰⁶ G. W. F. Hegel puts this matter with great clarity, and alongside offers his own way of distinguishing clearly between conscience truly so called and its counterfeit. Cf. G. W. F. Hegel, *Hegel’s Philosophy of Right*, trans. T. M. Knox (Oxford: Clarendon Press, 1942), 91 (§137): “What is right and obligatory is the absolutely rational element in the will’s volitions and therefore it is not in essence the particular property of an individual, and its form is not that of feeling or any other private (i.e. sensuous) type of knowing, but essentially that of universals determined by thought, i.e. the form of laws and principles. Conscience is therefore subject to the judgement of its truth or falsity, and when it appeals only to itself for a decision, it is directly at variance with what it wishes to be, namely the rule for a mode of conduct which is rational, absolutely valid, and universal. For this reason, the state cannot give recognition to conscience in its private form as subjective knowing.”

régimes and attempt to impose upon the Catholic Church laws unmoored from the natural law and in contradiction to the revealed law and make canon law comply with such laws?

It seems that if a secularist democratic régime—unmoored from the natural law and the moral order—should impose laws in the service of the counterfeit of conscience that compel individuals and institutions to cooperate with grave systemic moral evil, such laws will unmask the constitutionally guaranteed freedom of religious exercise, so-called, as nothing but an arbitrary function of the régime's institutionalized collective subjectivity severed from the "rule of ethical truth"¹⁰⁷ and policed by the régime's legal machinery.

In such a situation it might be unavoidable and indeed timely to reconsider in all seriousness a position of Thomas Aquinas—summarized by legal theorists with the pithy phrase *lex iniusta non est lex*—that takes on a new and surprising relevance in our day. I shall only point to the two interconnected instances in Thomas's teaching on human law where he formulates this position in rather uncompromising terms. First, in *ST* I-II, q. 95, a. 2, Thomas raises the question whether every human law is derived from the natural law and answers in the affirmative: human law is derived from the natural law either as a conclusion from principles or as a determination of certain generalities. Then Thomas concludes that "if in any point human law departs from natural law, it is no longer a law but a perversion of the law" (*ST* I-II, q. 95, a. 2, resp.; my translation). For in such a case it ceases to be an ordinance of reason ordained to the common good. Subsequently, in *ST* I-II, q. 96, a. 4, Thomas addresses the question whether human law binds a person necessarily in the forum of conscience (*in foro conscientiae*). In the *sed contra*, Thomas quotes the Vulgate rendition of 1 Peter 2:19 that in translation reads "It is worthy of thanks if, because of his conscience, someone endures sorrows, suffering wrongfully." In his response Thomas states that

laws may be unjust in two ways: first, by being contrary to human good . . . —either in respect of the end, as when an authority imposes on his subjects burdensome laws, conducive,

¹⁰⁷Newman, *Conscience*, 447; *Difficulties*, 246.

not to the common good, but rather to his own cupidity and vainglory—or in respect of the author, as when a man makes a law that goes beyond the power committed to him—or in respect of the form, as when burdens are imposed unequally on the community, although with a view to the common good. The like are acts of violence rather than laws; because, as Augustine says (*De Lib. Arb.* I.5), *a law that is not just, seems to be no law at all*. Wherefore such laws do not bind in conscience, except perhaps in order to avoid scandal or disturbance, for which cause a man should even yield his right, according to Mt 5:40,41: *If a man . . . take away thy coat, let go thy cloak also unto him; and whosoever will force thee one mile, go with him other two*. Secondly, laws may be unjust through being opposed to the Divine good: such are the laws of tyrants inducing to idolatry, or to anything else contrary to the Divine law: and laws of this kind must nowise be observed, because, as stated in Acts 5:29, *we ought to obey God rather than men*.¹⁰⁸

Laws promulgated by secularist democratic régimes in service of the counterfeit of conscience may fall under Thomas's first rubric being contrary to the human good (especially pertaining to the authority of the lawgivers extending beyond the power committed to them) and under the second rubric, being contrary to the divine law. Remember, the divine law, according to Thomas, comprises the revealed aspects of the eternal law that include in the Decalogue a revealed summary of the natural law principles in their proximate conclusions (*ST* I-II, q. 100, a. 3, resp.) and that serve as the indispensable guide to the supernatural final end of the human person (*ST* I-II, q. 91, aa. 4 and 5; qq. 98–108). Most pertinent to the present discussion is one of Thomas's arguments for the need of the divine law:

Because, on account of the uncertainty of human judgment, especially on contingent and particular matters, different people form different judgments on human acts; whence also different and contrary laws result. In order, therefore, that man may

¹⁰⁸ *ST* I-II, q. 96, a. 4, resp. For a brief discussion of the important principle *lex iniusta non est lex*, see Appendix 6.

know without doubt what he ought to do and what he ought to avoid, it was necessary for man to be directed in his proper acts by a law given by God, for it is certain that such a law cannot err. (ST I-II, q. 91, a. 4, resp.)

A conscience that is illumined by divine faith¹⁰⁹ and rightly formed will always be docile to the divine law as interpreted by the ordinary magisterium and follow the fundamental principle enunciated in Acts 5:29: “We must obey God rather than men” (RSV). For a fitting illustration it is apposite to close the circle and return to one of Newman’s hypothetical cases from the beginning: “Suppose, for instance, an Act was passed in Parliament, bidding Catholics to attend Protestant service every week, and the Pope distinctly told us not to do so, for it was to violate our duty to our faith—I should obey the Pope and not the Law.”¹¹⁰

The full import of the contemporary analogical case seems to be by now obvious. Suppose a contemporary secularist democratic régime in the Western Hemisphere were to promulgate laws that would require Catholics—by complying with these laws—to violate their duty to the faith and morals as taught by the Catholic Church and put themselves into the proximity of grave systemic moral evil or make themselves even cooperate with such grave moral evil. And let us assume that the pope together with the Catholic bishops of such a country had spoken out in unison against such laws. Newman’s answer to this unfortunately less than hypothetical case is clear: “I should obey the Pope and not the Law.”¹¹¹

Laws promulgated by secularist democratic régimes that are unmoored from the natural law and the moral order do not have the power to extinguish the spark of *synderesis*; nor do they have the power to suppress the judgments of a properly formed theonomic conscience. But such laws do indeed have the power to inflict grave damage on the

¹⁰⁹“Faith, which through assent unites [the human being] to divine knowledge, has God as its principal object, and anything else as a consequent addition” (*De veritate*, q. 14, a. 8, resp.). When in divine faith God engages the human intellect and thus becomes its “object,” God engages the intellect as first truth, who reveals himself in the Person of the Word—Scripture and Tradition constituting “one single deposit of the Word of God,” as *Dei Verbum* 10 teaches.

¹¹⁰Newman, *Conscience*, 444; *Difficulties*, 240.

¹¹¹*Ibid.*

body politic—unmooring it ever more thoroughly from the “rule of ethical truth.”¹¹²

In the face of the sovereign secularism zealously promoted by not a few democratic régimes in the Western Hemisphere today, the Catholic Church’s perennial proximate political vocation as the teacher of conscience becomes ever more urgent—and simultaneously ever more difficult. Through instruction in and public witness to the divine law and through public argumentation based on the precepts of the natural law, she forms conscience and thereby begins to remove the dullness of practical reason consequent upon sin.¹¹³

In whatever political community the negative freedom of the counterfeited conscience has become dominant in the past and will again become dominant in the future—by way of force, law, custom, or prejudice—the Church has suffered and will suffer again milder or graver forms of discrimination and even persecution. At the same time, as it happened in the past, the positive freedom of theonomic conscience in the truth—the splendor of the dignity of the human being, created in God’s image—will be defended by acts of witness that in their heroic extreme are traditionally called—martyrdom.¹¹⁴

Appendix 1

John Calvin’s teaching on conscience as the internal witness of both the existence of God and the law of God is very clear, a teaching echoed by Newman’s early pre-1845 reflections on conscience that were most likely influenced by the Calvinist strand of his early evangelical phase. In the *Institutes of the Christian Religion*, Calvin regards conscience as an interior awareness of a divine judgment that engenders (1) the sense of divinity and (2) the distinction between good and evil. According to Cal-

¹¹²Newman, *Conscience*, 447; *Difficulties*, 246.

¹¹³This sentence I borrowed from my “Democracy after Christendom—Sovereign Secularism, Genuine Liberalism, and the Natural Love of God,” in *Dust Bound for Heaven: Explorations in the Theology of Thomas Aquinas* (Grand Rapids, MI: Eerdmans, 2012), chap. 4, 124.

¹¹⁴Pope John Paul II states the matter as clearly as one can wish in *Veritatis Splendor* §92: “Martyrdom, accepted as an affirmation of the inviolability of the moral order, bears splendid witness both to the holiness of God’s law and to the inviolability of the personal dignity of man, created in God’s image and likeness.”

vin (and pace Karl Barth's questionable interpretation of Calvin on this matter), every human has a knowledge of the natural law and also the capacity and responsibility to judge whether human laws correspond to the natural law. (See *Inst.* II. ii. 13; 16; 22; 24. For this reading of Calvin, I rely on the extensive treatment of conscience in Günter Gloede's classic study, *Theologia naturalis bei Calvin* [Stuttgart: Kohlhammer, 1935], 103–331, and therefore take sides in what seems to be an interminable controversy. For an instructive summary of this intense intra-Calvinist controversy stretching over the twentieth century about the proper interpretation of Calvin's understanding of conscience and the natural law, see William Klempa, "John Calvin on Natural Law," in *John Calvin and the Church: A Prism of Reform*, ed. Timothy George [Louisville, KY: Westminster/John Knox, 1990]: 72–95.) On the Lutheran side of things, matters were a bit more complicated. After initially adopting the concepts of *synderesis* and *conscientia* in the scholastic sense (for example in his 1513–15 *Dictata* on the Psalms and in his 1515–16 *Romans lectures*), in the period of 1517–19, Martin Luther discarded *synderesis* completely from his conception of conscience. For during that period and from then on, *conscientia* came to indicate exclusively the human soteriological relationship to God: *conscientia mala* captures the state of estrangement from God under the condition of sin, *conscientia fidelis* describes the new restored relationship of being reconciled with God *sola fide*. Reinterpreted in such a radical way, conscience lost its function as the indicator of the rule of moral truth. It turned into a virtually exclusive soteriological indicator of the human's primordial relationship to God, either convicted by the law (which God gave to humanity not to be followed but rather solely in order to unmask humanity's sinfulness and drive humanity to the Christ) or justified by faith alone. (See *The Disputation against Scholastic Theology*, WA 1, 372, 34ff; *Large Catechism*, part III, 5th petition; *Lectures on Galatians* 1531, WA 40/1, 73–74.) Melanchthon saw this exclusively theological understanding of conscience as a problem and reintroduced the concept of *synderesis* into the notion of conscience as the relationship to God determined by justifying faith (or the lack thereof). (See his 1540 *Commentary on Aristotle's De anima*.) Under the salutary influence of Melanchthon, the Lutheran scholastic theologian Georg Calixt (1586–1656) finally returned to the Thomistic distinction of *synderesis* and *conscientia* (*Epitome theologiae*

moralis [1634]). The anti-Melanchthonian Gnesio-Lutherans and the Lutherans of the early twentieth-century Luther Renaissance (a return to the young “existentialist” Luther combined with elements of early dialectical theology) continued to insist on an exclusively theological understanding of conscience—with the predictable consequence of modern Lutheran ethics (with only few notable exceptions) vacillating between, on the one side, the positivism of the “orders of preservation” of human existence under the condition of sin and, on the other side, the antinomianism of an “agape-consequentialism.”

Appendix 2

If one gets clear on Thomas’s understanding of *synderesis* as a natural *habitus*, there is no need in the contemporary consideration of conscience to replace the admittedly *prima facie* unfamiliar technical term of *synderesis* with the by now equally unfamiliar concept of *anamnesis*, as then-Cardinal Joseph Ratzinger proposed in a very instructive essay on conscience. (Joseph Ratzinger/Benedict XVI, *On Conscience* [San Francisco: Ignatius Press, 2007], 11–41; here 30–36.) While I regard the overall thrust of this important essay as crucial and of ongoing relevance, I fail to be persuaded by the proposal of replacing *synderesis* with *anamnesis*. I think this matter may be discussed in all due respect to then-Cardinal Ratzinger and now Pope Emeritus Benedict XVI. Since *anamnesis* is the suggested replacement term of *synderesis*, then-Cardinal Ratzinger seems to understand *anamnesis* to pertain to the ontological level of conscience. On the ontological level, *anamnesis* can only be an innate *habitus* (and hence identical with *synderesis*) or an innate act (*actus*).

Let us consider first the option of understanding *anamnesis* as an innate *actus*. This *actus* would need to be conceived as continuous, as an ongoing interior illumination of the human agent with the first principle and the first precept. Consequently, *anamnesis* would not stand in need of any further reduction to act and would therefore make the interior judgment of *conscientia* superfluous. The virtue of prudence (with its two acts of counsel and command) would suffice to account for the proper realization of the continuous innate *actus* of *anamnesis* in the fitting specific exterior act. According to this construal, there might be

either an imprudent realization the interior illumination of *anamnesis* affords in the exterior act or worse a vicious rejection of the interior illumination by the will (presupposing a strong dichotomy between intellect and will). However, on the supposition that *anamnesis* is an innate *actus* on the ontological level, there could never be an erring conscience, that is, a conscience that is subjectively good but objectively wrong. Because illumination and error are mutually exclusive, the will becomes the fulcrum of “decision” (n.b. decision and not judgment) either to follow the light that *anamnesis* constantly sheds into the intellect or to turn against it. For these reasons the option of understanding *anamnesis* as an innate *actus* seems unsustainable. Indeed, then-Cardinal Ratzinger does not seem to support this first option either in its full implications. Hence the second option, construing *anamnesis* as an innate *habitus*, seems to be preferable.

Let us therefore turn to a brief consideration of this option. As already mentioned above, its central advantage is that it allows a conceptual account of the erroneous conscience. For in order to maintain the concept of the erring conscience one must uphold, on the one hand, the distinction between (1) the *habitus* of the first principle and the first precept and (2) the interior actualization of a concrete judgment (*conscientia*) and, on the other hand, the distinction between (3) the interior act of judgment and (4) the exercise of the virtue of prudence, which always has its term in an exterior act. Consequently, in order to avoid the problem of the impossibility to conceptualize the erroneous conscience, one would have to construe *anamnesis* not as *actus*, as illumination, but as *habitus*. But in this case *anamnesis* becomes conceptually indistinguishable from *synderesis*. The only remaining question then would be which word would be preferable for pragmatic, prudential, or pedagogical reasons to signify the innate *habitus* of the first principle and precept of practical reason. If one is committed to maintaining the distinction between a natural *habitus* on the ontological level of conscience (*synderesis*) and its reduction to act (*conscientia*), as then-Cardinal Ratzinger himself seems to suggest (37), the introduction of the concept of *anamnesis* might in the end only complicate the fundamental distinction between the *habitus* and its actualization. In light of the potential misunderstanding of *anamnesis* as an innate *actus*, it seems preferable to stay with the initially unfamiliar, but received technical term *synderesis*.

The proposal to adopt *anamnesis* instead seems to open the way to misunderstandings that could undercut the possibility to account conceptually for the erroneous conscience.

Appendix 3

Immanuel Kant, arguably under the ongoing influence of his early Pietist upbringing, offers a striking account of the interior forum:

Consciousness of an *internal court* in man (“before which his thoughts accuse or excuse one another”) is *conscience*. Every human being has a conscience and finds himself observed, threatened, and, in general, kept in awe (respect coupled with fear) by an internal judge; and this authority watching over the law in him is not something that he himself (voluntarily) *makes*, but something incorporated in his being. It follows him like his shadow when he plans to escape. He can indeed stun himself or put himself to sleep by pleasures and distractions, but he cannot help coming to himself or waking up from time to time; and when he does, he hears at once its fearful voice. He can at most, in extreme depravity, bring himself to *heed* it no longer, but he still cannot help hearing it. (*The Metaphysics of Morals*, trans. and ed. Mary Gregory [Cambridge: Cambridge University Press, 1996], 189).

But Kant passes over *synderesis* and consequently ends up with a dangerously unmoored interior forum. He is aware of this problem, of the necessity of a “doubled self” that if not resolved would lead to the collapse of the interior forum and consequently to the infallible decision of the counterfeit of conscience. Hence Kant postulates:

For all duties a human being’s conscience will, accordingly, have to think of *someone other* than himself (i.e., other than the human being as such) as the judge of his actions, if conscience is not to be in contradiction with itself. This other may be an actual person or a merely ideal person that reason creates for itself. (*Metaphysics of Morals*, 189)

Rather unsurprisingly, there are some necessary qualities that must be postulated about such an ideal person. And consequently,

since such a moral being must also have all power (in heaven and on earth) in order to give effect to his laws (as is necessarily required for the office of judge), and since such an omnipotent moral being is called *God*, conscience must be thought of as the subjective principle of being accountable to God for all one's deeds. In fact the latter concept is always contained (even if only in an obscure way) in the moral self-awareness of conscience. (*Metaphysics of Morals*, 190)

Kant's *phenomenological* description of theonomic conscience is of surprising accuracy and echoes the traditional Christian accounts that can be found in the preceding century in the Catholic Suárez and in the Lutheran Calixt. However, in his *theoretical* account of conscience, Kant replaces *synderesis* with the God-postulate, a move fully consistent with his destruction of the deity of rationalist ontotheology in his *Critique of Pure Reason* and the return of the shadow of the self-same deity as a postulate of practical reason in his *Critique of Practical Reason*. It would however, not take long after Kant until Nietzsche would regard the deity of the postulate as a willful pretense of the self, an intentional construal that camouflages the fact that the "doubled self" is a fiction created by those who flee the theonomic conscience.

Appendix 4

Relatively late in his life, Karl Rahner, published a brief, but programmatic, and therefore influential essay on conscience. The article appeared originally under the title "Vom irrenden Gewissen," *Orientierung* 48 (1983) 246B–250A, and was reprinted one year later under the title "Vom Gewissen: Gedanken über Freiheit und Würde menschlicher Entscheidung," in volume 16 of Karl Rahner's *Schriften zur Theologie* (Zurich: Benziger, 1984), 11–25, a volume edited by Paul Imhof, S.J. Only seven years later did the essay appear in English. (N.b. While very readable, the English translation flattens a delicate three-dimensional and conceptually sophisticated text into a two-dimensional user-friend-

ly English. It abandons much of the precise terminology Rahner uses in the German and seems to be driven by an all too transparent agenda of ever so slightly simplifying and thereby radicalizing Rahner's quite nuanced position. See "Conscience: Freedom and the Dignity of Human Decision," in *Theological Investigations*, vol. 22, *Humane Society and the Church of Tomorrow*, trans. Joseph Donceel, S.J. [New York: Crossroad, 1991], 3–13.). For Thomas as well as Newman, conscience signifies the primordial constitution of the human soul in the truth (ontologically as well as epistemologically) by way of the interior presence of the first principles of theoretical as well as practical truth. Truth thus gives rise to freedom, which in turn roots in the truth. In the center of Rahner's construal, on the contrary, stands the transcendental constitution of the human subject as an essentially free spirit oriented to God. Conscience signifies the subject's transcendental experience of freedom and responsibility in relation to God. Consequently, according to Rahner, theonomy is realized by way of autonomy. Conscience is fundamentally the self-awareness of transcendental subjectivity arising from the experience of being handed over to oneself, the experience of a primordial freedom and responsibility that *qua* creatureliness is essentially, though unthematically, oriented to the theonomic truth. According to this construal of transcendentalism, it is not the truth that sets free and thus constitutes freedom. Rather, it is the freedom of a primordial subjectivity of conscience that makes possible the reception of a truth to which the human spirit is oriented. The fundamental problem with this construal is that the first and constitutive moment of the human spirit is the freedom of self-possession and not the innate habitual presence of the theonomic first principle and first precept of moral truth. Rahner's conceptual prioritization of the subject's transcendental experience of freedom inverts the relationship between truth and freedom and thus creates a condition in which his construal in an ever so slightly radicalized form becomes a justification for the counterfeit of conscience. *Gaudium et Spes* does not support and *Veritatis Splendor* rejects Rahner's move to root the dignity of conscience in the transcendental experience of freedom and responsibility. His concept of transcendental subjectivity makes impossible the presence of the innate *habitus* of *synderesis*, since the latter would always antecede the self-possession of freedom, would be the truth that sets free, that, in other words, gives rise to freedom in

the truth. Absent *synderesis*, the dignity of conscience must indeed rest in the very constitution of the transcendental subject and the decisions that correspond to the transcendental experience of freedom and responsibility. The step from transcendental freedom to the counterfeit of conscience is minimal. For transcendental freedom is either somehow still aware of its creatureliness and hence its fundamental (even if unthematic) responsibility to the Creator—or transcendental freedom becomes “creative” and the dignity of the decisions it produces carry the dignity of being creatures of the self-will. For Rahner, very clearly, conscience is the unconditional call to oneself (being inescapably delivered up to oneself) and as such into radical responsibility (implicitly, at least, always in relation to God). But however one may try to salvage the matter, every decision made by such a subject is ultimately “creative,” that is, the subject’s own “creation” (of course, in radical responsibility to God). Not acting according to one’s conscience seems, according to Rahner’s construal, to be the one unforgivable sin—here Abelard echoes—because this way I would supposedly abdicate from the dignity of the transcendental freedom of personhood. But acting according to conscience, thus conceived, does not mean making judgments based on *synderesis*, but rather means making decisions that are essentially “creative,” arising from the abyss of my transcendental freedom. In radical responsibility, I offer these decisions up to God, but they are *my* decisions nevertheless. If different by intention, there seems to be a rather striking *de facto* identity between this construal of conscience as transcendental subjectivity and any philosophically sophisticated construal of the counterfeit of conscience. Without the supposition of *synderesis* and the phenomenon of the erroneous conscience (which Rahner puts radically into question), “autonomy” and “creativity” become, if not *de iure*, nevertheless *de facto* identical with “self-determination” and “sovereignty.”

Appendix 5

Johann Gottlieb Fichte (1762–1814), the *spiritus rector* of subjective idealism in the Germany of the 1790s, regarded the criterion for the correctness of our convictions to be purely interior to the subjective consciousness. Fichte calls this criterion conscience. In his *System of Ethics* (1798), he states emphatically:

The present deduction has once and for all cancelled and destroyed the evasion of an *erroneous conscience* still present in most systems of ethics. Conscience never errs and is unable to err; for it is the immediate consciousness of our pure, primordial I, which no other consciousness transcends and which cannot be interrogated and corrected by another consciousness; which in and of itself is the judge of all our convictions and which does not acknowledge any higher judge over itself. It [the immediate consciousness of our pure, primordial I] decides as the ultimate authority and cannot be appealed (my translation).

Es ist durch die soeben gegebene Deduction auf immer aufgehoben und vernichtet die nach den meisten Moralsystemen noch stattfindende Ausflucht eines *irrenden Gewissens*. Das Gewissen irrt nie und kann nicht irren; denn es ist das unmittelbare Bewusstseyn unseres reinen ursprünglichen Ich, über welches kein anderes Bewusstseyn hinausgeht; das nach keinem anderen Bewusstseyn geprüft und berichtet werden kann; das selbst Richter aller Ueberzeugungen ist, aber keinen höheren Richter über sich anerkennt. Es entscheidet in der letzten Instanz und ist inappellabel. (Johann Gottlieb Fichte, *System der Sittenlehre* [1798], *Werke IV* [Berlin: de Gruyter, 1971], 173–74)

In Fichte's construal we can observe a radical instantiation of the counterfeit of conscience, the "conscience" of the sovereign self-determination as conceived by a consistent subjective idealism. If the primordial I were God as absolutely different from the created, finite I, a form of *synderesis* (identical with the eternal law) would obtain. However, the primordial I being the root and origin of my transcendental subjectivity manifesting itself immediately through my consciousness, *synderesis* and *conscientia* coincide in the infallible decision the Fichtean conscience posits. The Fichtean conscience cannot be erroneous, because the rule of ethical truth coincides with the immediate consciousness of the primordial I. The interior forum—precondition for the interior dialogue—collapses into the monologuous "creative" positing of decisions by the ultimate authority, the immediate consciousness of the

primordial I, which is identical with the standard of moral truth. The pure primordial I, in its concrete existence, is finite, but in its essential activity is infinite—an infinite longing of the will that is the very root of the primordial I. This longing is the source of the striving that is the essence of freedom, realized in the positing of the decisions of the radically autonomous, self-creating I. In Fichte's construal we can observe a radical instantiation of the counterfeit of conscience, the "conscience" of the sovereign self-determination as conceived by a consistent subjective idealism.

Appendix 6

Norman Kretzmann offers an instructive analysis of the complex issue condensed in the principle *lex iniusta non est lex*. ("LEX INIUSTA NON EST LEX: Laws on Trial in Aquinas' 'Court of Conscience,'" *American Journal of Jurisprudence* 33 [1988]: 99–122). The only authority Thomas quotes (and in a subtle way generalizes) in order to back his position is Augustine, *De libero arbitrio* I, 5 (ML 32, 1227). Kretzmann points out that there are, however, earlier important representatives of Thomas's position: Plato, *Laws* IV (715B; 712E–713A) and *Statesman* (293D–E); Aristotle, *Politics* III, 6 (1282/b12–13) and IV, 4 (1292a31–34); and Cicero, *De legibus* II, v, 11. As Kretzmann rightly observes, Thomas has in mind a "conscientious conscientious objection" based on a properly formed conscience, which for a Catholic will always entail a genuine docility to the guidance that the ordinary magisterium provides. There is indeed the danger that the counterfeit of conscience takes the moral high ground in form of a counterfeit moral revivalism that in the name of a higher subjectivist morality takes exception to specific or all laws. Allan Bloom describes this danger aptly:

Conscience, a faculty thoroughly discredited in modern political and moral thought and particularly despised by Marx, made a great comeback, as the all purpose ungrounded ground of moral determination, sufficient at its slightest rumbling to discredit all other obligations or loyalties. (*Closing of the American Mind*, 326)

To put this particular phenomenon of a quasi “charismatic moral decisionism” to the side, a body politic in which theonomic conscience is respected has always the option to acknowledge legally certain forms of conscientious objection, normally based on the principle of the freedom of religious practice. However, in recent years secularist democratic régimes in the Western Hemisphere have tended to ignore the principle of the freedom of religious practice in favor of privileging the full legal protection of the subjectivist counterfeit of conscience and its sovereign self-affirmation. **N&V**

