The Idea of a Catholic University

Michael J. Perry
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A CATHOLIC UNIVERSITY*

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I began preparing for this conference by turning my attention to the idea of a Catholic law school.1 I was immediately drawn, however, to a more general idea: that of a Catholic University.2 My focus in this paper, as it turns out, is on the idea of a Catholic university; I have nothing to say here specifically about the idea of a Catholic law school. What I say about the idea of a Catholic university, however, I mean to apply fully to a law school that is part—indeed, that is a prime constituent—of a Catholic university.

I

The many universities (and colleges) in the United States and Canada today that are identified as “Catholic” can be sorted, for present purposes, into two broad categories: (1) those few that are, as a matter of civil law operating in conjunction with ecclesiastical law, subject to ecclesiastical control—and at least indirectly subject, therefore, to the Pope;

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** Howard J. Trienens Chair in Law, Northwestern University. I am grateful to many friends and colleagues for helpful comments. The reader may be interested to know that my religious tradition is Roman Catholic; that I attended Catholic elementary school, a Catholic high school, and Catholic University (Georgetown); and that in September 1994, my oldest child began kindergarten at a Catholic elementary school. (I attended a non-Catholic law school: Columbia.)


2. On the difficult question of Catholic identity—of what it means for someone or something (e.g., a university) to be “Catholic” —see Catholic Identity, CONCLIIUM, 1994/5 (James Provost & Knut Walf eds.). Cf. John C. Haughey, Theology and the Mission of the Jesuit College and University, CONVERSATIONS, Spring 1994, at 5.
and (2) all the rest: the many that are not so subject.\(^3\) We have recently been informed that:

[a] large majority of American colleges and universities originally established under Catholic auspices by sponsors who intended them to be Catholic are not now either directly or indirectly subject to hierarchical [i.e., ecclesiastical] control and, although they are juridical persons under secular law, they are not under canon law and thus not subject to church law. They are controlled by boards of trustees, a majority being lay members who may or may not be Catholic and whose Catholic members do not have a religious obligation to cause these corporate entities to elect to come under [ecclesiastical norms].\(^4\)

The following hypothetical suggests the general perspective from which my comments in this paper proceed:

I am a member of the board of directors of a university that calls itself "Catholic" but that is not subject to ecclesiastical control: Pope John XXIII University. Like a majority of the members of the board, I am a lay Catholic. This issue has arisen: In what sense of "Catholic," if any, ought we to maintain Pope John XXIII's identity as a Catholic university; if Pope John XXIII is to continue to have an identity as a Catholic university, what ought that identity be? In particular, what ought the position of us lay Catholics on the board be?\(^5\)

Let me pause to emphasize that I do not address, in this paper, questions of constitutional or other legal freedom. The problem that engages me here is neither the academic freedom of a professor at a religiously-

\(^3\) For a more discriminating taxonomy, see CATHOLIC UNIVERSITIES IN CHURCH AND SOCIETY: A DIALOGUE ON Ex Corde Ecclesiae 260 (John P. Langan ed., 1993).


Since the late 1960s most Catholic colleges and universities have had "independent" boards of trustees with full legal and fiscal responsibility for the institution. . . . Nevertheless, the hands that previously held the reins have seldom surrendered them completely. Many boards have a two-tiered arrangement whereby the "independent" board must submit certain actions to the further approval by the "Members," a corporate structure which enables the religious community to retain such "reserved powers" as selecting the president, buying or selling property, selecting trustees, and changing the institution's mission. In most cases, this arrangement is one of mutual decisionmaking . . . .

\(^5\) We may assume that the immediate occasion and context of this inquiry is, of course, Ex Corde Ecclesiae. See Langan, supra note 3; Ex Corde Ecclesiae and Its Ordinances: Is This Any Way to Run a University or a Church?, COMMONWEAL, Nov. 19, 1993, at 14 (commentary by several persons).
affiliated university nor the religious freedom of a religiously-affiliated university. Were I to address such issues, I could hardly improve on the recent statement by Professor Douglas Laycock.6

II

Those of us who believe that religious questions deserve to be taken seriously will prize institutions of higher learning that, as a fundamental part of their basic culture, take religious and related questions seriously by struggling with them.7 Moreover, those of us who take religious perspectives and religious reasons seriously will prize institutions of higher learning that, as a fundamental part of their basic culture, encourage the pursuit of genuinely intellectual projects from religious perspectives or for religious reasons. I take it for granted in this paper that Pope John XXIII should be maintained as a religious institution in this sense: an institution that, as a fundamental part of its basic culture, takes religious questions seriously and encourages the pursuit of intellectual projects from religious perspectives or for religious reasons. There are, after all, too many institutions of higher learning that, as a fundamental part of their basic culture, dismiss religious questions peremptorily and even contemptuously and repress the pursuit of intellectual projects from religious perspectives or for religious reasons.8

To say that Pope John XXIII should be maintained as a religious institution in that sense, however, is not to say that Pope John XXIII's identity as a Catholic university should be maintained. Should Pope John XXIII's identity as Catholic be maintained? This is not a silly question. Many reasonable and well-intentioned persons have presided over the transformation of religiously-affiliated universities into universities that are not religiously-affiliated.9 I teach at one such university (North-


8. See George M. Marsden, What Has Athens To Do with Jerusalem? Religious Commitment in the Academy, Plenary Address to the American Academy of Religion (Nov. 21, 1993); see also Peter Steinfels, Scholar Calls Colleges Biased against Religion, N.Y. TIMES, Nov. 26, 1993, at A14.

9. See generally The Secularization of the Academy (George M. Marsden & Bradley J. Longfield eds., (1992)); George Marsden, The Soul of the American University: From Protestant Establishment to Established Nonbelief (1994); George Marsden, What Can Catholic Universities Learn from Protestant Examples?, in Hesburgh, supra note 1, at 187; see also James T. Burtchaell, The Decline and Fall of the Christian College, First
western). (Indeed, many of these formerly religiously-affiliated universities have been transformed into universities that are not only not religiously-affiliated, but that are in the grip of the kind of anti-religious culture about which George Marsden has written recently.) Moreover, many Catholic parents and children have chosen—and many will doubtless continue to choose—one of these transformed, secular universities, like Harvard or Northwestern, over any Catholic university. The question whether Pope John XXIII’s identity as a Catholic university should be maintained is a serious one.

However, the question needs to be clarified: In what sense of “Catholic,” if any, should Pope John XXIII’s identity as Catholic be maintained; if Pope John XXIII is to continue to have an identity as a Catholic university, what should that identity consist in?

III

Let me begin with the most pressing issue: Ought we members of the board of directors of Pope John XXIII—especially we lay Catholic members—to establish Pope John XXIII’s identity as a Catholic university in the particular sense of “Catholic” decreed by the Pope in *Ex Corde Ecclesiae*? According to *Ex Corde Ecclesiae*, “[i]t is contemplated that . . . Catholic universities . . . not established or approved [by the Holy See, by an episcopal conference or another assembly of Catholic hierarchy, or by a diocesan bishop], with the agreement of the local ecclesiastical authority, will make their own the general norms [set forth in *Ex Corde Ecclesiae*], internalizing them into their governing documents . . . .”

I want to call your attention to just a few of the general norms set forth in *Ex Corde Ecclesiae*. According to one:

[A]ll Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfill a mandate received from the Church, are to be faithful to the

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10. See supra notes 8 & 9.

11. *Ex Corde Ecclesiae* is reprinted as Appendix A in Langan, supra note 3, at 229. Appendix B contains the “Draft Ordinances of the National Conference of Catholic Bishops Committee to Implement the Apostolic Constitution, *Ex Corde Ecclesiae*.” Id. at 255.

Magisterium of the Church as the authentic interpreter of Sacred Scripture and Sacred Tradition.¹³

According to another general norm: "In order not to endanger the Catholic identity of the university . . . , the number of non-Catholic teachers should not be allowed to constitute a majority within the institution, which is and must remain Catholic."¹⁴ Ex Corde Ecclesiae also states that "Catholic members of the university community are . . . called to a personal fidelity to the Church with all that this implies."¹⁵

Who gets to adjudicate disputes that arise under the general norms? (For example, what does "a personal fidelity to the Church" require of a Catholic faculty member? That he/she not remarry after a civil divorce?) According to one of the general norms concerning procedure:

Each bishop has a responsibility to promote the welfare of the Catholic universities in his diocese and has the right and duty to watch over the preservation and strengthening of their Catholic character. If problems should arise concerning this Catholic character, the local bishop is to take the initiatives necessary to resolve the matter, working with the competent university authorities in accordance with established procedures and, if necessary, with the help of the Holy See."¹⁶

About "established procedures," a footnote says (with respect to the sort of Catholic universities that concern us here) that these procedures "are to be determined by episcopal conferences or other assemblies of Catholic hierarchy."¹⁷ According to another general norm concerning procedure: "Periodically, each Catholic university . . . is to communicate the relevant information about the university and its activities to the competent ecclesiastical authority."¹⁸

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¹³. Id. at 246 (part II, art. 4, § 3); see Sharon Euart, Theologians and the Mandate to Teach, 23 ORIGINS 465 (1993).
¹⁴. Ex Corde Ecclesiae, supra note 12, at 247 (part II, art. 4, § 4).
¹⁵. Id. at 238 (para. 27).
¹⁶. Id. at 247 (part II, art. 5, § 2).
¹⁷. Id. at 253 n.52.
¹⁸. Id. at 247 (part II, art. 5, § 3). It has been suggested that the basic issue we members of the board of directors of Pope John XXIII face in connection with Ex Corde Ecclesiae is whether we ought to cede our legal independence to the local bishop so that he may decide, for example, who may be hired to teach theology (a discipline extended by [ecclesiastical authorities] in the Curran case to include philosophy, ethics, and any other subject taught from a religious or theological perspective)? Who can be hired and who must be fired (for example, divorced Catholics remarrying outside the Church)? Whether anything taught contravenes church teachings? What student groups may be established? Do [we] wish to cede to [ecclesiastical authorities] the right to determine who will prevail in disputes between the bishop and [our] institution or its faculty or students?
Professor John Langan, SJ, of Georgetown University, has something important to say to us board members, at this point, about \textit{Ex Corde Ecclesiae}:

The absence of institutional safeguards and of protections against abuses of authority [in \textit{Ex Corde Ecclesiae}] is a consequence of two facts. One is that this document does not originate within a liberal culture, which takes a concern for such things as an appropriate, indeed a centrally important, element in any serious discussion of the scope and identity of major social institutions. The other is that this document does have its origins in the renewal of Catholicism that found its decisive moment in Vatican II. One of the major themes of this renewal was a sustained effort to ensure that the major institutions in the church and the life of the church itself were not understood in predominantly juridical terms but rather in terms of animating charisms and ideals and virtues. This, I think we can affirm, has been a necessary and valuable development, even though it has been accompanied by some intellectual confusion and some practical deviations. But a situation in which high ideals are frequently invoked and juridical safeguards are not clearly established can easily become a situation in which both utopian rhetoric and passionate conflict flourish among the righteous.\footnote{John P. Langan, Comment, \textit{Catholics, Near Catholics, Comets, and Campari}, in Langan, supra note 3, at 56, 57.}

\textbf{IV}

In my view, we members of the board of directors of Pope John XXIII, not least we lay Catholic members, ought not to permit the transformation of Pope John XXIII into a Catholic university in the particular sense of "Catholic"—what I shall call the \textit{bureaucratic} sense—decreed by the Pope in \textit{Ex Corde Ecclesiae}. Principally because history teaches us to be hostile—deeply hostile—to efforts by large bureaucracies, including ecclesiastical bureaucracies, to exert control over the production and dissemination of knowledge, including theological knowledge, we members of the board of directors of Pope John XXIII should resist any effort to subject Pope John XXIII to ecclesiastical norms. In particular, we should affirm \textit{A Statement on the Nature of the Contemporary Catholic University},\footnote{Hunt & Saunders, \textit{supra} note 4, at 26.} issued in 1967 by a prominent group of Catholic clergy.
and leaders in higher education, meeting in Land O'Lakes, Wisconsin, in
a lodge owned by the University of Notre Dame. The statement—
which is reproduced in the appendix to this paper—emphasized that:

To perform its teaching and research functions effectively the
Catholic university must have a true autonomy and academic
freedom in the face of authority of whatever kind, lay or clerical,
external to the academic community itself. To say this is simply to
assert that institutional autonomy and academic freedom are es-
sential conditions of life and growth and indeed of survival for
Catholic universities as for all universities.

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21. For a discussion of events leading up to, surrounding, and following the adoption of
the Land O'Lakes statement, see Neil G. McCluskey, Introduction: This Is How It Happened,

22. A more elaborate statement to the same effect is contained in a 1971 document, The
Contemporary Catholic University, signed by much the same group of Catholic educators—
including the presidents of Notre Dame and Georgetown—that signed the 1967 statement.
(The 1971 document was prepared at the request of the Vatican's Congregation for Catholic
Education to serve as a basis of discussion with the Congregation.) The following part of the
document is relevant here:

The basic legal division of Catholic universities is between those which have a ca-
nonical dependence on an ecclesiastical authority and those which do not. This latter
group may be "Catholic" by formal explicit commitment of founders, trustees, or
faculty, by implicit tradition of dedication to Catholicism, or by a de facto social and
cultural influence.

In any case, the Catholic character of the university or college is to be determined
by the substantive and factual dedication of the institutions, not by formal or legalistic
requirements. There is no way to guarantee that a university will remain dedicated to
the Catholic tradition. The history of the great European institutes is a prima facie
demonstration of this fact. If we cannot maintain the Catholicity of universities by self-
determination and by social accountability, we surely will be unable to do so by a legal-
istic designation.

It is important that the institutional authority of a university be clearly distinguished
from the authority of the institutional Church and its organisms. The Catholic univer-
sity is not simply a pastoral arm of the Church. It is an independent organization serv-
ing Christian purposes but not subject to ecclesiastic-juridical control, censorship or
supervision.

Hence, whatever procedures or agencies are established to carry out the teaching
mission of the Church, these should not move through the academic authorities of
the university. Thus a question of orthodoxy in a classroom ought not to be dealt with
through the board, the president or the deans of a university. Nor should the adminis-
tration of the university be used to impose sanctions for violations of church laws.

Not only would such procedures violate the nature of universities as now conceived
and universally accepted in North America, but they would be counterproductive. The
future of Catholic education and the Church is best served when the academic auton-
omy of all universities is respected.

Moreover, the pluralism of types of Catholic universities as well as the very exist-
ence of Catholic universities in Canada and the United States corresponds to the plu-
ralistic character of our societies. We live in a world of diverse pluralisms of religion,
ethnic groups, cultural subgroups, as well as different political and economic philoso-
In addition, the Land O'Lakes statement, as it has come to be known, insisted that just as every university should "serve as the critical reflective intelligence of its society," the Catholic university "has the added obligation of performing this same service for the Church." A principal task of the Catholic university, therefore, is "a continual examination of all aspects and all activities of the Church. . . . The Church would thus have the benefit of continual counsel from Catholic universities." The statement noted that "Catholic universities in the recent past have hardly played this role at all. It may well be one of the most important functions of the Catholic university of the future." The statement also declared:

There must be no theological or philosophical imperialism; all scientific and disciplinary methods, and methodologies, must be given due honor and respect. . . . [T]he intellectual campus of a Catholic university has no boundaries and no barriers. It draws knowledge and understanding from all the traditions of mankind. . . . The whole world of knowledge and ideas must be open to the student; there must be no outlawed books or subjects.

As reported in The New York Times on Sunday, July 30, 1967, the statement stressed the need for sweeping institutional changes. It called for "basic reorganizations of structure" of Catholic universities and thus appeared to be pointing to the far-reaching changes that have taken place at a number of leading Catholic institutions in

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23. LAND O'LAKES STATEMENT, supra note 20, at 338.
24. Id.
25. Id.
26. Id. at 338, 339.

This was an allusion to the so-called 'index' of prohibited books, which was a form of official censorship imposed on Catholics by the church. The index . . . was abolished by the Second Vatican Council in 1964. By insisting that no books be 'outlawed,' the [statement] issued a reminder to those conservative institutions that still impose censorship on their students.

Fred Hechinger, Catholics Urge Autonomy in Church Universities, N.Y. TIMES, July 30, 1967, at 56L.
the last year. For example, St. Louis University, a Jesuit institution, announced last year [1966] that, with Vatican consent, it would henceforth be governed by a board of trustees on which Catholics and non-Catholic laymen outnumbered the clergy. Similar steps have been taken by Notre Dame, the University of Detroit, Fordham, and others.27

Because even now, some twenty-seven years later, the statement may strike some as radical, it bears mention that the committee that composed the statement was appointed by Father Theodore M. Hesburgh, then President of the University of Notre Dame, and included the Archbishop of Atlanta, the Superior General of the Congregation of the Holy Cross, the Assistant General of the Society of Jesus, and the presidents or rectors of eight universities in the United States and abroad. Among the framers of the document was the Most. Rev. John J. Dougherty, chairman of the Episcopal Committee for Catholic Higher Education. Moreover, the statement was signed by all the participants in the three-day seminar at Land O'Lakes, Wisconsin, which was sponsored by the North American Region of the International Federation of Catholic Universities.28

Again, we members of the board of directors of Pope John XXIII should resist any effort to subject Pope John XXIII to ecclesiastical norms or control; in particular, we should affirm the Land O'Lakes statement.

V

However, the Land O'Lakes statement was issued about a quarter century before *Ex Corde Ecclesiae*. Why might some of those many American and Canadian Catholics who wish that *Ex Corde Ecclesiae* had never been issued believe that now that it has been issued, the lesser evil is acquiescing in the Vatican's effort to subject North American Catholic universities (among others) to ecclesiastical norms? That is, why might some of them be wary, now that *Ex Corde Ecclesiae* has been issued, about not establishing the identity of a Pope John XXIII as Catholic in the bureaucratic sense decreed by *Ex Corde Ecclesiae*? This seems to be one of the principal questions addressed by Bishop James Malone of Youngstown, Ohio, on November 8, 1993, during a dialogue at Xavier University (Cincinnati, Ohio) involving provincial superiors and the presidents and rectors of the eleven colleges and universities of the Jes-

27. Hechinger, supra note 26, at 56L.
28. See id.
uit provinces of Chicago, Detroit, Missouri, and Wisconsin.29 Speaking as a member of the National Conference of Catholic Bishops Committee to Implement *Ex Corde Ecclesiae*, Bishop Malone observed that "[t]he process of consultation around *Ex Corde Ecclesiae* served greatly to improve that document. The final text was then better suited to the diverse expressions of higher education found within the universal church."30 Bishop Malone then frankly acknowledged that, nonetheless, "certain aspects of the final version of *Ex Corde Ecclesiae* remained problematic for the church in the United States."31 He singled out "the expectation that the majority of a school's faculty must be Catholic, the responsibility of the bishop to ensure the Catholic character of an institution, and the reference to theologians having a 'mandate.' "32

Notwithstanding his frank acknowledgement that all these aspects of *Ex Corde Ecclesiae* have been cited as problematic, Bishop Malone went on to say:

[T]here is one approach I do not find acceptable, namely the formal and general dissociation of Catholic colleges and universities from the church’s pastoral office. To be blunt, I think it would be a tragedy if many of our colleges and universities would come to speak of themselves as being institutions of higher education "within the Catholic tradition" but having no formal institutional ties. I say this for two reasons.

First, the community of faith would suffer because without this formal connection the quality of the intellectual life of the church surely would diminish and its relationship with the culture within which it is situated would be harmed.

Second, the Catholic institution [of higher learning] would suffer. Cut off from the mainstream of ecclesial life and tradition, it would be deprived of the strength and nourishment that comes from ecclesial communion.33

I cannot comment on Bishop Malone’s first reason, because I do not understand what Bishop Malone means by "the formal and general dissociation of Catholic colleges and universities from the church’s pastoral office."34 It does seem clear to me, however, that one very effective way

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30. *Id.* at 473.
31. *Id.*
32. *Id.*
33. *Id.* at 474.
34. Cf. supra note 22 (quoting 1971 Land O'Lakes statement that "[t]he Catholic university is not simply a pastoral arm of the Church. It is an independent organization serving
to undermine "the quality of the intellectual life of the church" is for Catholic universities and colleges to submit themselves to the sort of ecclesiastical control contemplated by *Ex Corde Ecclesiae*. With respect to the second reason: A Catholic university or college refusing to submit itself to such control in no way entails that the university or college is cutting itself off "from the mainstream of ecclesial life and tradition." I agree that both strength and nourishment come from ongoing communion with the life and tradition of the Catholic community. But it is also the case that the exercise of ecclesiastical control over Catholic universities and colleges is one sure way to sap the strength, and to deplete the nourishment, that a Catholic university or college draws from communion with the rich—the pluralistic!—life and tradition of the Catholic community.

Let me supplement my response to Bishop Malone—and thereby, I hope, clarify and concertize my response—by adopting an analogy pressed recently by Father Joseph A. Komonchak, of the Catholic University of America:

*Commonweal* [magazine] has, as far as I know, never sought official recognition [from ecclesiastical authorities], nor have its editors ever been thought to need a "mandate" from ecclesiastical authorities. It represents one of those Catholic associations that, Vatican II and the new Code of Canon Law now assure us, all the faithful have a right to found and direct for the good of the church and for its work in the world. The editors have crossed swords with priests, bishops, even popes every now and then . . ., but they have never denied that the great Catholic enterprise in which their journal wishes to participate is the work of a church led by a hierarchy. In turn, so far as I know, no bishop has sought to shut the journal down or to declare it non-Catholic—a restraint inspired, one trusts, by something more than fear of the usual reaction when books used to be banned in Boston.

This institutional autonomy and journalistic freedom suggest a . . . comparison, which might be considered by church authorities. *Commonweal*'s circulation (around eighteen thousand), while only an infinitesimal part of the total Catholic population in this country, is larger than the population of any Catholic college or university. Its influence on its readers might be as great as that of the colleges or universities on their students. Might not bishops consider that the wiser policy is to adopt the same attitude toward the colleges and universities that call themselves Catholic as they
do toward independent Catholic journals? To press my analogy to a last point: would they like to see Catholic colleges and universities more closely resemble a typical diocesan newspaper than they do Commonweal? 35

A sobering question, to be sure.

A recent comment by Redemptorist Father Bernard Häring on the encyclical Veritatis Splendor may be substantially applicable to Ex Corde Ecclesiae as well. (Häring, about eighty years old, is arguably the Catholic Church's preeminent moral theologian.)

Veritatis Splendor contains many beautiful things. But almost all real splendor is lost when it becomes evident that the whole document is directed above all towards one goal: to endorse total assent and submission to all utterances of the pope—and above all on one crucial point: that the use of any artificial means for regulating birth is intrinsically evil and sinful, without exception, even in circumstances where contraception would be a lesser evil. 36

VI

It is not enough for us members of the board of directors of Pope John XXIII to define ourselves just negatively, by emphasizing what we are not ("We are not, nor do we want to be, Catholic in the bureaucratic sense of the term"). It is not enough for us to struggle just externally: against an outside imposition on our autonomy. Our credibility with the larger church (including the ecclesiastical authorities) would be suspect—rightfully suspect—were we to be content with doing just that. We must define ourselves affirmatively, by emphasizing what we are, or what we want to be. We must struggle internally: among ourselves, in dialogue, about what our identity as Catholic should consist in.

So I now want to turn to a different issue: Is there some other sense of "Catholic"—some sense other than the bureaucratic sense—in which


The pope apparently conceives of the church as a world totalitarian party/state. He thinks of himself as absolute monarch with plenipotentiary knowledge and power. For him, bishops are merely branch managers of this world empire, and theologians are party ideologues whose duty is only to parrot the pronouncements of the central office, not to think critically in the light of the scriptures about the meaning of the faith.

we ought to maintain or establish the identity of Pope John XXIII as a Catholic university? To be wary about establishing the identity of Pope John XXIII as Catholic in the bureaucratic sense is not necessarily to be wary about maintaining or establishing the identity of Pope John XXIII as Catholic in a sectarian sense of the term. Indeed, we may fairly wonder what it could possibly mean for a university to have an identity that is Catholic in a nonsectarian sense. I have already suggested that, and why, we should maintain Pope John XXIII's identity as a religious university in the sense—the important sense—specified earlier in this paper. I now want to suggest that we should also maintain Pope John XXIII's identity as a Catholic university, in the following twofold sense.

Both in its governing documents and in its basic culture, Pope John XXIII University should make two sets of affirmations.

First, Pope John XXIII should affirm four essential, connected Christian convictions:

- The first conviction, which concerns the nature of God, is that "God, the holy mystery who is the origin, sustainer, and end of all reality...is disclosed to us in Jesus Christ as pure, unbounded love."\textsuperscript{37}

- The second conviction, closely related to the first, concerns our nature—that is, the nature both of one's self and of the Other (the stranger, the alien). It is that we are, all of us, even "the least" among us\textsuperscript{38}—even "the wicked"\textsuperscript{39}—children of God. We are all, in that sense, brothers and sisters to one another.

- The third conviction proceeds from the first two and concerns the nature of our ideal relationship to God (God as loving parent).\textsuperscript{40} It is that we are to strive to "love the Lord [our] God with all [our] heart, with all [our] soul, and with all [our] mind."\textsuperscript{41}

\textsuperscript{37} David Tracy, \textit{Approaching the Christian Understanding of God}, in 1 \textsc{Systematic Theology: Roman Catholic Perspectives} 131, 147 (Francis S. Fiorenza & John P. Galvin eds., 1991); see John Crossan, \textit{Jesus: A Revolutionary Biography} 20 (1994) ("Christian belief is (1) an act of faith (2) in the historical Jesus (3) as the manifestation of God.").

\textsuperscript{38} See Matthew 25:31-46 (the "Last Judgment" passage).

\textsuperscript{39} See Matthew 5:43-48 (quoted infra note 43).

\textsuperscript{40} Obviously "parent" here is idealized. I realize that for many persons "parent" is a very poor analogue: in particular, those whose father or mother (or both) were abusive, emotionally if not physically or sexually, and/or those who were abandoned by their parent(s). I thank Gina Wolfe for emphasizing both this point and the importance of discerning other (and, for some, better) analogues.

\textsuperscript{41} Matthew 22:34-40:

But when the Pharisees heard that he had silenced the Sadducees they got together and, to put him to the test, one of them put a further question, "Master, which is the greatest commandment of the Law?" Jesus said to him, "You must love the Lord your God with all your heart, with all your soul, and with all your mind. This is the greatest
The fourth conviction also proceeds from the first two and concerns the nature of our ideal relationship to the Other (the Other as sister/brother). It is that we are to strive love one another "just as I have loved you." Jesus said: "I give you a new commandment: love one another; you must love one another just as I have loved you."  

and the first commandment. The second resembles it: You must love your neighbor as yourself. On these two commandments hang the whole Law, and the Prophets too."  


Jesus's "new commandment" to "love one another just as I have loved you" is a version of the commandment to love one's neighbor but imports into it a higher standard—indeed, the highest standard: "just as I have loved you." As the editors of The New Jerusalem Bible put it in an annotation to John 13:34:  

Though enunciated in the Mosaic Law, this precept of love is "new" because Jesus sets the standard so high by telling his followers to love one another as he himself loved them, and because love is to be the distinguishing mark of the "new" era which the death of Jesus inaugurates and proclaims to the world.  

Cf. John Mackie, Ethics: Inventing Right and Wrong 243 (1977) ("D. D. Raphael, in 'The Standard of Morals', in Proceedings of the Aristotelian Society 75 (1974-75) follows Edward Ullendorff in pointing out that whereas 'Thou shalt love thy neighbor as thyself' represents the Greek of the Septuagint (Leviticus 19:18) and of the New Testament, the Hebrew from which the former is derived means rather 'You shall treat your neighbor lovingly, for he is like yourself.' ").  

There is a sense in which Jesus's "new commandment" subsumes the commandment to love God (which, according to Matthew 22:34-40, is "the greatest and the first commandment"). Not only is there no tension between the commandment to love God and the commandment to love one another, there is "a radical identity of the two loves." Karl Rahner, 6 Theological Investigations 231, 236 (Karl H. & Boniface Kruger trans., 1969). In his Reflections on the Unity of the Love of Neighbor and the Love of God, Rahner wrote:  

It is radically true, i.e. by an ontological and not merely "moral" or psychological necessity, that whoever does not love the brother whom he sees, also cannot love God whom he does not see, and that one can love God whom one does not see only by loving one's visible brother lovingly.  

Id. at 247. Rahner's reference is to a passage in John's First Letter in which it is written: "Anyone who says 'I love God' and hates his brother, is a liar, since whoever does not love the brother whom he can see cannot love God whom he has not seen." I John 4:20. In Rahner's view, the two great commandments are really one. See Rahner, supra, at 232. Rahner argued that if and to the extent one loves one's neighbor one has achieved the ontological/existential state of being/consciousness that constitutes "love of God" even if one does not "believe in God." See id. at 238-39.  

But has Rahner pushed a good idea—the twofold idea that no one can be judged to love God who fails to love his/her neighbor, and that to love one's neighbor is to love God—too far? Tim Jackson has suggested, in correspondence, that "surely there is such a thing as the direct love of God, as for instance in the ecstatic prayer of some mystics or in Holy Communion. Human beings are social animals, no doubt, but they are also born for a vertical relation
(There is no doubt that the "one another" is radically inclusive.)\textsuperscript{43}

These four connected convictions are not merely, for us Christians, bedrock. (This is where our spade is turned.)\textsuperscript{44} They are essential for us as Christians. It is obscure, to say the least, what it would mean for someone to claim to be a Christian who was not in the grip of one or more of these convictions. Moreover, whatever further convictions one may want to affirm, or even believe oneself compelled as a Christian to affirm, probably no further conviction unites all of us who count ourselves Christian. (Because we Christians mean/understand such different things both by the divinity of Jesus and by his resurrection, it is far from clear what the point would be of insisting on an affirmation of either doctrine.)\textsuperscript{45}


43. See, e.g., Matthew 5:43-48:
You have heard how it was said, You will love your neighbor and hate your enemy. But I say this to you, love your enemies and pray for those who persecute you; so that you may be children of your Father in heaven, for he causes his sun to rise on the bad as well as the good, and sends down rain to fall on the upright and the wicked alike. For if you love those who love you, what reward will you get? Do not even the tax collectors do as much? And if you save your greetings for your brothers, are you doing anything exceptional? Do not even the gentiles do as much? You must therefore set no bounds to your love, just as your heavenly Father sets none to his.


44. See LUDWIG WITTGENSTEIN, PHILOSOPHICAL INVESTIGATIONS § 217 (1953) (“I have reached bedrock, and this is where my spade is turned.”).

45. On such deeply problematic doctrines as the virginity of Mary and apostolic succession, see CROSSAN, supra note 37. For a discussion of Crossan’s important work, see JESUS AND FAITH: A CONVERSATION ON THE WORK OF JOHN DOMINIC CROSSAN (Jeffrey Carlson & Robert Ludwig eds., 1994). Jeffrey Carlson—like Crossan, a member of the Department of Religious Studies at DePaul University—writes:

One of the most profoundly unsettling results of any historical Jesus reconstruction concerns the conflict between historical investigation and inherited beliefs. In his survey of classical and contemporary christologies, Richard McBrien [of Notre Dame’s Theology Department] notes that one thing is historically certain—Jesus was buried in a tomb owned by Joseph of Arimathea, “A distinguished member of the Sanhedrin,” and that the tomb was later discovered to be empty. [RICHARD McBRIEN, CATHOLICISM: STUDY EDITION 416 (1981).] Crossan’s analysis of the nature of crucifixion explodes such assurance and no doubt forces, for many, a rethinking of the meaning of “resurrection.” How might the religious sensibilities of Christians be affected by Crossan’s hypothesis that the corpse of the historical Jesus was most likely devoured by wild beasts [dogs]? I must admit that I find the image horrifying and haunting and also inspiring. It magnifies the power of the Christian symbol of the cross. It extends and deepens Paul’s astonishing claim, “We preach Christ crucified.” Its pathos is incalculable. I can well imagine someone meditating on this image, stepping off a bus in a snowstorm, halfway home, finding oneself saying, “My Lord and my God.”
It bears mention that to affirm the first of the four convictions, about God as disclosed to us in Jesus Christ, is not to deny how radically problematic all God-talk is—as the Angelic Doctor, Thomas Aquinas, insisted in his day, as the brilliant Catholic theologian David Tracy insists in our day, and as apophatic Christianity has always understood.


In and through even the best speech for Ultimate Reality, greater obscurity eventually emerges to manifest a religious sense of that Reality as ultimate mystery. Silence may be the most appropriate kind of speech for evoking this necessary sense of the radical mystery—as mystics insist when they say, “Those who know do not speak; those who speak do not know.” The most refined theological discourse of the classic theologians ranges widely but returns at last to a deepened sense of the same ultimate mystery: the amazing freedom with all traditional doctrinal formulations in Meister Eckhart; the confident portrayals of God in Genesis and Exodus become the passionate outbursts of the prophets and the painful reflections of Job, Ecclesiastes, and Lamentations; the disturbing light cast by the biblical metaphors of the “wrath of God” on all temptations to sentimentalize what love means when the believer says, “God is love”; the proclamation of the hidden and revealed God in Luther and Calvin; the *deus otiosus* vision of God in the Gnostic traditions; the repressed discourse of the witches; the startling female imagery for Ultimate Reality in both the great matriarchal traditions and the great Wisdom traditions of both Greeks and Jews; the power of the sacred dialectically divorcing itself from the profane manifested in all religions; the extraordinary subtleties of rabbinic writing on God become the uncanny paradoxes of kabbalistic thought on God's existence in the very materiality of letters and texts; the subtle debates in Hindu philosophical reflections on monism and polytheism; the many faces of the Divine in the stories of Shiva and Krishna; the puzzling sense that, despite all appearances to the contrary, there is “nothing here that is not Zeus” in Aeschylus and Sophocles; the terror caused by Dionysius in Euripides’ *Bacchae*; the refusal to cling even to concepts of “God” in order to become free to experience Ultimate Reality as Emptiness in much Buddhist thought; the moving declaration of that wondrous clarifier Thomas Aquinas, “All that I have written is straw; I shall write no more”; Karl Rahner’s insistence on the radical incomprehensibility of both God and ourselves understood through and in our most comprehensible philosophical and theological speech; . . . the “God beyond God” language of Paul Tillich and all theologians who acknowledge how deadening traditional God-language can easily become; the refusal to speak God's name in classical Judaism; the insistence on speaking that name in classical Islam; the hesitant musings on the present-absent God in Buber become the courageous attempts to forge new languages for a new covenant with God in the post-*tremendum* theologies of Cohen, Fackenheim, and Greenberg. There is no classic discourse on Ultimate Reality that can be understood as mastering its own speech. If any human discourse gives true testimony to Ultimate Reality, it must necessarily prove uncontrollable and unmasterable.

Id.; see also HANS KONG, DOES GOD EXIST? AN ANSWER FOR TODAY 508 (Edward Quinn trans., 1980) (quoting Martin Buber, *Golesinsteinis Betrachtungen Zur Beziehung Zwischen Religion und Philosophie*, in 1 *WERKE* 503-603 (1962)).

[“God”] is the most loaded of all words used by men. None has been so soiled, so mauled. But that is the very reason I cannot give it up. Generations of men have blamed this word for the burdens of their troubled lives and crushed it to the ground; it
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Now, the second set of affirmations Pope John XXIII University should make. They are two:

- Pope John XXIII should affirm a genuinely Catholic openness—an ecumenical openness—to the universality of grace and truth; a genuinely Catholic openness, that is, to the possibility and indeed to the reality of grace and truth both in non-Catholic religious traditions, non-Christian as well as Christian, and in non-religious traditions of thought.\(^\text{47}\) As the lies in the dust, bearing all their burdens. Generations of men with their religious divisions have torn the word apart; they have killed for it and died for it; it bears all their fingerprints and is stained with all their blood. Where would I find a word to equal it, to describe supreme reality? If I were to take the purest, most sparkling term from the innermost treasury of the philosophers, I could capture in it no more than a noncommittal idea, not the presence of what I mean, of what generations of men in the vastness of their living and dying have venerated and degraded. . . We must respect those who taboo it, since they revolt against the wrong and mischief that were so readily claimed to be authorized in the name of God; but we cannot relinquish it. It is easy to understand why there are some who propose a period of silence about the “last things,” so that the misused words may be redeemed. But this is not the way to redeem them. We cannot clean up the term “God” and we cannot make it whole; but, stained and mauled as it is, we can raise it from the ground and set it above an hour of great sorrow.


For Christian believers, it is a challenge to recognize that their faith in God and the way of life it entails is a historical reality—it is rooted in historically particular scriptures and symbols and it is lived and sustained in historically particular communities. This historicity means that the task of interpreting the meaning of their faith will never be done as long as history lasts. The God in whom they place their faith can never be identified with any personal relationship, social arrangement, or cultural achievement. God transcends all of these. Though Christians believe that in Jesus Christ they have been given a definitive revelation of who this God is, they cannot claim to possess or encompass God in any of their theologies or understandings of the ultimate good of human life. Thus, in the words of Avery Dulles, “The Christian is defined as a person on the way to discovery, on the way to a revelation not yet given, or at least not yet given in final form.”

*Id.* (quoting Avery Dulles, *Revelation and Discovery, in Theology and Discovery: Essays in Honor of Karl Rahner* 27 (W. Kelly ed., 1980). Hollenbach adds:

Because the Christian community is always on the way to the fullness of its own deepest faith, hope, and love, it must be continually open to fresh discoveries. Encounter with the other, the different, and the strange must therefore characterize the life of the church. Active participation in a community of freedom is a prerequisite to such discovery.

*Id.* at 337.


\(^{47}\) See Tracy, *supra* note 46, at 84-85, 86, 97-98, 112. For believers to be unable to learn from secular feminists on the patriarchal nature of most religions or to be unwilling to be challenged by Feuerbach, Darwin, Marx, Freud, or Nietzsche is to refuse to take seriously the religion’s own suspicions on the existence
Land O'Lakes statement put it, the Catholic university “draws knowledge and understanding from all the traditions of mankind.”48 In the same spirit, Pope John XXIII should affirm, in its basic culture, the possibility and indeed the reality of sin and falsity in every tradition, including the Catholic tradition. In particular, it should affirm the possibility of falsity even among the present official church teachings. No person who takes seriously the resources of one or another religious tradition should deny “the brokenness and ambiguity of every tradition,” or repress “one’s own inevitably ambivalent relationship to [the tradition].”49 As David Tracy has emphasized, a self-critical attitude towards one’s own tradition is “the route to liberation from the negative realities of [the] tradition.”50

This, then, is the sense—the twofold sense—in which it makes sense to me to establish Pope John XXIII’s identity, not merely as a religious university in the sense specified earlier, but as a religious university of a particular sort. Both in its governing documents and in its basic culture, Pope John XXIII should make—i.e., we members of the board should make on behalf of Pope John XXIII—the two sets of affirmations I have just sketched.

VII

Now, let me turn to some practical questions.

1. If we seek to create and maintain a particular sort of culture at Pope John XXIII, isn’t it necessary that the faculty appointments process...
in particular, but also the student admissions process, take into account the extent to which a candidate for appointment or an applicant for admission may or may not contribute to the maintenance of that culture? Of course.51

2. Is this to say that candidates/applicants whose religious tradition is not Catholic, or is non-Christian, should not be appointed/admitted—or, at least, that non-religious candidates/applicants should not be appointed/admitted? Of course not. Not even Ex Corde Ecclesiae recommends such an exclusion. Maintenance of a complex culture is a complex matter, and it's easy to imagine that a particular non-Catholic candidate/applicant, even a particular non-religious candidate/applicant, will contribute much more to maintenance of some aspect or aspects of the desired culture—perhaps an aspect that at the moment is in special need of reinforcing—than will a particular Catholic candidate/applicant.

3. Is it the case, at least, that Pope John XXIII should endeavor to have a certain number of Catholics—a critical mass, whatever that may be—on its faculty? Recall that according to Ex Corde Ecclesiae, "In order not to endanger the Catholic identity of the university . . . , the number of non-Catholic teachers should not be allowed to constitute a majority within the institution, which is and must remain Catholic."52 A recent comment by Father George H. Tavard of Marquette University is relevant here: "In the real world of academia Catholics differ less and less from other committed Christians. There exists a communion of learning and scholarship that ignores denominations and church separations and that properly carries legitimate authority in its own order."53 At the conference at which this paper was presented, Tom Shaffer of Notre Dame Law School noted "the much discussed question of whether to restrict faculty hiring to members of the church." Quoting his colleague Robert Rodes, Shaffer suggested that "[i]t is more important, in choosing and promoting faculty, . . . to 'look for people of whatever [religious] persuasion whose teaching and scholarship support the transcendence of the human person and the intellectual mission of the church,' than it is to have a faculty of church members."54 John Noonan's posi-

51. Cf. Laycock, supra note 6, at 19-20; Noonan, supra note 1, at 1044-45.
52. Ex Corde Ecclesiae, supra note 12, at 247 (part II, art. 4, § 4).
53. George H. Tavard, Comment, in Langan, supra note 3, at 63, 64.
tion on this issue is interesting—but incomplete. "One should be aware," writes Judge Noonan,

of how hateful and divisive it would be if active membership in the Church were made a condition for continuing employment, and the sanction of loss of one's job was the way the Catholic identity of the school was maintained. A Catholic law school that had trials for heresy would be the laughing stock in our profession.  

Noonan concludes, therefore, that "[t]he real issue is recruitment." He explains:

A law school wants the best faculty it can find. Does a Catholic law school want only the best Catholic faculty it can find? Experience suggests that it is necessary to answer this question affirmatively, but not rigidly. The main attraction of a Catholic law school should be the historical, jurisprudential, and ethical dimensions I have indicated. There are Protestants and Jews and agnostics who would be attracted to such a school. It would be a mistake to exclude them. It would equally be a mistake to ignore the likelihood that only a body the core of which is Catholic will have the concerns and commitments that perpetuate the connection with theology, philosophy, and history that constitute the school's Catholic character.

The problem for Noonan and for anyone inclined to agree with him about the importance of maintaining a faculty "the core of which is Catholic" is this: Catholic in what sense? For purposes of Judge Noonan's position, what should one's identity as a Catholic be deemed to consist in? Noonan's position is incomplete so long as this ecclesiological question remains unaddressed. Even for one not inclined to endorse Noonan's position, the ecclesiological issue is unavoidable—indeed, it is the heart of the matter. As I explain in the next section: In addressing the question of what it means, or should mean, for a university to be Catholic, we are at least partly addressing the question of what it means, or should mean, for us to be Catholic.

55. Noonan, supra note 1, at 1045.
56. Id.
57. Id. Noonan continues: "As for students, much the same is true, mutatis mutandis. A Catholic law school should never exclude a student on account of religion. A good Catholic law school will attract students who seek a Catholic identity." Id.
58. "Ecclesiology is the branch of theology that deals with what the Church (ecclesia) should be." Shaffer, supra note 1, at 1862 n.13.
VIII

Many persons—and not just Catholics—will insist that if Pope John
XXIII is to have a distinctively Catholic identity at all, the governing
documents and basic culture of the university must affirm or honor, di-
rectly or indirectly, much more than I have indicated—for example: the
infallibility of the Pope when speaking *ex cathedra* on matters of faith
and morals; the immorality of “artificial” birth control; the theological
impossibility of women receiving the sacrament of Holy Orders; and so
on.\(^5\)

I would not want my children to attend, nor would I want to teach at,
a university whose identity-constituting commitments—whose animating
spirit, if you will—comprised such affirmations: affirmations that are, in
my view, deeply problematic. Let me be clear: I am not suggesting that
persons who make such affirmations do not belong at, or even that such
affirmations may not be the stuff of debate at, a university that is Catho-
lic in the twofold sense I have indicated. It is very important that the
institutions of the Catholic Church, including academic institutions, not
repress theological pluralism. Such pluralism—in particular, the ten-
sions and the polarities to which it gives rise—is a crucial source of the
persistent intellectual energy and strength of the Roman Catholic tradi-
tion. Of course, the tensions/polarities are often uncomfortable and
sometimes even, regrettably, acrimonious. But to repress the pluralism
of the tradition (in the way the contemporary Vatican sometimes seems
intent on doing) is to attack the richness and subvert the intellectual en-
ergy and strength of the tradition.

To claim (as I do) that we must make room in the Catholic university
(and elsewhere in Catholic culture) for genuine dialogue and debate
about controversial theological propositions like papal infallibility is one
thing. But to claim that a university should be Catholic in the sense that
it maintains an official commitment to such propositions in its governing
documents and basic culture is quite another matter. None of us
Catholics who find one or another theological proposition—including
one or another moral-theological proposition—deeply problematic can

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59. My reference here is to “the infallibility the first Vatican Council claimed for the
Bishop of Rome. That was an authority over propositions.” The Pope has used it only twice,
on matters so obscure that few people know what they were. The two dogmas concern “the
immaculate conception of Mary, the mother of Jesus, and her assumption into heaven.” *Id.* at
1874 n.58 and accompanying text.

60. Neither the immorality of “artificial” birth control nor the theological impossibility of
women receiving the sacrament of Holy Orders is presented by the Magisterium of the
Church as an “infallible” teaching. *See supra* note 59.
accept that a university should be Catholic in the sense of making an institutional commitment to the proposition. Moreover, if substantial numbers of us Catholics can and do, without forfeiting our identity as Catholics, dissent from one or another theological proposition, then we members of the board of directors of Pope John XXIII, including members inclined to affirm the proposition, should be wary not merely about establishing the identity of Pope John XXIII as Catholic in the bureaucratic sense, but also about maintaining or establishing the identity of Pope John XXIII as Catholic in the sense of making an institutional commitment to the proposition. This is true even for those propositions that the Vatican—the Magisterium of the Church—may want to insulate from the dissent of the faithful. Such a specification of Pope John XXIII’s Catholic identity would be, among us Catholics, terribly divisive—and, for many of us, terribly alienating. “Even those who identify with the intellectual or sacramental traditions of the church often find themselves hard pressed to defend certain of the church’s official positions. Such disaffection, coupled with the attractions of positions outside Catholic colleges and universities, has made it increasingly difficult to attract strong Catholic faculty.”

Recall that in the vision of the Land O’Lakes statement, “There must be no theological or philosophical imperialism . . . . [T]he intellectual campus of a Catholic university has no boundaries and no barriers.”

Here we have reached a crucial divide—a theological divide. If, and to the extent, a Catholic embraces the various basic doctrines propagated by the Vatican—such as the infallibility of the Pope when speaking *ex cathedra* on matters of faith and morals—he or she may be much more comfortable than I could ever be about a Catholic university somehow making an institutional commitment to such doctrines. But if, and to the extent, a Catholic does not, because she cannot, bow to those doctrines, she will have great difficulty accepting that the ideal Catholic university is one that makes an institutional commitment to the doctrines.

61. Harold Attridge, *Reflections on the Mission of a Catholic University*, in Hesburgh, *supra* note 1, at 13, 23. Cf. Langan, *supra* note 19, at 56, 60. (“[T]he church needs to develop a more nuanced and more positive account of the spiritual and intellectual situation of those Catholics who are in various ways and different degrees estranged from significant parts of its teaching and its life. Whether we think about these people as nonpracticing Catholics, lapsed Catholics, dissenting Catholics, modernist or postmodernist Catholics, or . . . near Catholics, we have to recognize that there are lots of these folks in and around Catholic universities.”).

It is now time to make explicit what was perhaps obvious all along, namely, that in addressing the question of what it means, or should mean, for a university to be Catholic, we are, at least in part, addressing a deeper question, an ecclesiological question: what it means, or should mean, for us to be Catholic. In struggling to forge for a Georgetown, or a Notre Dame, or a Pope John XXIII, an identity that is Catholic in the twofold sense I have suggested here, we will in part be struggling, with all the creative resources we can muster, to return to an understanding of the church as a fallible human community. . . . Such a church seeks to teach out of a wide discernment of the consensus of the faithful, knowing that even these best efforts must be held tentatively and that our final hope and salvation lies not in our certainties but in the grace of God who upholds us and loves us in and through our uncertainties. In this rediscovery of the right relation of the church, of all humans, to God, we can hope to find our way back to a more authentic understanding of what it means to be a people of God.  

Is it naive to think that a university that is Catholic in the twofold sense I have sketched in this paper can help us to find our way back to a more authentic understanding of what it means to be a people of God? It is difficult to see how a university that is Catholic in the bureaucratic sense or even in a highly traditional sense can do so. Recall that in the vision of the Land O'Lakes statement, just as every university should "serve as the reflective critical intelligence of its society," the Catholic university "has the added obligation of performing the same service for the Church." A principal task of the Catholic university is a continual examination of all aspects and all activities of the Church . . . . The Church would thus have the benefit of continual counsel from Catholic universities. . . . Catholic universities in the recent past have hardly played this role at all. It may well be one of the most important functions of the Catholic university of the future.  

If subjected to ecclesiastical authority as contemplated by Ex Corde Ecclesiae, isn't it very likely that Catholic universities will once again "hardly play this role at all"? Remember, according to one general norm set forth in Ex Corde Ecclesiae,  

63. Ruether, supra note 36, at 18 (commenting on Veritatis Splendor). On (what was likely) Jesus's own understanding of what it means to be a people of God, see Crossan, supra note 37.  
64. LAND O'LAKES STATEMENT, supra note 20, at 338.  
65. Id.  
66. Id.
All Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfill a mandate received from the Church, are to be faithful to the Magisterium of the Church as the authentic interpreter of Sacred Scripture and Sacred Tradition.\(^6\)

According to another general norm (concerning procedure):
Each bishop has a responsibility to promote the welfare of the Catholic universities in his diocese and has the right and duty to watch over the preservation and strengthening of their Catholic character. If problems should arise concerning this Catholic character, the local bishop is to take the initiatives necessary to resolve the matter, working with the competent university authorities in accordance with established procedures and, if necessary, with the help of the Holy See.\(^7\)

I now want to address, for a moment, those of you who insist, or at least who are inclined to believe, that to be authentically Catholic, a university must be Catholic in (what I am calling) a highly traditional sense, if not also in the bureaucratic sense. You may have read John Noonan’s recent, seminal article in *Theological Studies*, "Development in Moral Theology."\(^8\) Discussing usury, marriage, slavery, and religious freedom, Noonan demonstrates that:

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67. *Ex Corde Ecclesiae*, *supra* note 12, at 247 (part II, art. 4, § 3).
68. *Id.* (part II, art. 5, § 2). However, I agree with the position William Colinge sketched in a letter to me:

Some sort of non-juridical episcopal oversight of Catholic universities is appropriate to the role of bishop. . . . Maybe the bishop should make us uncomfortable. In case this sounds too conservative, imagine if the bishop challenged us to live up to Catholic social teaching in our institutional dealings, say with maintenance staff . . . Imagine if the bishop challenged us not to be so cozy with corporate and government interests, to serve the poor rather than those with wealth and power. Shouldn't bishops act that way, and if they have a statutory position on the Board of Trustees, shouldn't they exert appropriate influence in that direction?

Letter from William Collinge to Michael Perry (on file with author). A crucial word here, obviously is "non-juridical."

69. See Noonan, *supra* note 1; see also Peter Steinfels, *Beliefs*, N.Y. *Times*, Feb. 19, 1994, § 1, at 9 (commenting on Judge Noonan’s article). Steinfels describes Judge Noonan, of the United States Court of Appeals for the Ninth Circuit, as "a jurist and scholar who defies familiar categories."

A summa cum laude graduate of Harvard at 19, he received a Ph.D. in philosophy from the Catholic University of America in 1951 before returning to Harvard for his law degree in 1954 and eventually a teaching post at Harvard Law. [Noonan also taught at the laws schools of Notre Dame and of the University of California at Berkeley.] In the 1960s he published an authoritative history of the church’s opposition to contraception, a book widely used to support the case for changing that position. In
Wide shifts in the teaching of moral duties, once presented as part of Christian doctrine by the magisterium, have occurred. In each case one can see the displacement of a principle or principles that had been taken as dispositive—in the case of usury, that a loan confers no right to profit; in the case of marriage, that all marriages are indissoluble; in the case of slavery, that war gives a right to enslave and that ownership of a slave gives title to the slave’s offspring; in the case of religious liberty, that error has no rights and that fidelity to the Christian faith may be physically enforced. . . . In the course of this displacement of one set of principles, what was forbidden became lawful (the cases of usury and marriage); what was permissible became unlawful (the case of slavery); and what was required became forbidden (the persecution of heretics).\(^7\)

If the official Catholic position were still that slavery is permissible, would it be your position that a university, to be Catholic, should commit itself to that proposition? If the official Catholic position were still that—and here I quote Judge Noonan—"the duty of a good ruler was to extirpate not only heresy but heretics"\(^7\)—would it be your position that a university, to be Catholic, should commit itself to that proposition?

\(^7\) The 1970s he opposed the Supreme Court’s ruling that upheld women’s right to have abortions, and campaigned for a constitutional amendment to protect the unborn. Liberals brooded when President Ronald Reagan appointed him to the Federal bench in 1985. But as a judge, he has angered conservatives with his outspoken declarations on behalf of death row inmates seeking stays of execution and further court hearings.

\textit{Id.} 70. Noonan, \textit{supra} note 1, at 669; see also Seán Fagan, \textit{Interpreting the Catechism}, 44 Doctrine & Life 412, 416-17 (1994).

A catechism is supposed to “explain”, but this one does not say why Catholics have to take such a rigid, absolutist stand against artificial contraception because it is papal teaching, but there is no reference to the explicit centuries-long papal teaching that Jews and heretics go to hell unless they convert to the Catholic faith, or to Pope Leo X, who declared that the burning of heretics is in accord with the will of the Holy Spirit. Six different popes justified and authorized the use of slavery. Pius XI, in an encyclical at least as important as \textit{Humane Vitae}, insisted that co-education is erroneous and pernicious, indeed against nature. The Catechism’s presentation of natural law gives the impression that specific moral precepts can be read off from physical human nature, without any awareness of the fact that our very understanding of “nature” and what is “natural” can be coloured by our culture.


\(^7\) Noonan, \textit{supra} note 1, at 667.
"The vast institutional apparatus of the Church was put at the service of detecting heretics, who, if they persevered in their heresy or relapsed into it, would be executed at the stake. Hand and glove, Church and State collaborated in the terror by which the heretics were purged." 72

"Eventually," we're told, "the church came to tolerate religious tolerance, but papal advisors continued to uphold state-enforced orthodoxy as an ideal." 73 If state-enforced religious orthodoxy were still the official Catholic ideal, would it be your position that a university, to be Catholic, should commit itself to that ideal?

Among still-official Catholic propositions and ideals, what are the contemporary analogues of the proposition about slavery, the proposition about the extirpation of heretics, and the ideal of state-enforced religious orthodoxy? Do we know, a priori, that there are no such contemporary analogues—that the tradition has at last been purified and there remain no sinful, disfiguring propositions or ideals among still-official Catholic propositions and ideals? (Has history ended?) Let me suggest three:

- Women may not—theologically may not—be ordained as priests; they may not receive the sacrament of Holy Orders. 74

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72. Id.
73. Steinfels, supra note 69, § 1, at 9.
74. "This judgment is to be definitively held by all the church's faithful." John Paul II, Apostolic Letter on Ordination and Women, 24 ORIGINS 49, 51 (1994). Thus has John Paul II tried, futilely, to curtail debate in the Catholic Church about whether there is any theological impediment to women receiving the sacrament of Holy Orders. At least the Pope, pulled back by several "high-ranking bishops who gathered at a special Vatican meeting" before the apostolic letter was issued, stopped short of using the language of "infallibility." See Tom Fox, Bishops Pull Pope Back from Brink, NAT'L CATH. REP., June 17, 1994, at 3; see also Peter Hebblewaite, A Search for Openings in the Absence of 'Infallible', NAT'L CATH. REP., June 17, 1994, at 10. For a statement of the Catholic Church's official position on the theological impossibility of ordaining women, see CATECHISM OF THE CATHOLIC CHURCH 394 (par. 1577) (1994). For a discussion of the Church's official position, see RICHARD McBRIEN, CATHOLICISM 772-79 (rev. ed. 1994). Cf. Elizabeth Schussler Fiorenza, Introduction, Violence Against Women, CONCILIIUM, 1994/1, at vii.

Recently, Canadian Archbishop Maurice Couture has written:

We perceive among many religious a profound discomfort with the anthropological approach underlying a number of more or less official texts of the church. To take it to the extreme, it is as if women are so different from men that they do not share the same human nature! By insisting on the "specific vocation" of women, and on "the wealth of feminine nature" . . . and on what constitutes their "personal dignity" . . ., it sometimes seems to be an elegant way of keeping women away from those roles traditionally reserved in the church to men.


In a recent Time "Essay," Lance Morrow has written:
"Deliberately contracepted" sexual conduct (as John Finnis has called it) is always immoral, it is immoral without regard to any particularities of context.  

A sexual bond between two persons of the same sex is always sinful; in particular, the homosexual bond is sinful even if it is embedded in and
expressive of a lifelong, monogamous relationship of faithful love, indeed, even if it is a generative matrix of such a relationship, of such love.

76. By a "lifelong" relationship, I mean a relationship in which the partners hope and intend that their relationship will be lifelong, and in which they struggle with all the resources at their command to bring that hope and intention to fulfillment.

77. John Finnis has defended this position in a recent essay. See Finnis, supra note 75. I have explained why Finnis's argument is not sound. See Perry, supra note 75.

For a statement of the Catholic Church's official position on homosexual conduct, see CATECHISM, supra note 74, at 566 (par. 2357); see also id. (pars. 2358-59). Pope John Paul II has recently reasserted the Church's official position. See Alan Cowell, Pope Calls Gay Marriage Threat to Family, N.Y. TIMES, Feb. 23, 1994, at A5; see also The Homosexual Movement: A Response by the Ramsey Colloquium, FIRST THINGS, March 1994, at 15. For a powerful "counter-response", see the letter from various members of the National Association of College and University Chaplains, FIRST THINGS, September 1994, at 2. For a discussion of the Church's official position, see McBRIEN, supra note 45, at 993-97. For powerful critiques of the position the Church espouses, see RICHARD A. MCCORMICK, REFLECTIONS ON MORAL DILEMMAS SINCE VATICAN II chap. 17 ("Homosexuality as a Moral and Pastoral Problem") (1989); Margaret A. Farley, An Ethic for Same-Sex Relations, in A CHALLENGE TO LOVE: GAY AND LESBIAN CATHOLICS IN THE CHURCH 93 (Robert Nugent ed., 1983); see also Daniel Maguire, The Morality of Homosexual Marriage, in Nugent, supra, at 118; Jeffrey S. Siker, How to Decide?: Homosexual Christians, the Bible, and Gentle Inclusion, THEOLOGY TODAY, July 1994, at 219; RICHARD WESTLEY, MORALITY AND ITS BEYOND 169-98 & 222-28 (1984). McCormick, Maguire, and Farley are Catholic moral theologians; Westley is a Catholic moral philosopher; Siker is a Christian ethicist and an ordained minister in the Presbyterian Church USA.

Sidney Callahan seems to me to get it just right. See Sidney Callahan, Why I Changed My Mind: Thinking About Gay Marriage, COMMONWEAL, April 22, 1994, at 6. It is consoling that one finds so much good sense among many of the Catholics who have recently written letters to Commonweal on the subject of homosexuality. See, e.g., Joan Sexton, Learning from Gays, COMMONWEAL, June 17, 1994, at 28 (a letter to the editor commenting on Sydney Callahan's column).

Her column led to thoughts about the argument that gay marriage would endanger the institution of heterosexual marriage. First, the list of threats to modern Christian marriage is so long that gay marriage should rank about twenty-fourth, even for those who take it seriously.

Second, it seems to me, as wife and mother, that it may be the most committed of hearts that would enter and stay in a marriage as a one-to-one relationship. I admire the courage of the homosexual person giving him/her self to one person, one body, one heart and to a lifelong struggle to understand and support that other. It's a promise that draws, from me, at least, respect and awe.

And I suspect that such marriages could teach us a lot in terms of realizing the ideal, of true friendship. It's interesting that the challenge of women on ordination has brought forth a fresh new look at what priesthood means; so the challenge of gay couples to be included in the institution of marriage promises a new look at what marriage means.

See also Thomas H. Stahel, Transcending Biology, COMMONWEAL, March 11, 1994, at 2. (Father Stahel is executive editor of the Jesuit weekly, America.)

John Noonan's wonderful essay on "development in [Catholic] moral doctrine" is relevant to the question of the Catholic Church's position on homosexuality, though in the essay Noonan is not addressing that or any other contemporary issue in particular. Consider, for example, this passage:
The claim that “faithful” Catholics once owed “religious assent” to the disfiguring propositions about slavery, the extirpation of heretics, or state-enforced religious orthodoxy—or that faithful Catholics today owe religious assent to the contemporary analogues of such propositions—presupposes a deeply problematic ecclesiology. That, however, is an issue for another day. What is the intended, if implicit, antonym of “faithful” in the claim that faithful Catholics owe religious assent to such propositions? “Faithless”? May I suggest that a more appropriate antonym is that between “mindful” and “mindless”?

Experience as such, taken as “raw experience,” the mere participation in this or that phenomenon, is . . . not the key. Raw experience carries with it no evaluation. But experience, suffered or perceived in the light of human nature and of the gospel, can be judged good or bad. It was the experience of unfreedom, in the gospel’s light, that made the contrary shine clear.

Noonan, supra note 1, at 676 (emphasis added); see also Richard Westley, We Are Makers of Love, PRAYING, May-June 1994, at 28 (“Forgotten is the old theological dictum that the ‘teaching’ church can only teach what the ‘believing’ church believes. Having it the wrong way around skews everything; it discounts the religious experience of all us believers and allows the church to be the curator of all truth, so that no more truth can get into the enterprise. But I believe that God is revealing God’s self to us all the time. We have to get our antennae back up.”) (Westley is a moral philosopher at Loyola University Chicago.) What does the “believing” church believe? A partial answer: Only a little more than half (56%) of all American Catholic priests believes that homosexual conduct is always morally wrong. See Greeley, supra note 75, at 8; see also supra note 75 (only a quarter of American Catholic priests accepts Church’s position on contraception).

For a statement of the claim about “faithful” Catholics and “religious assent,” see Gerard V. Bradley, Grounds for Assent, COMMONWEAL, Sept. 9, 1994. The matter of Catholic identity and religious assent is substantially more difficult—more complicated—than Bradley allows. See, e.g., Norbert Greinacher, Catholic Identity in the Third Epoch of Church History, in Provost & Walf, supra note 2, at 3; see also Margaret O’Brien Steinfels, Dissent & Communion: You Can’t Have One Without the Other, COMMONWEAL, Nov. 18, 1994, at 9, 11:

If one doubts whether real communion implies dissent, imagine a church where dissent had been rendered unthinkable, impermissible, or inexpressible. Would such a church be likely to resemble the inter-personal, vital, ever-deepening, always out-stretching encounter of hearts and minds that is communion? Or would it be more likely to resemble the bureaucracy of a government, the conformity of a corporation, the discipline of an army, or even the ideological unanimity of a totalitarian political movement?


Or is the intended antonym “unfaithful”? (To be “faithless” is to be without faith. To be “unfaithful” to someone or something is to be untrue to someone or something.)

There is a sense in which a “mindless” Catholicism is “unfaithful” to the Catholic tradition. As David Hollenbach, SJ, has explained, Faith and understanding go hand in hand in both the Catholic and Calvinist views of the matter. They are not adversarial but reciprocally illuminating. As [David] Tracy puts it, Catholic social thought seeks to correlate arguments drawn from the distinctively religious symbols of Christianity with arguments based on shared public experience. This effort at correlation moves back and forth on a two-way street. It rests on a
Is it naive to think that a university that is Catholic in the twofold sense I have suggested here can serve the church well in identifying and repenting which among still-official Catholic propositions and ideals are in reality sinful, disfiguring propositions and ideals—in correcting the church's inevitable and all-too-human mistakes?

[T]o say that the Catholic university identifies with the Catholic tradition does not mean that it identifies with the Catholic tradition in some uncritical, extrinsicist, or purely cultural way. The interpretation of the Catholic tradition is not left totally in the hands of the official teachers, or magisterium, of the church. The appropriation of the Catholic tradition is the work of the whole Catholic community, including its scholars, in dialogue with others, especially in a university context. ... “No other institution in contemporary culture can offer this continual and dialogic academic reflection on the church.”

In the charter of Pope John XXIII University, as I imagine the charter, are these passages from Judge Noonan's essay:

The consistency sought should not be verbal nor literal; nor can conformity to every past rule be required. The consistency to be sought is consistency with Christ. ... One cannot predict future changes; one can only follow present light and in that light be morally certain that some obligations will never alter. The great commandments of love of God and of neighbor, the great principles of justice and charity continue to govern all development. God is unchanging, but the demands of the New Testament are different from those of the Old, and while no other revelation supplements the New, it is evident from the case of slavery alone that it has taken time to ascertain what the demands of the New really are. All will be judged by the demands of the day in which they live. It is not within human competence to say with certainty who was or will be saved; all will be judged as they have conscientiously acted. In new conditions, with new insight, an old rule need not be preserved in order to honor a past discipline.

conviction that the classic symbols of Christianity can uncover meaning in personal and social existence that common sense and uncontroversial science fail to see. So it invites those outside the church to place their self-understanding at risk by what Tracy calls conversation with such “classics.”

David Hollenbach, Contexts of the Political Role of Religion: Civil Society and Culture, 30 San Diego L. Rev. 877, 894 (1993). Hollenbach then adds, following Tracy: “At the same time, the believer's self-understanding is also placed at risk because it can be challenged to development or even fundamental change by dialogue with the other—whether this be a secular agnostic, a Christian from another tradition, or a Jew, Muslim, or Buddhist.” Id. at 894-95.

81. Richard P. McBrien, What is a Catholic University?, in Hesburgh, supra note 1, at 153, 156 (quoting an address by Michael Buckley, SJ, of Boston College).
THE IDEA OF A CATHOLIC UNIVERSITY

In the Church there can always be fresh appeal to Christ, there is always the possibility of probing new depths of insight. . . . Must we not, then, frankly admit that change is something that plays a role in Catholic moral teaching? . . . Yes, if the principle of change is the person of Christ.82

I am greatly consoled by the fact that the vision of the Catholic university I have sketched in this paper is essentially the same vision that the former President of the University of Notre Dame, Theodore M. Hesburgh, CSC, has portrayed in his introduction to the recent collection of essays, The Challenge and Promise of a Catholic University.83 (Father Hesburgh's essay came to my attention after I had substantially completed this paper.) Critics of the vision I have sketched here must, if they are honest, be disconsolated by that fact, given the great experience and undeniable authority of Father Hesburgh. I am grateful to be on Father Hesburgh's side in this discussion.

IX

It is now time to face this difficult question: How can a university that is Catholic (only) in the twofold sense I have indicated in this paper avoid becoming, gradually if not precipitously, one of those transformed, secular universities—like the one at which I teach—to which I referred earlier? Commonweal may be able to hold onto its identity as Catholic in a non-bureaucratic sense of the term. But how can a Georgetown (my alma mater), or a Notre Dame, or a Pope John XXIII, hope to hold onto its identity as Christian, much less as Catholic, once it has decided not to be Catholic either in the bureaucratic sense or in a highly traditional sense? In February, 1993, David Carlin wrote in Commonweal that since the 1960s, the Catholic identity of Catholic institutions of higher learning

82. Noonan, supra note 1, at 676-77. See also Mahoney, supra note 75, at 327. At any stage in history all that is available to the Church is its continual meditation on the Word of God in the light of contemporary experience and of the knowledge and insights into reality which it possesses at the time. To be faithful to that set of circumstances . . . is the charge and the challenge which Christ has given to his Church. But if there is a historical shift, through improvement in scholarship or knowledge, or through an entry of society into a significantly different age, then what that same fidelity requires of the Church is that it respond to the historical shift, such that it might be not only mistaken but also unfaithful in declining to do so. Id.

83. Theodore M. Hesburgh, Introduction, in Hesburgh, supra note 1, at 1; see also Theodore M. Hesburgh, Afterword, in Hesburgh, supra note 1, at 371. (The entire collection of essays, by various members of the University of Notre Dame community, is an important resource for anyone who would think about the idea of a Catholic university.)
has “grown increasingly tenuous. . . . Catholic colleges seem to be travelling the same road that many Protestant colleges journeyed in the nineteenth and early twentieth centuries—a road leading to complete secularization, to complete loss of religious identity.”

So, how to avoid the fate that, for better or for worse, awaited many Protestant universities? A sobering question. And a daunting challenge—requiring, obviously, creative leadership of the highest order. Time will tell whether the challenge can be met.

What if we discover, at the end of the day, that the only universities that were able to survive as Catholic in any meaningful sense of the term were those that chose to be Catholic in the bureaucratic sense—or, at least, in a highly traditional “uncritical, extrinsicist” sense? What then? I would not conclude that we made a mistake in establishing Pope John XXIII as Catholic only in the twofold sense I have recommended here. I would conclude, rather, that, in the main, Catholic universities had outlived their time. At least, I would conclude that they had outlived their time for all save those remaining Catholics who, for whatever reason or reasons, need or at least desire the kind of insular intellectual environment provided by such a university. Is there any reason to doubt that the number of such Catholics will continue to dwindle from one generation to the next? They will continue to dwindle as the rest of us Catholics, and others, proceed with our struggle “to find our way back to a more authentic understanding of what it means to be a people of God.”

But such a dismal conclusion about the future of Catholic higher education is surely premature: It may not be the case, after all, that the only universities able to survive as Catholic in any meaningful sense of the term are those that choose to be Catholic in the bureaucratic sense or in a highly traditional sense. Indeed, given the commitment and creativity of many of those lay Catholics who exercise stewardship over Catholic

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85. See the two articles by Father Burtchaell cited in supra note 9.
86. Ruether, supra note 36, at 18.
universities and colleges in North America today, that scenario seems to me most improbable. But time will tell.

X

Again, what I have said in this paper about the idea of a Catholic university I mean to apply fully to a law school that is a constituent of a Catholic university.

I suspect that it is easy to misunderstand what I have said here about the idea of a Catholic university—or easy to misunderstand, at least, the implications of what I have said here. For example: In commenting critically on an earlier version of this paper, Fred Gedicks, who teaches law at Brigham Young University, took me to be rejecting sectarian higher education. I hope I have made it clear in this version of the paper that what I mean to contend against is not a sectarian university. The ideal Catholic university, as I have explained here, is sectarian. What I mean to contend against is bad theology, including—indeed, especially—bad ecclesiology. There is a radical difference between rejecting sectarian higher education and rejecting bad theology.

To forestall such misunderstanding, I want to gesture, in conclusion, in the direction of one clarification. In a recent, illuminating essay, Thomas Shaffer reported that “all non-denominational law schools and mostly—virtually all—religioustly affiliated American law schools are secular.” He then discussed “two alternatives to the secular approach,” which he called the “Erastian” and the “sectarian”. Perhaps because I don’t fully understand Shaffer’s distinction between the Erastian and the sectarian approaches, I am skeptical of the distinction. Or perhaps I should say that I am wary of drawing the distinction too

87. Cf. Author Hughes, Responses to Proposed Ordinances, 23 ORIGs 610 (1994).

88. For an answer to the question “whether there is anything that distinguishes American Catholic universities at the end of the twentieth century from their Protestant counterparts in the early decades of the century,” and for a guardedly hopeful recommendation about how to proceed from here, see Marsden, supra note 9, at 194-97.

89. Shaffer, supra note 1, at 1864.

90. Id.
sharply—or of putting too much weight on it. But that is a side issue. What I want to emphasize now is this: I accept—indeed, I embrace—Shaffer’s vision of the sectarian law school, and nothing I have said in this paper, properly understood, is to the contrary. What I reject is not a sectarian law school, in Shaffer’s sense of the term. (I do think, however, that the biblical term “prophetic” is a less misleading word for communicating what Shaffer has in mind than the word “sectarian.”) What I reject is a particular understanding—a bureaucratic and authoritarian understanding—of what it means to be a “church,” a people of God. What I reject, more specifically, is a particular understanding of what it means—i.e., of what it should mean—to be the Roman Catholic church. But I nonetheless believe, with Shaffer, that “an ideal legal education conducted in the Church[91] would encourage distinct and religious views about the use of state power in the law and styles of lawyering.”92 I affirm Shaffer’s sectarian position, [according to which] the peculiar calling of the people of God is to be distinct within civil society and to endure consequent separation from it. . . . [A] law school maintained by a church can be one of the manifestations of the Church in the world, and . . . such a manifestation is the principal reason the Church has a law school.93

Let me note as well that accepting what I have said in this paper about the idea of a Catholic university seems to me to require no compromise whatsoever with the vision of Jesuit legal education developed by Steven Barkan or with the kindred vision developed by Robert Araujo, SJ.94

So, the issue between Shaffer (and others) and me is not whether a religiously-affiliated law school should be sectarian (or, as I prefer, prophetic). Rather, the issue between us . . . Let me say it differently, since I don’t know—and I don’t want to assume—that there is an issue between us in this context, an issue that divides us. The issue for us—and for many others—is this: Whether it isn’t imperative for us to join countless other Catholics (and countless other Christians who are not Catholics) in struggling to

91. Shaffer writes: “Throughout this paper, I capitalize ‘Church’ when referring to Christians in general, and not when referring to a particular denomination. . . . This arcane device emphasizes that Christians sometimes refer to themselves as the People of God, and thus to the Church, as what they are.” Id. at 1860 n.2.
92. Id. at 1860.
93. Id. at 1864-65.
94. See Araujo, supra note 1; Barkan, supra note 1.
return to an understanding of the church as a fallible human community [that] seeks to teach out of a wide discernment of the consensus of the faithful, knowing that even these best efforts must be held tentatively and that our final hope and salvation lies not in our certainties but in the grace of God who upholds us and loves us in and through our uncertainties.

The issue is whether it isn't absolutely essential for us to struggle "to find our way back to a more authentic understanding of what it means to be a people of God." A decision against participating in that struggle is, in my view, conspicuously unprophetic and makes talk about the importance of being prophetic have some of the resonance of clanging cymbals. A decision against participating in the struggle to achieve a more faithful understanding of what it means to be a people of God is, in my view, one more act of infidelity to our Lord, Jesus Christ. Alas, the lives of us broken human beings—the lives of us sinners—are replete with such acts of infidelity.

There are many important issues I have had neither space nor time to pursue in this paper. A university that would be Catholic in any meaningful sense must offer its whole community a vital and rich liturgical life. It must also offer its whole community, but especially its students, ample opportunity for spiritual formation and counselling. See The Church's Presence in the University and in University Culture, 24 Origins 74 (1994) (a joint text of the Vatican Congregation for Catholic Education and the pontifical councils for the Laity and for Culture). Finally, but far from least,

[t]he Catholic university is perhaps most easily seen as a community of service to those less fortunate, locally, nationally, and internationally. This caring has both an intellectual and a practical aspect. The community does not only study phenomena like poverty, migration, refugees, homelessness, hunger. We also try to cope with these problems in a hands-on fashion through personal service in a variety of practical ways both here and abroad.

Hesburgh, Afterword, supra note 83, at 371.