

CURRENT THEOLOGY

WAR, CONSCIENCE, AND THE LAW: THE STATE OF THE QUESTION

Conscientious objection to war is undoubtedly one of the leading moral issues of recent times in this country. It has occupied a prominent place not only in the popular press and in public debate, but also in learned theological discussion. The occasion for the interest in this subject was and still is the current opposition to the war in Vietnam, but the issue is obviously larger than the morality of any particular war. It will be the purpose of this paper to throw some light on this larger issue by setting it in a historical context and calling attention to the different moral problems involved. Our initial task will be to identify and separate out the various classes of conscientious objectors.

I

The traditional conscientious objector to war has always been the pacifist, that is, one who is opposed to all war. Edward LeRoy Long, in his *War and Conscience in America*,¹ distinguishes three kinds of pacifists, but for our purposes it will be sufficient to identify two of them, since the third has nothing to do with the Judeo-Christian tradition.² The first type, the vocational pacifist, founds his objection to war on the teaching of a leader or the acceptance of the principles of a community opposed to participation in war. Christian vocational pacifism takes the New Testament as its source, or at least the practice of the early Christian community. Vocational pacifists, as well as their adversaries, will at times appeal legalistically to individual texts in the New Testament to support their opposing positions,³ but this approach is doomed to frustration, since texts can be advanced to support both positions. As Long says, Christian pacifism does not depend on any explicit mandate in Scripture, "but upon a broadly based realization that the love ethic of the gospel, reflecting as it does the life, teaching and example of Christ, implies a clear prohibition of killing in warfare."⁴ Not all vocational pacifists, however, find the same imperative in this

¹ Philadelphia, 1968, pp. 48-74.

² Long calls this "transmoral pacifism." This type of pacifist accepts things as they are without concern for right or wrong. He feels no concern to defend the good or resist what is evil. Pacifism of this kind is more characteristic of some Asian religions.

³ Paul Ramsey makes an ingenious appeal to the story of the Good Samaritan to support the just-war theory. He simply puts the question: What do you think Jesus would have made the Samaritan do if he had come upon the scene while the robbers were still at their fell work? (*The Just War* [New York, 1968] p. 143).

⁴ *Op. cit.*, p. 57.

ethic. Some will refuse to participate in military combat, but will not hesitate to serve, for instance, in the medical corps. Others will refuse any kind of co-operation with the war machine. Some will feel that while they must condemn all violence, they are obliged to resist evil by other methods. Still others seem to think that Christian ethics is an ethic of withdrawal, or nonresistance to evil.

It is characteristic of the vocational pacifist, however, that he does not obstruct the war efforts of those who conscientiously participate in it. This is not to say that he thinks his fellow man is right. But he does respect his convictions, and he will never do anything that would give comfort in any way to the enemy of his country.

It is in this latter respect that the vocational pacifist differs from the activist or militant pacifist, the second group we will identify briefly. The militant pacifist is not satisfied with personal abstention from violence; he is out to eliminate war and feels an obligation to resist war and those who participate in it. Unlike the vocational pacifist, he considers it hypocritical to think that war is wrong and not do anything to prevent it. He cannot be complacent about war.

Pacifism is the approach to war the historic peace Churches (e.g., Mennonites, Seventh Day Adventists, Quakers, and more recently Jehovah's Witnesses) take. The attitude toward pacifism in these Churches ranges from that of the Mennonites, who tend to withdraw from the world of force and violence, to the Quakers, who are more apostolic in their pacifism.

The Catholic Church and most Protestant Churches, while they have traditionally promoted peace, have never been peace Churches in either of the above senses. It is quite true that the early Christian community did not become involved in the wars of the Roman Empire or generally in military service, but there were many reasons apart from pacifist leanings that would explain the general tendency to retreat from the world that seemed to characterize early Christianity. But, however one may interpret the thinking of the early Christians in this regard, at least from the time of Augustine the traditional approach to war has been that of the just-war theory—which does not condemn all war, but only the unjust war. The Church has indeed consistently claimed exemption from military service for her priests and religious, considering these special vocations which call for a special witness to peace, but it has never proposed pacifism as the universal vocation of the Christian. It should be pointed out, however, that there were theologians even prior to Vatican II who thought that the Church should recognize the possibility that God might call a layman to give special witness to peace and become a conscientious objector to war. Pierre

Lorson, S.J., called attention to the possibility of this type of vocation two decades ago.⁵ He cited Père de Soras,⁶ who argued that just as the Church, although it blesses marriage and marital love, calls her priests to a vocation of celibacy, so, while recognizing that a just self-defense may sometimes be necessary, does she desire that along with soldiers there be prophets of nonviolence or peace. Such a vocation, however, might not be frequent and it would certainly have to be very carefully discerned.

II

We have said that the traditional approach of the Church to war has been the just-war theory. If a war is just, a Catholic may, and may even be obliged to, serve in it. If it is clearly unjust, he must be a conscientious objector. The requirements of the just-war theory are well known and it is not our purpose to delineate them here. A few comments, however, will be important to relate it to the current problem of conscientious objection. The first is that, although the just-war theory in the past applied primarily to offensive warfare, an honest appraisal of the realities of warfare today in reference to this norm would rule out this type of warfare. This condemnation of all aggressive warfare, originally urged by Cardinal Ottaviani,⁷ was first voiced authoritatively by Pius XII⁸ and then repeated by his successors, John XXIII⁹ and Paul VI.¹⁰ None of them felt that, given the destruction of modern warfare, it could ever again be considered a reasonable way of remedying injustices. The only type of warfare available to one who is to observe the requirements of the just-war theory is defensive warfare, when this becomes the *ultima ratio* against unjust aggression.¹¹

Another serious issue in connection with the application of the just-war theory to modern warfare is the use of nuclear weapons. There were many who held, at least prior to Vatican II, that the advent of nuclear power should outlaw any kind of warfare, and theologians de-

⁵ *Un chrétien peut-il être objecteur de conscience?* (Paris, 1950).

⁶ *Ibid.*, pp. 117-18.

⁷ A. Ottaviani, *Institutiones iuris publici ecclesiastici* (3rd ed.; Turin, 1947) n. 86: "Aliis verbis, hodie, nisi agatur de bello defensivo (et quidem sub determinatis conditionibus) quo Status arcere nititur actualem iniustam aggressionem bellicam alterius, non datur amplius justum bellum quod Statui aggredi liceat ad repetendum ius suum."

⁸ Christmas Message, 1948 (AAS 41 [1949] 13).

⁹ AAS 55 (1963) 291.

¹⁰ AAS 57 (1965) 882.

¹¹ The right to just self-defense was again confirmed in Vatican II; cf. Pastoral Constitution on the Church in the Modern World, no. 79 (Abbott-Gallagher, *The Documents of Vatican II* [New York, 1966] p. 293).

bated this question with great concern. I am sure that the masterful treatment of this subject by John Courtney Murray and the balanced approach he took are well known.¹² It will be recalled that his basic emphasis was on the requirement that warfare, to be just, must be limited. Translated into Paul Ramsey's terminology, this would mean, I believe, that it must be discriminate and it must be proportionate. As long as this requirement was met, Murray did not want to distinguish between nuclear and nonnuclear warfare. He did not want to, and did not see why he had to, admit that limited nuclear warfare was an impossibility.

There were those who were hoping that the Council would come out with a blanket condemnation of nuclear warfare. In fact, some had interpreted a statement made by Pius XII as such a condemnation.¹³ And when Schema 13 was introduced at the end of the third session of Vatican II, it contained a statement on nuclear warfare which, according to Theodore Weber, a Protestant observer at the Council, most of the fathers agreed was a condemnation of all nuclear weapons.¹⁴ Paul Ramsey, who comments on this statement, does not challenge Weber on the opinion of the conciliar fathers, but he denies that the statement in question clearly reads this way. He finds in it an ambiguity that would leave the use of limited weapons, even nuclear weapons, an open one.¹⁵ After studying the text, I would tend to agree with Ramsey.

But whatever may be the proper interpretation of the statement on nuclear warfare in Schema 13, the version that finally appeared in the Pastoral Constitution was considerably revised. It reads: "Any act of war aimed indiscriminately at the destruction of entire cities or of extensive areas along with their population is a crime against God and man himself. It merits unequivocal and unhesitating condemnation."¹⁶

This statement, unlike that of Schema 13, makes no explicit reference to nuclear weapons, although from the context it must be understood that these are clearly included. But what is condemned is indis-

¹² Cf. John Courtney Murray, "Remarks on the Moral Problem of War," *THEOLOGICAL STUDIES* 20 (1959) 40-61.

¹³ Allocution to the World Medical Congress, 1954: "when the employment of this means entails such an extension of the evil that it entirely escapes from the control of man, its use ought to be rejected as immoral" (AAS 46 [1954] 589). It is quite clear, however, from his other statements that Pius XII did not condemn nuclear warfare as such.

¹⁴ The statement read as follows: "nevertheless the use of arms, especially nuclear weapons, whose effects are greater than can be imagined and therefore cannot be reasonably regulated by men, exceeds all just proportion and therefore must be judged before God and man as most wicked" (Ramsey, *op. cit.*, p. 285).

¹⁵ Cf. *ibid.*, pp. 283 ff.

¹⁶ Pastoral Constitution on the Church in the Modern World, no. 80 (*Documents*, p. 294).

criminate warfare rather than nuclear warfare, and an *act of war* rather than a particular weapon. My own opinion is that such indiscriminate use of weapons would extend not only to an act that would not discriminate between combatant and noncombatant, but also to one that would be totally out of proportion to the good to be achieved. Thus, for instance, it could include obliteration bombing with conventional weapons as well as nuclear bombing of a nonadequate military target.

What all this means is that the Catholic who follows the just-war theory today will be a conscientious objector neither to war in general nor to nuclear war in particular, but only to aggressive warfare or one that is otherwise unjust. Actually, theologians in the past, although they did not deny the right and duty to object to service in an unjust war, tended to concentrate on the obligation of the individual citizen to answer the call of his country to military service. Many theologians considered it an obligation which the citizen would owe in legal justice to his government and his country. Others did not go this far, at least in respect to peacetime conscription, and considered the obligation purely penal. But there was very little discussion of the question of conscientious objection as such.

As for the Church itself, although it consistently promoted peace and recognized the evils of war and conscription, I think it can be said that until Vatican II it gave little attention to conscientious objection. Actually, in his Christmas message in 1956, Pius XII ruled out the possibility of conscientious objection when the proper authorities would legitimately decide on defensive precautions. As he says:

If therefore a body representative of the people and a government—both having been chosen by free elections—in a moment of extreme danger decide by legitimate instruments of internal and external policy, on defensive precautions, they do not act immorally; so that no Catholic citizen can invoke his conscience in order to refuse to serve and fulfill those duties the law imposed. On this matter we feel that we are in perfect harmony with our predecessors.¹⁷

The least one can take out of this statement is that if a Catholic refuses to serve in this situation, he cannot invoke his conscience as a reason. To understand better this statement of Pius XII, it will be important to call attention to the context in which it was made. A certain paralysis of will was creeping over Europe at the time, a spirit of defeatism characterized by the slogan "better Red than dead," which eventually would have made the defense of Europe against communism an impossibility. It was this same spirit that prompted a group of German theologians a year or more later to call to mind the values at stake: "A part of the confusion among our people has its source in the

¹⁷ *Catholic Mind* 55 (1957) 176.

fact that there is an insufficient realization of the reach of values that are endangered today, and of the hierarchical order among them, and of the degree of danger in which they stand.”¹⁸ I think one would have to conclude that conscientious objection in this context might be more of a reflection of despair than of any well-ordered attachment to peace or justice.

Clearly, one who is convinced that war is wrong or that a particular war is unjust, whether he is right or wrong, must follow his conscience and refuse any formal participation in the evil. Those who follow the just-war theory, the so-called selective conscientious objectors, will not be opposed to violence as such or to war in general, but only to injustice and the unjust war. I suspect that one would find among them the same range of attitude we have seen among the pacifists. At the one extreme will be those who will be satisfied to obtain an exempt status for themselves. Like the vocational pacifist, they will not obstruct the war efforts of those who conscientiously participate in it. At the other extreme will be the activist or militant objector, who feels he has a duty to prevent the war or stop it. Moreover, since he does not, like the pacifist, object to violence as such, his methods of resisting a particular war may even include some forms of violence.¹⁹ Even if such a person were granted an exempt status, he would not be satisfied, and he might still come into conflict with the law by reason of his methods of protest or resistance. But this is a much larger issue, which is not our concern here.

III

We come now to the teaching of Vatican II regarding the response of the citizen to a call to war service. The Pastoral Constitution on the Church in the Modern World is unique on this point, at least among modern Church documents, in that it nods in two directions. To those who pledge themselves to service in the armed forces of their country it offers words of encouragement and consolation: “Those who are pledged to the service of their country as members of the armed services should regard themselves as agents of security and freedom on behalf of their people. As long as they fulfill this role properly, they are

¹⁸ *Herder-Korrespondenz* 12 (1958) 396.

¹⁹ Actually, some neopacifists limit the notion of violence to injury done to persons. Damage done to property is not considered violence. This gives them wider scope in their methods of resistance. They forget that the precise reason why damage to property is considered injustice is its relation to persons. All things being equal, damage done to a man's external goods is less serious than damage done to his internal goods, but burning down a man's house or place of business may hurt him much more than a slight personal injury.

making a genuine contribution to the establishment of peace.”²⁰ This statement is obviously in line with traditional thinking regarding military service. If the council said nothing more, it would have done no more than confirm traditional just-war teaching. But it did say more. Even before it spoke in approving terms of those who answer their country’s call to armed self-defense, it nodded (and for the first time at least in recent history) in the direction of those who renounce violence: “We cannot fail to praise those who renounce the use of violence in the vindication of their rights and who resort to methods which are otherwise available to weaker parties too, provided that this can be done without injury to the rights and duties of others or of the community itself.”²¹

However qualified it may be, this statement is a clear endorsement of nonviolence by the Council. Since it represents a new direction in Church thinking, it will certainly call for extensive study, particularly in reference to the qualifications set down. Moreover, although the Council has praise for those who renounce violence, in no sense does it make it mandatory or prejudice in any way the right of self-defense. We have here what seems to be the first recognition in a Church document of the type of vocation to peace spoken of by Père Lorson.

The person who renounces violence will certainly find himself at odds with a government which does not make allowance for conscientious objectors. I do not know that the Church has taken any previous stand on the posture the state should take toward conscientious objectors, but the conciliar fathers followed up their endorsement of nonviolence with an observation regarding the proper response of the state to this kind of opposition. They say simply that “it seems fair that laws make humane provision for the case of those who for reasons of conscience refuse to bear arms, provided, however, that they accept some other form of service to the human community.”²²

The Council recommends, therefore, that the state provide humanely for conscientious objectors, although the expression used, “*aequum videtur*,” is not a very forceful one.²³ Prior to Vatican II, theologians were divided on this question. Marcellino Zalba, S.J., for instance, although he uses an expression similar to the one used by the Council (“*aequum est*”), is not as liberal as the Council. He merely recommends that conscientious objectors be judged more kindly and punished less severely than deserters, etc.²⁴ Joseph Fuchs, S.J., takes an

²⁰ No. 79 (*Documents*, p. 293).

²¹ No. 78 (*Documents*, p. 291).

²² No. 79 (*Documents*, p. 292).

²³ The Council is obviously proceeding very cautiously here, recommending consideration for those who espouse nonviolence, but without asserting any strict right to it.

²⁴ *Theologiae moralis summa* 2 (Madrid, 1957) no. 256.

opposite stand, observing that to penalize conscientious objectors would be tantamount to forcing them to do something which they consider wrong.²⁵ For this reason he argues that such punishment seems unjust to him and adds that he is not convinced by the arguments to the contrary. Certainly it would not be right to force or even to urge a man to go against his conscience, and if this were the purpose of attaching a penalty to refusing military service on conscientious grounds, it would be wrong. Those who favored such penalties felt that they could be justified as a means to get conscientious objectors to reconsider their position. Prior to Vatican II, therefore, there was no general agreement on the posture the state should take in relation to conscientious objectors.

IV

Our own Federal statutes have made provision for conscientious objectors to war for many years. This is generally true of those countries in which the historic peace Churches have had representation, whereas the so-called Catholic countries, since they did not experience the problem, made no provision for conscientious objectors. Since the Council went on record in praise of nonviolence, it was only right that it should show its solicitude for those who would adopt such a stance and recommend consideration for them on the part of the state.

This brings us to what at present seems to be a problem peculiar to the United States. It is the problem of the selective conscientious objector. The Selective Service Act provides only for those who for reasons of religious belief refuse to participate in any war, i.e., those who totally reject the use of violence. It makes no provision for those who are not opposed to violence but refuse to participate in a particular war because they believe it to be unjust, the so-called selective conscientious objectors. It was to remedy this deficiency in our law that the Bishops of the United States in their pastoral letter of November 15, 1968 recommended

a modification of the Selective Service Act making it possible, although not easy, for so-called selective conscientious objectors to refuse . . . without fear of imprisonment or loss of citizenship . . . to serve in wars which they consider unjust or in branches of service (e.g., the strategic nuclear forces) which would subject them to actions contrary to deeply held moral convictions about indiscriminate killing. Some other form of service to the human community should be required of those so exempted.²⁶

The Bishops' recommendation, although it certainly seems to be in the spirit of Vatican II, goes beyond the observations of the Pastoral

²⁵ *Theologia generalis* (Rome, 1963) p. 193.

²⁶ *Human Life in Our Day* (Washington, D.C., 1968) p. 44.

Constitution regarding humane laws to take care of conscientious objectors. From the context of the Constitution it is clear that the fathers were concerned about conscientious objection to violence, i.e., the pacifist. Since our Selective Service Act already provides for such objectors, it can be said that it already observes the literal recommendation of the Constitution. The Bishops' recommendation refers to an issue that has been aired intensively in recent years in this country: the plight of the person who is not opposed to violence or war in general, but only to a particular war—an issue currently highlighted by our involvement in the war in Vietnam. Those who are convinced, rightly or wrongly, of the injustice of this war are not provided for in the Selective Service Act. The issue, of course, is much larger than the justice of the war in Vietnam, and it would be wrong to confuse the two issues in any way. I am sure that all would agree with Murray that “it would not be good morality and it would be worse politics” if the issue of selective conscientious objection were used “as a tactical weapon for political opposition to the war in Vietnam or to the general course of American foreign policy.”²⁷ It will be helpful perhaps to review some of the discussion of this issue that has taken place in the past few years.

It is somewhat ironic, though entirely reasonable, that the theory of the just war, considered irrelevant by so many, should become relevant in the hands of the conscientious objector. Unfortunately, the principles of the just war are not always properly understood or applied. In a recent statement issued by a Seminarians Conference on the Draft²⁸ it was asserted: “The spirit of these principles [of the just war] demands that every war be opposed until or unless it can be morally justified in relation to these principles.” Murray's somewhat blunt comment on this statement was that “the dear seminarians have got it just backwards.”²⁹ The principles of the just war are addressed primarily to heads of states, since it is their function and responsibility to provide for the welfare of the political community. Once a decision has been made by the political community to resort to armed force, it should be considered as just and should be supported until and unless it is judged clearly unjust by an individual conscience. Moralists have traditionally held that the presumption is in favor of the decision of the political community and that no individual conscience may go against it unless

²⁷ *Selective Conscientious Objection* (Huntington, Ind., 1968) p. 10. This was originally a commencement address given at Western Maryland College, June 4, 1967.

²⁸ This was a group of Roman Catholic, Protestant, and Jewish seminarians who met in Cambridge in mid-May, 1967, under the sponsorship of the Social Action Committee of the Harvard Divinity School; cf. Ramsey, *op. cit.*, pp. 105-6.

²⁹ Murray, *Selective Conscientious Objection*, p. 10.

the injustice of the war is evident to it.³⁰ So, rather than an obligation to oppose a particular war until or unless it can be morally justified, the obligation of the individual is to support it until he is sure that it is unjust. If one takes the former approach to the decisions of the political community, civil society and civil government become an impossibility.

But let us suppose that a citizen, or a number of citizens, come to a clear conclusion that a particular war is unjust. Should the government make the same provision for these people that it makes for the pacifist? Those who have discussed this question in recent years recognize from the beginning that the issue of selective conscientious objection is not as easy to decide. In the past the pacifist was easy to identify and the number of pacifists was not difficult to estimate. In general, they were members of the historical peace Churches and their number was small. Exempting them would not in any way interfere with the war effort. But it might be very difficult to estimate antecedently the number of those who might be conscientious objectors to a particular war, and if the war were very unpopular, it might be very difficult to separate the conscientious objectors from those who would be opposed to it on other grounds, and the total number might be such as to weaken the war effort.

In spite of the practical difficulties connected with it, selective conscientious objection has many advocates. Dr. Ralph Potter, who has written one of the best articles on the subject, argues clearly in favor of it.³¹ He believes that an enactment providing for selective conscientious objection would contribute greatly to the upgrading of political discourse (regarding war) in this country. It would bring about much discussion of the moral issues involved in a particular war, with an accompanying refinement of the religious conscience. This would be a good thing for the political community. Paul Ramsey, however, feels that it works the other way round.³² Rather than expect exemption for selec-

³⁰ The original text of Schema 13 contained a statement which read: "When there is no evident violation of the divine law, the presumption is that the competent authority is right and its orders must be obeyed." Cardinal Alfrink and Abbot Butler, O.S.B., both suggested that this statement be struck out, though apparently for different reasons. The statement does not appear in the final text, but this should not be overinterpreted. Different times call for different emphases, and the fathers seemed more concerned about blind obedience to civil and military authorities (cf. Pastoral Constitution, no. 79; *Documents*, p. 292). It may have been feared, and with some reason, that this kind of statement might be misinterpreted in that direction. But this does not deny the validity of the principle or make the seminarians right.

³¹ In Donald Gianella, *Religion and the Public Order* (New York, 1968) pp. 44-99.

³² *Op. cit.*, pp. 95-96.

tive conscientious objectors to raise the level of political debate, he argues that this level must be raised before one can consider granting exempt status to such objectors. He feels that as long as people settle the justice of a particular war for themselves by calling it "Lyndon Johnson's war," or by categorizing it as "genocide" or a "racist" war, providing for selective conscientious objection would involve great risk. But granted a high level of moral discussion in a particular community, he would feel that giving status to selective conscientious objectors might be defended.

Murray was one of the dissenters from the Burke Marshall Report on Selective Service,³³ which advised against broadening the conscientious-objector status to include selective conscientious objectors. In the commencement speech cited above, given a few months before his death, he does not try to prove the right to object conscientiously to participation in a particular war, which he says in "incontestable," but concentrates on the practical issue of getting this right legally recognized, declared in statutory law. He calls attention to the "enormous difficulty" of administering such a statute, as well as the problem of the erroneous conscience. He rightly argues that the government cannot distinguish between a true and erroneous conscience, but recognizes the anxiety that might arise in the political community if nothing more than good faith were demanded. Initially, he seems inclined to the opinion of Ralph Potter that giving status to the selective objector would help raise the level of moral and political discourse in the country, but then he seems impressed with Ramsey's opinion that the matter works the other way round, and that the signs of the times are not propitious either for such upgrading or consequently for legal recognition of selective conscientious objection. He ends his talk with a question: "Therefore, the final question may be whether there is abroad in the land a sufficient measure of moral and political discretion in such wise that Congress could, under safeguard of the national security, acknowledge the right of discretionary armed service."³⁴

It is extremely unfortunate that Murray's untimely death a few months later precluded any further opportunity to discuss this question. But I think one can gather from the context of the talk and the practical problems he raised during it that he was not sure that this "sufficient measure of moral and political discretion" could be counted on at that time. One gets the clear impression that, although he ap-

³³ *In Pursuit of Equity: Who Serves When Not All Serve?* Report of the National Advisory Commission on Selective Service (Washington, D.C., 1967). The Report contains both majority and minority positions.

³⁴ *Op. cit.*, p. 14.

proved theoretically of making allowance for selective conscientious objection, he was not sure that the time was ripe for it yet.

V

This is evidently a much more involved issue than we could ever hope to resolve in this article, nor is it our purpose here even to attempt this. It may be helpful, however, by way of a conclusion, to set down some guidelines which I think should be followed in reaching a decision in the matter. Let me recommend the following considerations.

1) The decision to resort to armed force is a moral decision, not just a political decision. Selective conscientious objection must not be looked upon as a kind of moral control over a political decision. The tension is between the conscience of the government and the conscience of the private citizen. Each must respect the good faith of the other, even though they may disagree.

2) The decision to resort to armed force is not an infallible one and should not be treated as such. But it does enjoy the presumption of truth. This does not call for or justify blind obedience, but it does put the burden of proof on the conscientious objector. Presumptions, of course, always yield to facts, but unless the individual citizen is reasonably sure of error on the part of the political community, he must accept its decision.

3) The purpose of legislative function is the good of the community. Statutory provision for selective conscientious objection will have to be consistent with this goal to be justified. It should not in any way jeopardize the national security. Even in the area of religion, which is beyond the competence of the state, Vatican II's Declaration on Religious Freedom recognizes the right and duty of the state to protect the community and the public order. Any allowance made for selective conscientious objection must be subject to the same limitations.

4) Statutory provision for selective conscientious objection should not undermine or in any way weaken other legislation, e.g., legislation against racial segregation. In any decision to provide for selective conscientious objection in the draft law, consideration should be given to the reasons for allowing it here and for not wishing to allow it, for instance, in integration laws. Ultimately, the decisive factor will be the good of the community.

The above norms may not exhaust all the considerations that must be made before providing for selective conscientious objection, but *prudentia politica* would surely demand that they be included. If it can be provided for within the framework of these guidelines, selective conscientious objection will not only not do damage to the community, but

will make a real contribution to it. John A. Rohr, S.J., in a recent article in *America*,³⁵ suggested that an important advantage of allowing for selective conscientious objection would be "that it would allay somewhat the political alienation of some of our most promising young men." A concern for the future of our country would certainly dictate that we do everything we can to save these young men for the larger community.

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³⁵ "Judge Wyzanski and Selective Conscientious Objection," *America*, Feb. 21, 1970, p. 184.