

## TOWARDS VATICAN II'S CENTENARY: YOUR NEXT FIFTY YEARS

*John Finnis*<sup>†</sup>

It is a real and valued privilege to be able to speak to you today by your invitation and the inspiration of my distinguished former student in Oxford, Peter Carfagna: you need to know that he like your President Dean Cieply refrained from suggesting what I might talk about, and has no more foreknowledge of these remarks than any of you have. I was able several times to speak to Ave Maria Law School's students and faculty in its northern years, but this is my first visit to your more southerly home.

I thought I would talk about your next fifty years—you law students in particular (long and happy as I hope the faculty's and others' earthly lives all will be)—not because I or I think any of us have the ability to see so far, or very far at all, into the future, but because I would like to offer a few thoughts about matters that should be important to you whatever the future brings. And those matters can be brought into focus by relating them the great Council of all the world's bishops in communion with the Bishop of Rome that met in the Vatican during four periods (sessions) between October 1962 and December 1965, more than 90 years after the First Vatican Council.

On the threshold of becoming a Catholic, having left behind atheism, I spent a day in Rome in late September 1962, on almost the last leg of my journey from Australia to Oxford, and I saw the seating for the 2,000 bishops being assembled in the nave of St Peter's. Eighteen months later I was reading my own copy of Michael Novak's brilliant book on the Council's first two periods, *The Open Church*, conceived (as the cover put it) as a moving tribute to the Open Church as she prepares to accept and be accepted by the modern world", but very rightly noting on its second page that "It will take a century perhaps, or two centuries, before the event is put in sufficient focus . . . to grasp it sufficiently."<sup>1</sup> By the time the Council finished, I had completed my Oxford doctorate, on the idea of judicial power, and was in Berkeley California

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<sup>†</sup> Biolchini Family Professor of Law, University of Notre Dame du Lac; Professor of Law and Legal Philosophy Emeritus, University of Oxford. This article is a speech given at Ave Maria School of Law on October 5, 2015.

1. MICHAEL NOVAK, *THE OPEN CHURCH* xxii (Transaction Publishers, 2002).

teaching legal writing and research at the Law School there for two semesters before taking up the Oxford law-teaching responsibilities I had, in one form and another, for the next 49 years, including two years teaching in and running a Law School in central Africa. During those years in Malawi, and from then on, I was to see St Peter's and the Vatican a good many times (most recently, the week before the election of the present Pope) in various ways and times connected with the Council for Justice and Peace, with the Pontifical Academy for Life, and with the Congregation for the Doctrine of the Faith's International Theological Commission. All this I mention because it may give you a sense of the basis on which I have come to think that your next 50 years are likely to be in many, many ways more difficult and challenging than these last 50 years have been.

## I

These difficulties and challenges will, I think, be particularly evident to you as lawyers, whether practicing or not. Christians, especially faithful Catholics and Evangelicals, will increasingly need whatever legal services you can help provide, as protection (so as possible) in face of threats to their livelihood or liberty mounted on the basis of laws against so-called hate speech and bigotry, or against so-called discrimination in the provision of services involving complicity in immoral conduct; and threats contained in laws or legally supported policies for discriminating against Catholicism *on the ground that* in its teachings about private morality it rejects forms of immorality that the government or judiciary have decided should be promoted despite their gross injustice to children, or *on the ground that* in its own ecclesiastical order it distinguishes, in line with most basic differences in the human make-up between male and female. Even if we were to lose all the battles about the constitutionality of these anti-discrimination doctrines, and all or many of the legislative battles, there will still be much need for legal services in the case by case proceedings about alleged offences and torts, or in relation to dismissal and so on and on. Not all of you will have the vocation to provide such legal services, but as you pursue your legal studies I hope you all will work as hard as you can to identify the dangers, and so far as possible the strategies that might, in skilled and generous hands, contribute to alleviating them. The mix of legal craftsmanship and personal courage needed to provide this help will vary in its proportions from one circumstance to another, but both courage and craftsmanship will constantly be needed and, we should anticipate, be constantly in short supply.

An important aspect or fruit of courage is discernment, discrimination, good judgment. For it takes courage to think unpopular or socially penalized thoughts, thoughts that is expressed might even be legally penalized—and such thoughts you will increasingly need to think if you are to fulfill or even contribute much to carrying out the responsibilities or vocation I just

mentioned. Obvious examples will easily occur to you, so I will mention only one or two that may not be so obvious.

You will be defending authentic human and civil rights, insofar as they delegitimize the penalties, oppressions and deprivations that will likely be imposed—by laws, employment practices, schooling curricula and orders and judgments about child custody—on Christian parents, children, men and women in their professions and so forth. You will be appealing to human and civil rights as bases for interpretation of state or federal laws. But the “human rights community”, and “civil rights” in various of their recent manifestations canonized by the Supreme Court in cases like *Obergefell v Hodges*, have become a primary opponent of and threat to the preservation of the human and civil rights of Christians. So there is here an ideology that has appropriated these truths and made them half-truths and half-falsehoods, with the latter doing the effective work of persuading courts, legislators and voters. So discernment and discrimination are imperatively needed, and require of you hard critical thought, which in these conditions will require inner fortitude even before it calls for courage in expression and application.

Again, you will be appealing to freedom (“free exercise”) of religion, as a constitutional concept and guarantee. Well and good; I have written quite a bit in recent years defending that category against those like my former Oxford colleague Ronald Dworkin who would reduce it to a mere instance of self-defining choices, an instance of no special dignity or weight. I have written quite a bit too expounding the merits of Vatican II’s teaching, in its Declaration on Religious Liberty *Dignitatis Humanae*, that everyone has the right not to be coerced, legally or socially, in seeking to find and live out religious truth even when they are negligently misconducting that search or mistakenly adhering to religious falsehood. But to all that, it is necessary (and consistent) to add that “religion” and “faith” can be the source of injustice—violations of rights—and that you will need to maintain your freedom, your duty to yourself, to think (and hold fast to) this truth: the worth of your religion is not, ultimately and basically, in its capacity to provide personal integration and consolation, or familial harmony, or social cohesion, but in its truth—its freedom from basic errors about reality, about the great facts of divine creation and providence, and about God’s further self-disclosure through the prophets of Israel and the supremely significant events of the mission, execution and resurrection of Jesus of Nazareth, the Son revealing the Father. Religions that mistakenly deny any or all of these great facts can be and sometimes are, especially through their more earnest and dedicated followers, a grave menace to human rights, not least the rights of those who, like Catholics, can point out in words and show up in deeds **the error** not only of atheism and irreligion but also of those religions’ faith and practice.

## II

I will go over that in slower motion, with the outlines of a concrete example. That Council document I mentioned a moment ago, *Dignitatis Humanae*, is devoted to the right to be free from social including legal coercion in matters of religious belief and practice, within the limits of public order: that is public peace, respect for the just rights of others, and for sound public morality. Its principal explanation of the right is in sec. 3, which begins:

The highest norm of human life is the divine law—eternal, objective and universal—whereby God orders, directs and governs the whole world and the ways of the human community according to the plan of his wisdom and love. God makes us sharers in this his law so that, by divine providence's sweet disposing, we can recognize more and more the unchanging truth. Therefore every one of us has the duty, and so also the right, of inquiring into the truth in matters religious with a view to forming for oneself, with practical reasonableness and suitable means, judgments of conscience that are right and true.

This teaching about divine providence and God's eternal law in which we can participate by our natural reason—a teaching that reaches back<sup>2</sup> to the Old Testament's book of Wisdom, to Augustine and Aquinas, and to the First Vatican Council's dogmatic constitution *Dei Filius*—profoundly distinguishes the Christian religion from any religion that, like Islam in its classical and dominant form, conceives of God as ruling the universe not according to a plan and law of wisdom and love but by acts of will which manifest only sheer power and a wilfully given mercy. That conception goes far to explain the massive and continuing failure of Islamically ordered societies, over very many centuries down to today, to coherently and successfully pursue the natural sciences or indeed almost any form of principled human learning, including the philosophy of secular law or jurisprudence. And this error of that religion about the divine nature and about creation also, and more immediately relevantly for us here today, goes far to explain why the politico-legal doctrine embedded irreversibly, it seems, in the Koran and in the recorded life and deeds of its human author has the character it has. That character has twice been stated, with some precision though with neither vividness nor completeness, by the European Court of Human Rights (eighteen judges speaking unanimously):

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2. See John Finnis, *Collected Essays of John Finnis* (Oxford: 2011) V, p. 252.

. . . the Court considers that sharia, which faithfully reflects the dogmas and divine rules laid down by religion, is stable and invariable. Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it . . . [A] regime based on sharia . . . clearly diverges from Convention values, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women and the way it intervenes in all spheres of private and public life in accordance with religious precepts. . . . [A] political party whose actions seem to be aimed at introducing sharia . . . can hardly be regarded as an association complying with the democratic ideal that underlies the whole of the Convention.<sup>3</sup>

These realities (of which the Court gave, as I said, only an abbreviated and rather mild list—omitting for example capital punishment prescribed for abandoning the religion) are realities that put a question mark over more than one part of the orthodoxy of American freedom exercise of religion doctrine. They raise, I believe, a reasonable doubt about the part of that doctrine which says that the law and the courts must make no investigation of a religion's doctrines; and about the part, treated as axiomatic by high judges of every shade of opinion, that forbids any discrimination between religions. For if the “theological propositions of a religion” include political teachings at odds, as the European Court of Human Rights says, “with the democratic ideal that underlies the whole of” the Constitution and other principles that we have taken as foundational for our law, is it really unconstitutional to discriminate between religions at the country's borders (for example)?

These are questions that, in the public domain of ruling politicians and the media, have become almost unaskable (*especially* after adherents of that religion acting professedly in its name showed their ruthless power on 9/11 and in various spectacular publicly religious murders in Holland, Britain, Spain and France, not to mention Syria or Iraq and on the beach in Libya). So it seems likely that, during your next fifty years, immigration by its adherents will even in America—but most certainly in Europe—bring society to a state of tensions and hostilities so bad that—incredible as this may now seem—Catholics (partly because they hold a faith that teaches abstinence from such intimidation) will hesitate to appeal to the constitutional doctrine of “free exercise of religion”. For unless the courts change the way they interpret, construe or (I would say, more frankly) construct it, that doctrine will by then have favored or permitted the causing of much odious treason and misery, and may well have put in doubt the survival of the Constitution itself (and long before that, of the European Convention on Human Rights and its Courts).

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3. *Refah Partisi v Turkey (No. 2)* (2003) 37 European Human Rights Reports 1 [123] (quoting *Refah Partisi v Turkey (No.1)* (2002) 35 European Human Rights Reports 3 [72]). See John Finnis, “Endorsing Discrimination between Faiths: A Case of Extreme Speech?”, in Ivan Hare & James Weinstein (eds), *Extreme Speech and Democracy* (Oxford: 2009), 430–41.

It is very painful to have to say or listen to any of what I have just said, and I say no more about it today. But I should not leave it without underlining in passing what you may have noticed as I mentioned it a few minutes ago—that *mercy* is an ambiguous term, and that certain faith-conceptions of it are incompatible with the Christian understanding of mercy as, so to speak, the justice of the Kingdom—of that higher synthesis, by divine grace, of human potentialities in the eternal life (beginning in this world and extending into the next) that Jesus of Nazareth disclosed first perhaps to Nicodemus the Jerusalem Pharisee (Jn 3: 3–21), by night, after his first cleansing of the Temple precincts, and then disclosed to many others, as an invitation—and a warning—to choose conversion and repentance, lest we too make (or leave) ourselves as unfit to be in the precincts of God’s eternal household as those money-changers were to be in the precincts of the Temple in 28 (and again, it seems, in 30 AD).

### III

So “religion” will, I expect, get a bad name. So will “faith”. So indeed will appeals to “the truth” unless they are made in full continuity with the appeals to truth that are made by every science, every historical discipline, every field of secular human learning with learning’s standards of objectivity and reasonableness. Unless it adheres publicly and continually to that affirmation of its own objectivity and its own answerability to human inquiry and reasoning, Catholicism will wither and fade dramatically, as it has in Holland and Quebec and everywhere where it has seemed to abandon its message that it is not so much a matter of “faith” as an inner disposition or idea, but rather: important *information*, that is, truths (like them or not) about objective reality, real evidence of things that, though unseen and beyond natural science, are *correctly* inferred from actual historical evidence, of which the Catholic faith’s content, the propositions that constitute Catholic doctrine, is the *best explanation* available to any enquirer who is willing to consider the evidence and the rationally available explanations for it.

That is the way the Catholic faith was proposed to the world by Vatican I and in Vatican II’s most important document, the Dogmatic Constitution on Divine Revelation, *Dei Verbum*, adopted and promulgated on November 18th, 1965, three weeks before the Council’s end. But by far the most important story about the Council is that precisely that core teaching of *Dei Verbum* was immediately treated as a dead letter by the very people to whom it was most directly addressed, Catholic Scripture scholars—the then younger generations of whom in their lecturing and writing suddenly began to treat it, and mostly have ever since, as if it (that core teaching) were nonexistent, and as if the whole content for 1935+ years of Catholic teachings that it repeated were a slightly pitiful misunderstanding. This abandonment or betrayal of the Council, and the betrayal’s toleration by bishops at every level over 50 years,

is one of the worst disasters of Christian history, and one far too little noticed or considered. But it needs to be considered, even and not least by Catholic (or indeed other Christian) law students, and so I will say something, just a little, today about the investigations of it that I have made over the past few years.

Let me begin at a tangent, with a few words about the difference between, and inter-relations of, the Old Testament and the New. Looking at the Old Testament from the viewpoint of the New, or from the viewpoint of natural science, philosophy and history, two things stand out.

#### A

The first is the astounding achievement of the prophets of Israel. The Jewish library we call the Old Testament displays with impressive consistency a set of claims made over many hundreds of years by self-proclaimed recipients of divine revelation, call them the prophets, and maintained by them against very strenuous opposition and social-political resistance both passive and very active. And when we examine this set of claims, we find that they convey a number of propositions far nearer the truth than the comparable theses of even the best Greek philosophers.

The thesis which even Charles Darwin found compelling (even after publishing *The Origin of Species*)<sup>4</sup>—that reason warrants the judgment that everything in the immense and wonderful universe has a First Cause which is no part of but entirely transcends the universe, of which it is the First Cause by design, decision and activity of its intelligent mind—this is a thesis that surpasses the best in Plato's or Aristotle's philosophizing, courageous and important as that philosophizing was, about the divine causality at work in the world. When articulated more explicitly, the Hebrew prophets' thesis clearly involves the denial that there is any divine *being* or set of divine beings *within* the universe. It involves the radical distinguishing of the entirety of Nature from the divine, the de-divinizing of Nature and at the same time its de-absolutizing, revealing Nature's (the universe's) thoroughgoing contingency, and its utter lack of any elements which might explain or account for its existence as what we know it to be. For we know it to be *a totality* of intelligible beings and causal interactions, a world in which what we call, experience and imagine as *matter* is in reality (as the last thirty years of nano-physics, biophysics, biochemistry and biology have ever more clear I disclosed) essentially a vast set of *patterns of activity* dominated and directed by what these sciences unerringly call *information*. Reasoning and judgment like Darwin's, about the domination of chance activities by information and design—as the mind of a maker dominates his or her making and the materials

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4. See Finnis, "Does Free Exercise of Religion Deserve Constitutional Mention?", *Amer. J. Juris.* 54: 41–66; reprinted in *Collected Essays of John Finnis* (Oxford: 2011) V, 17–41 at 17, 21–6.

with which the pot or painting or piano sonata or IT program is made—is metaphysical reasoning and judgment that is easily articulated as a matter of commonsense. That common sense, *our* commonsense, has been handed down—eventually to us (as to Darwin)—from *Genesis* chapter 1, from *Psalms* 19 (“The heavens declare the glory of God”), and from the precision attributed to the mother of the martyred seven brothers in *2 Maccabees* 7: 28 (“when you see the heavens, the earth, and all that is in it, you know that God made all this *from nothing . . . [ex nihilo]*”), and again from the masterly summation of the Hebrew creation tradition in Rabbi Saul’s letter, as the Apostle Paul, to the Romans: “God’s invisible attributes, his everlasting power and divinity, are clearly perceptible [to us] by our understanding of his works-and-workings since the creation of the world” (*Rom.* 1:20).

Applied to the scientific data and inference that I mentioned, and that I have described much less briefly elsewhere, this judgment acknowledges that the transcendent intelligence, will, and power has been causing, progressively as well as initially, everything in what we call Nature—everything, that is, in the existence and content of that vast and expanding, evolving application, accumulation and transmission of the **information** that shapes every animal, plant, cell, mineral, gas and water and every component in them, molecular, atomic or sub-atomic. And then, eventually, with the historical emergence of human beings, and of human intelligence, will and free action, the universe attained—by that same causality and design—a condition such that its transcendently causal Creator could choose to initiate also a transmission of information in a new and much richer sense: information now in the *focal* or strongest sense of that word, not just embedded in physical, chemical and biological makeup (marvelous though that embedding is), but now, for the first time, information *to* and *for* members of this newly emerged species of being, humankind. Mind now could *speak* to mind, spirit *converse and commune* with spirit.

And beyond bare possibilities of such revelation, there are historical facts about it. The Jewish people and their true prophets *in fact* reached (as I said) a settled and superior understanding of the universe’s origins, and of its natural intelligibility, centuries earlier than Greek philosophers reached their own typical and in substance (result, not method) inferior understanding, despite the rationality of their methods. This accomplishment of the Jewish people seems to have been, *in fact*, an accomplishment both of natural reason (intelligence) reflecting on experienced realities, *and* of the receptivity of that people’s prophets and priests to divine communication (in any of the modes they came to call God’s speaking: revelation *stricto sensu*). It was reflected and articulated with remarkable consistency and coherence throughout the body of developing and temporally stratified traditions and writings we call the Old Testament.

The Old Testament conveys a *second* fundamental truth that was grasped more vividly and fully by the Hebrew people than by the Greeks: that we

really can, and from time to time do, make free choices: we have “free will”. Here again it is not a matter simply of proof texts in which the Old Testament articulates this freedom—though such texts can easily be found—but also a matter of the whole narrative of personal and communal responsibility for choices made, of covenants freely entered into and broken and restored by renewed undertaking.

The book of *Deuteronomy* encapsulates its presentation/redaction of the Covenant between God and his people in a choice: “See, I set before you on this day life and good, evil and death. Therefore, choose life. . .” (*Deut.* 30: 15, 19) Against Hellenistic doctrines of fate, Ben Sirach, writing about 200 BC in the book we call *Ecclesiasticus* or *Sirach* sums up the whole teaching of the Old Testament on human freedom:

When [God] created man in the beginning, he left him free to make his own decisions [or: in the hands of his own counsel/deliberation]. If you wish you can keep the commandments, and it is in your power to remain faithful. He has set fire and water before you; you stretch out your hand to whichever you prefer. Life and death are set before man; whichever a man prefers will be given him.  
*Ecclesiasticus/Sirach* 15: 11, 14–17.

Like the Church fathers from Justin (the philosopher from Nablus in Samaria, martyred in Rome a century after Peter and Paul) and Irenaeus (from Smyrna in Asia Minor, martyred in France at Lyons forty years later) down to John Damascene (a monk of Jerusalem in the 8th century), St Thomas Aquinas, Christianity’s greatest philosopher-theologian, teaches five hundred years later the radical freedom of the will, one’s spiritual capacity to choose and carry out one option in preference to any alternative, such that nothing either outside or inside one’s makeup determines one’s preference save that act itself of choosing (preferring).

Building on all this, St Thomas Aquinas taught and argued the following, against (as he said) the Islamic philosophers: God’s causality, though absolutely necessary to explain the existence and the astounding intelligibility and dominant non-randomness and non-necessity of Nature, is a causality so transcendent that it can and should be said to be *wholly* the cause of natural events which are *wholly* the effects of natural causes. ***So too*** God’s causality must be the cause of those human acts that are acts of free choice, acts that truly have no cause other than their making by the human person who makes them, and are *wholly* the responsibility of that person and not of Nature or of God.

Correspondingly, divine providence, as understood in the Old Testament and the New, is emphatically not the fate, or destiny, in which Greek thought, like that of other civilizations, still encloses and more or less smothers its intimations (and awareness) of human freedom. Providence so conceived is

emphatically distinct from, and far more true to reality, than the cosmic determinism to which my late close colleague in the Oxford Law Faculty, your compatriot Ronald Dworkin gave voice. According to the second of his Einstein lectures in Switzerland in December 2011, there is **such** an uncountable multiplicity of entire universes (multiverses)—he postulates them “bubbling out of the landscape”—**that** the beauty and “magic” of “the universe” (including this set [imagined by him] of multiverses) *consist* above all in its *inevitability*. And so, at the climax of the argument, he declared “It’s *inevitable* that I exist!”. Such a denial of his own parents’ freedom of choice, and equally of his own and yours and mine, is a profound and, I think, inexorable implication of atheistic or pantheistic denials of Creation, when these denials are adhered to against the evidence of the Creator’s existence, causality, mind, and selection (in Creation) between possibilities.

Moreover, to speak of human free choices is also to speak of deliberations about the merits and demerits of the alternative options between which one must choose. Thus it is also to speak of *conscience* as one’s intelligent reflecting on those merits, whether reflecting in advance and generally (in abstraction from particular circumstances) or concretely in particular circumstances, or reflecting retrospectively on what one could have chosen, and should (or should not) have chosen. That one has a personal responsibility for one’s own character, and that one can and should make the prospective and retrospective judgments about right action (the judgments we call conscience)—these are truths known more clearly in the prophets of Israel and thus in the Jerusalem of the Old Testament (brought to its full development in the New) than in the Athens of the philosophers. This clarity about freedom and responsibility is new in human history. And of course it is central to a proper understanding of law, and responsibility.

And the last of the achievements of prophets of Israel that I shall mention is their far-reaching understanding of the requirements of justice, centuries earlier than Greece and its great philosophers. This one can see from *Exodus* 21–23, *Leviticus* 19 and 25, and *Amos* and other prophets on the duties owed by all to the poor, widows, new-born children, orphans, strangers, servants, and from—among much else—*Deuteronomy* 4’s reflection that the precepts of the Law (above all the Decalogue) are themselves *just*, a matter of practical intelligence and wisdom. The far-reaching prophetic insistence on the duties of justice *as implications* of the rejection of idolatry—that is, as implications of recognising the transcendence of the one Creator and provident sustainer—is an insistence developed somewhat further by the convert Rabbi Saul in his letter to the Romans, as an implication of what I mentioned a few minutes ago, that same recognition of the divine nature from God’s works “from the creation of the world”. To shut one’s eyes to these works, to refuse to acknowledge, glorify and **thank** the Creator, is such a failure of reason that passions take its directive place, resulting not only in orientation to practising perversions such as those celebrated in *Obergefell* (Paul uses a more direct description of them)

but also in injustices of the many other personal kinds that St Paul lists right there in *Romans* 1: 29–31. For the injustices identified and excluded from conscientious deliberation by the Ten Commandments not only are identified in the revelation of God's will to Israel but equally are in principle identifiable by—accessible to—the natural reason and conscience of anyone anywhere who is sufficiently open to serving truth and justice: I am just repeating in close paraphrase what Paul says in *Romans* 2: 8–15. For what could be more clarifying to conscience than an awareness that all that one is, and has, one owes to the free creative generosity of a transcendent maker and sustainer of everyone like oneself?

The humanism of the prophets who preceded Paul was, at least in its emphasis, more political than his, more centred than his on the misdeeds, the chastisement, and the possible redemption of a whole people led astray in the first instance, though not only, by the misdeeds of their political leaders. It focussed, as I said, on the humanity of the exploited, vulnerable, and despised, and it summoned each and all to justice in one's conduct and attitudes towards each and all. It proposes even that all are lovable and, at least as neighbours or companions, to be loved as much as oneself: *Leviticus* 19: 18. But in many of those we call the prophets, such as Amos, Hosea, Isaiah himself, and Micah, there is a further humanism and universality—the expectation or prophecy that eventually all nations will go up to Jerusalem to be taught by God his ways and walk in his justice, their disputes settled by him, so that the nations will live in peace with each other, each retaining its identity (even its own religion perhaps distinct from Israel's), while God restores to dignity and a proper place all lame and banished individuals: *Micah* 4: 1–6, expanding on *Isaiah* 2: 2–4. And with that expectation goes the expectation that the source of this new peace and brotherhood will be a “ruler in Israel whose coming forth is from old”—a judge of Israel who will be born in Bethlehem Ephrathah, a place too little to be counted among the clans of Judah (*Micah* 5: 1–5; *Matt.* 2: 6)).

When he came, however, **he** taught unambiguously that that prophecy of universal justice and peace will **not** be realised in the Jerusalem of the prophets, whose thorough destruction he foretold exactly 40 years before it was accomplished, nor in this world—which, in fact, despite all we can and should do to heal it, is headed eventually for ruin—but will be realized instead in a new Jerusalem being built up now, by divine grace and human acts of justice and love. These will not accomplish all the hopes of those who did them except in the heavenly Kingdom that will replace this world at **his** second coming at the end of earthly history, we know not when. So he spoke, in the last week before being put to death by his own people, and so his words were remembered and reported, and treasured by the Church he had founded.

## B

That brings me at last to the *other* great feature of the relation between the Old Testament and the New. The New Testament, unlike the Old, is pervaded by concern for evidence—for the question whether what its authors, and those whose message they report, are telling *is the truth, or not*. Its authors constantly report the doubts not only of opponents such as Sadducees, Pharisees, Athenians and other critics but also of disciples of Jesus, named (like Thomas) and unnamed (like the many on a mountain in Galilee after the Resurrection). And they respond by reaffirming their own veracity, the historical truth of their accounts, and the eye-witness evidence for it. It is of course possible to doubt or deny *those* affirmations, like the rest of their accounts, and to judge them to be lies or fictions; or instead less bluntly (like so many post-Vatican II Catholic biblical scholars) to assert that what look like affirmations of fact are really just theological musings employing what *look like* historical accounts so as to make essentially **symbolic** picturings of timeless truths about God's redemptive will, or picturings at least of the inner faith-experiences of second- or third-generation Christian believers; and so forth.

Against both such ways of denying the historicity of the Gospels and the Acts of the Apostles there stand, for example, the 80 *verified* historical facts mentioned in the Acts of the Apostles, the deaths as martyrs of almost all the Apostles who preached what is set out in the Gospels and the Acts of the Apostles; and the judgment of the able Gentile philosopher from Nablus 30 miles due north of Jerusalem (right where Jesus talked at the well to the Samaritan woman with many husbands), Justin Martyr, who became a Christian because he judged the Gospels (then only decades old) to be the *memoirs of the Apostles* and true memoirs . . . .

And so we have the most important and solemn of all Vatican II's teachings, published in November 1965 in its Dogmatic Constitution on Divine Revelation, *Dei Verbum*, which in sections 18 and 19 says this:

[18]The Church always and everywhere has held and holds that the four Gospels are of apostolic origin. For [*enim*] **what the Apostles preached. . . they themselves, and other associated men of their generation** [*apostolici viri*], . . . **handed down to us in writing, as foundation of the faith . . . .**

[19] [i] Holy Mother Church firmly and with utmost constancy has held and holds that the aforesaid four **Gospels, whose historicity the Church unhesitatingly affirms, faithfully convey** what Jesus the Son of God, while he lived among men and women, **actually/really did and taught** (down to the day of his ascension: *Acts* 1: 1–2) for their eternal salvation. . . . [iii] **The sacred authors**

**of the four Gospels** [defined in 18 as “Apostles and associated men of their generation”] **wrote them** by [a] selecting some among the many things handed on either orally or in writing, by [b] synthesizing some things or [c] explicating them with an eye to the situation of the churches, and by [d] retaining the form/style of proclamation/preaching—**but always in such a way that they [the authors] communicated to us the honest truth** about Jesus. [iv] **For their intention in writing was that, either from their own memory and recollections, or from the testimony of those** “who from the beginning were **eyewitnesses** and ministers of the word”, we might know “the truth” about the things about which we have been taught (*see Lk 1: 2-4*.)”

Thus the last sentence of sec. 19 states the reason, or at least a main reason, *why* the Church has the certainty which the Council says the Church has always had, that the Gospels state about Jesus’s words and deeds only honest and true—historically true—propositions. And that last sentence about memory and recollection is equally the reason why, as the drafting committee reminded the Council’s members, this certainty is not just a matter of faith but also of natural reason, and this “historicity”—a historical character that any reasonable person considering all the evidence can reasonably affirm—is not some special “theological” sort of historicity but is instead “something quite unambiguous: the concrete reality of the actions or events about which those authors wrote.”<sup>5</sup> And in saying, in sec. 19’s last sentence that the Gospels written by Apostles are written from their memories, and that the Gospels written by their associates are giving the testimony and memories of eyewitnesses, the Council is using the words of the Gospel according to Luke, in those first four verses where Luke is stating his intention and how he is going to fulfill it in order to show his readers the truth and certainty of what they have heard preached. Precisely that is what *DV* 18 and 19 put forward as being the “foundation of the faith,” today as it has always been since the apostolic age: *DV* 18.1.

In effect, the eye-witness or eye-witness-testimony-based character of the Gospels is the foundation of the faith’s foundation. That is the sum and substance of *DV* 18 and 19, which on any view are, far and away, the most authoritative statement the Catholic Church has ever explicitly made about its Gospels. This restatement of the faith, a restatement excellent in quality, like almost everything in the teaching documents of Vatican II, is a restatement of

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5. Francisco Gil Hellín, *Concilii Vaticani II Synopsis in Ordinem Redigens Schemata cum Relationibus necnon Patrum Orationes atque Animadversiones: Constitutio dogmatica de divina revelatione, Dei verbum* (Rome: EDUSC, 1993).133: “Qua propter praeferendum visum est *realitatem factorum seu eventuum modo concreto affirmare*, addendo in lin. 5 vocem ‘historicitatis’, quae ambiguitate non exponitur” (italics in original).

**faith** in its most authentic and significant sense: **warranted certitude about the truth**—the faith which, from the very beginning, Christians have had concerning the objectivity and truthfulness of the gospels

And precisely that truth is what was immediately denied, or, rather, contemptuously silenced by a dominating majority of “mainstream” Catholic New Testament scholars and seminary teachers, who began to teach and write that the Gospels are precisely not the work of eye-witnesses, nor even reports based on memories of eye-witnesses, nor the works of associates of the Apostles, but are the works of unknown second- or third-generation scholars writing (“redacting”) to meet the “spiritual needs” of their congregations in parts of the Christian world only speculatively identifiable, and none of them written up earlier than 40 years after the Crucifixion, but all of them instead being compositions handing on or creating traditions some of which may, possibly, to some extent, “reach back” to incidents, now almost unascertainable, in the life of Jesus.

This defection of a majority of published mainstream Catholic New Testament scholars (I will call them “the guild”) from the part of the Catholic faith that most concerns them—the part that had only months or a few years before been reaffirmed in the plainest and most solemn terms—is one of the most remarkable episodes in the history of Christianity. The Church’s recovery from that defection, and the restoration of that faith in the effective life and scholarship of the Church’s members, will take much, or all and more, of the fifty years ahead of you up to Vatican II’s centenary. The defection is a prime cause—not the only cause but a prime cause—of the substantial loss to the Church of most of its universities (and thus is a prime cause of the founding of this university), and the loss of *most* of its men and women religious, *most* of its priests, *most* of its worshippers, in many parts of the world where the Church was most active and numerous in 1965—say Holland or Quebec, where on most parameters the Church is now at less than 10% of who and what it was then—much of the 90% collapse, or evaporation, or exodus, occurring in or soon after 1966.

Yet, of all religions, Christianity alone—in its central, Catholic form – is in a position (if it holds to *Dei Verbum* 18 and 19) to thoroughly critique and replace in minds and hearts the materialist secularism that, today and in your next 50 years, is the principal adversary not only of Christianity but also of families, our countries and the human race.

The guild position of Fr Raymond Brown, Fr Joseph Fitzmyer and many others holds itself out, of course, as Catholic. But, taken with that claim, there is no chance that the position itself is true. For it holds, **first** and fundamentally, that Catholics (and everyone) should now judge or assume that all Catholics down to and including the scholars who drafted and bishops who voted for *DV* 18 & 19 *erred* in thinking that the Gospels give *sincere* and *true testimony* about what Jesus *said* and *did*. Since it also holds, **secondly**, that the literary genre employed by the creators and editors of what we find in the

Gospels was not the genre of historical assertions about what was actually said and done, but instead was a theological genre of symbolical propositions (*theologoumena*) **represented** in the **language** of historical assertion. Both positions are inconsistent (incompatible) not only with the Catholic faith considered as doctrine but also with there being *reasons* to accept that faith.

As to the **first**: the Catholic faith cannot reasonably be accepted unless, as it teaches, God did and does intend to convey *genuine information* about his triune nature and about his purposes, including his purpose of *raising the dead to eternal life* by a real *new creation and new birth* which begins by voluntary dispositions, choices and acts responsive to divine grace in this life and by such grace is to be completed—*despite all appearances to the contrary*—after death, in a new life. The guild in effect denies that the Gospels handed on information received from Jesus the divine Son, and even that they convey true testimony about what he said and did to confirm that information, above all by rising from his grave on the third day and eating and drinking and discoursing with close disciples. By thus denying that, prior to faith, this bodily resurrection can and should be affirmed by reason, on the evidence of witnesses, *as fact*—the position of the guild renders itself entirely unable to sustain the thesis foundational to the Catholic faith, that such information is available and believable. So, holding itself out as Catholic, it is not a rationally available position.

As to the **second** guild position, about genre, it postulates that the Gospels deployed a genre that was immediately and for the next 1850 years completely misunderstood by all those to whom it was addressed, from the simple to the brilliantly philosophical and widely travelled like Justin Martyr, who all took it to be asserting factual truths in the way that Luke prologue describes and Paul took for granted in his famous statements in 1 Corinthians 15, that unless Jesus rose from the grave, as is reported (Paul says) by hundreds of living eye-witnesses, our faith (now in the Spring of 56 AD and ever after) is in vain. To postulate that the New Testament's authors all deployed a genre that then immediately disappeared, and that was in any case completely unfitted to sustain the missions and the countless martyrdoms, and then to fail to confront and explain that disappearance and that unfitness for purpose, is indeed just what the Oxford philosopher Michael Dummett said about it in his crushing debate with leading guild scholars at a Notre Dame conference in 1990: *preposterous*.

And when one looks more closely, one sees that the basic guild positions, even on their own terms, are under their scholarly surface weakly argued and ripe for the devastating internal criticisms they have received both from those relatively few Catholic biblical scholars whose positions are compatible with the faith transmitted serenely in *Dei Verbum*, and from the somewhat more numerous non-Catholic scholars (some evangelical, some theologically liberal) whose work has, I believe, quite refuted the guild positions on the

dating of the Gospels, on their order (the Synoptic problem), on their reliability and eye-witness character, and on the probable written notes and certainly the oral recitations that preceded their writing-up. These criticisms leave us well able to infer that that writing up was initially perhaps as early as five to seven years after the Resurrection, and was in completed form no later than 62 or 63 AD (for the Synoptics Matthew, Mark and Luke) and five or six years later for the all-but-final version of *John*, which like the other Gospels most probably started being written up in the thirties, having been in good part recited again and again in the early thirties when, for example, the two Apostles Peter (the man behind Mark's Gospel) and John preached to the Sanhedrin in Jerusalem within a year or so of the Resurrection and before long went preaching together in Samaria (*Acts* 8: 14, 25), and by them and other Apostles and then deacons and others on many other teaching occasions, liturgical and catechetical. I have set out reasons for these conclusions in some recent addresses of mine and hope to publish first some accessible articles and then a book about them.

But the essential conclusion will I think be this. What Jesus of Nazareth said and did was from the beginning handed on by word of mouth, *bouche à l'oreille*, by witnesses who staked their credit on what they were testifying, and were prepared to go to nasty deaths on the strength of it (as 12 of the 13 Apostle-witnesses did). And since then it has been handed down in the same way, because each of the Gospels conveys to eye and ear just what those first witnesses did, preaching and looking their hearers in the eye. The unit-by-unit character of the Gospels was produced not by anonymous communities we know not where (as was assumed by the Bultmann school condemned in *Dei Verbum* 18's last sentence but adopted promptly thereafter by the guild). Instead the units were produced by the Apostles and their immediate associates in the two or three years after the Resurrection *as an aid to memorization and transmission for memorizing* by new disciples in catechesis, and in liturgy, and as an aid to Apostolic control over what was preached by the deacons and then the dozens of other missionaries who catechized in Jerusalem and then fanned out from the city to the rest of the country, and then from Antioch and Damascus and Thessalonica and so on. The main elements of Mark's Gospel (behind which stands Peter) and John's, despite their many differences of tone and content, fit together as **complementary**.

Reaching a soundly rational, critically warranted judgment about the historicity of the Gospels, which in the end is reaching a judgment about the truth of Christianity, is—like any matter of evidence all things considered—a matter of taking the various considerations, documentary, general-historical, and philosophical-presuppositional, as a whole, and seeking for the whole set the **best explanation**. It's what trial lawyers do, but on a larger canvas than theirs, and not *for* one side or the other. It's what the guild scholars seem to have failed to see the need for, as was well illustrated by that debate I mentioned, between several of their leaders and three Christian philosophers, on the Notre Dame campus in 1990, published under the poor title *Hermes and*

*Athena*. Part of any *best explanation* will need to be an account of why the Catholic biblical guild came to adopt the package of positions it holds, given that the truth of those positions is not an eligible explanation (because they are overall so incoherent).

Why, then, did so thoroughly inadequate a position nonetheless *became the default position in Catholic (and most Protestant) bible studies*? Pursuing that question (in either form) yields many overlapping sound answers, good explanations, evidence-based for anyone who has read into the publications and history of the Catholic branch of the guild. In those recent addresses of mine I point to fifteen (15) explanations, among those suitable for a public lecture; they are consistent with each other, and each and all or any combination of them help to explain the Guild position without justifying it.<sup>6</sup>

And, as I have begun indicating in the last few minutes, the position stated in *DV* 18 and 19 is still rationally available for reasonable acceptance by an enquirer into whether Catholicism is true, not false. David Hume's thesis that even eyewitness accounts of miracles are always more likely false than true unsoundly neglects to consider that judgments about probabilities depend on *all* the relevant considerations—all the evidence in a broad sense of "evidence". In relation to Gospel miracles, this evidence includes *not only* such great miracles as creation *ex nihilo*, and nature's radical intelligibility—as an information-directed system—at all levels, and the eventual emergence (after long bodily evolution) of human intelligence, spirit, and freedom of choice in a law-governed universe, *but also* the real possibility that the Creator might communicate information directly to intelligent creatures, and credibly

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6. (1) desire to proclaim or adhere to faith on minimal and/or uncontroversial assumptions; (2) desire to occupy a *via media* between skepticism and fundamentalism; (3) desire for intellectual autonomy and openness to reason instead of subjection to authoritarian decrees; (4) awareness of pious frauds in the history of Christianity; (5) desire to be respected (as a genuine scholar) by competent and diligent scholars contemptuous of the Church's authority (and often even of Christianity) and academically well placed—peer pressure in the guild; "fear of men"—and this goes along with the failure to grasp that the aspiration even to use a methodology acceptable to unbelieving scholars is systematically misguided, as the philosophers in the 1990 debate all pointed out; (6) desire not to be held to the labour of harmonising the Gospel testimonies—relaxation of effort and line of least resistance; (7) desire to have new things to say; (8) scepticism about divine interventions in history; (9) confusion (sometimes by muddle *bona fide*) of critical methods with sceptical results, and consequent *defaming as uncritical* or fundamentalist of all those who reach conservative judgments (even after rigorous critical inquiry and reflection); (10) under-informed and uncritical (under-researched) acceptance of calumnies against the competence and integrity of earlier generations of Catholic scholars (and of the Council fathers and experts); (11) indignation against excesses committed in the repression of Modernism between 1907 and say 1943 or even 1963; (12) desire to get a job or promotion in the modern academy; (13) fear of disappearing into a lifelong black hole of research on e.g. the Synoptic Problem such as might be involved in vindicating one's departure from the mainstream (the guild position); (14) desire for simple solutions (e.g. *Markan* priority enables easy redaction-criticism of *Matthew* and *Luke*); (15) distraction by the now massive historical and present reality of Catholic institutional, intellectual and spiritual life, and of theological sub-disciplines obscuring the dependence of the whole edifice on the precise, narrow set of facts affirmed (as the fundamental) in *DV* 18 and 19—resulting in the capacity of Catholic audiences to hear a Fr John Meier talk of "history as opposed to faith", and (like the bishops who give his massive, learned books on the Synoptic Gospels *imprimatus*) discern no radical threat to the faith. And so on—the list can *certainly* be extended.

seems to have done so *via* the prophets of Israel. And the evidence, the set of relevant considerations, includes also the thought that it would be fitting if such a supreme miracle as the Incarnation of the divine creative Word—if it were to have taken place—were signified or confirmed by sign-miracles, more likely, all things considered, to have been real and honestly and truly reported than to have been impostures or well-meaning inventions, mere symbols in some theological musing in a literary genre that was instantly misunderstood by its readers whether simple people or philosophers like Justin, and by everybody, for about 1850 years. What Vatican II taught in *Dei Verbum* 18 and 19, not least the last sentence of 19, remains the rationally best judgment call, and solid enough to stake your life and hopes on over the next 50 years and more.

On the same day as the Council adopted *Dei Verbum* it adopted a lesser document, its decree on the lay apostolate. It's not the fault of this teaching decree that it was soon followed by the disappearance of most of the lay apostolate in many parts of the world. In Oxford the 20 or more groups operating in 1962 around the Catholic Chaplaincy became by 1966 less than a handful, each as small as the smaller among the earlier 20+. By the end of John Paul II's time there had been some revival though to nowhere near the level of 1962, and with the present inept handling of the Petrine office we should expect some regression again. But who in 650 AD would have expected the ancient Christian communities in Syria, speaking Our Lord's language Aramaic would survive, despite everything, another 1365 years?

From the decree on the laity<sup>7</sup> we should take three things. **First:** the greatest part<sup>8</sup> of one's apostolate is in and to one's family—your husband, your wife, the children you two generated by your union. **Second:** lay apostles reverence their own nation (not necessarily their republic or other state form, their political community as a polity, though they owe adherence in conscience to all its just law).<sup>9</sup> **Third:** all this continues the mission of the Apostles, to impart the information that the God who created the universe and our own intelligence and freedom has promised the yet greater miracle, of eternal life in his eternal household, as a free gift that can be freely rejected or thankfully accepted on its rational and Gospel terms.<sup>10</sup>

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7. *Apostolicam Actuositatem*, Decree on the Apostolate of Lay People, 18 November 1965.

8. *maxima pars*: AA 11.

9. AA 14.

10. AA 3. 5, 7