

# Back to the Future

Gerard V. Bradley

**H**ere is the standing criticism of *Ex Corde Ecclesiae*: it is a beeline for the fifties; backwards looking; pre-Vatican II. Indeed, "the fifties" functions as a four letter word for opponents of *ECE*. That is a telling symbol of a profound ingratitude towards Catholics among Tom Brokaw's "greatest generation": those faith-filled men and women who came of age in the Depression, fought WWII, returned home to blue collar salaries, on which they threw up a vast parochial school system to educate their large families.

Anyway, the criticism is wrong. Worse than that, it's the critics who are stuck in time. Not the fifties, to be sure, but the early seventies, the years just after the Council, when the colleges declared their independence from ecclesiastical authority, and began to envy the Ivies. They can imagine two possibilities, their "progressive" vision, and backwards to the fifties. The *fork* in *their* road has but two prongs: *their* path, and the path of retrograde, pre-Vatican II Catholics. It's either bell bottoms or grey flannel suits; either Ozzie and Harriet or the Love Boat. If *this* is put on the table in front of you, my advice is that you ask for new silverware.

Even so, we do need to look forward. Our children *do* face a world our parents could not have imagined. Our children must claim a living from an economy where having a strong back, and being disciplined enough to get up on time each morning, will not secure a family wage, as it did for our parents, and for some of our generation. Our affluence permits us to deliver that education to our children which neither our parents, nor we, needed. But let us purchase a Catholic education for the new millennium.

*ECE* is *entirely* forward looking. The Pope is not interested in a Catholic education which battens down the hatches to preserve the ways of the past. He says in *ECE* that "the future of the Church and of the world is being played out as we conclude the twentieth century. There is only one culture: that of man, by man. And thanks to her universities, the Church explores the mysteries of humanity and of the world, clarifying them in light of revelation."

The mysteries of cyberspace are new. The truths entrusted to the care of the Church are not new. But those truths will light up the challenges of cyberspace and globalization just as they did the challenges of centuries gone by: the invention of the printing press, of steam power; of gunpowder, of money; the discovery of the ovum, and of the atom; the rise of the nation state, of the United Nations, of space travel. A true Catholic education will give our children what they need to be **leaven** in the society they will inhabit. A Catholic education will put the truth *to* their times, a task for all seasons, for all ages. ❧

*O Timothee, depositum custodi, devitans profanas vocum novitates et oppositiones falsi nominis scientiae, quam quidam profitentes circa fidem aberraverunt. Gratia vobiscum. 1 ad Timotheum 6*

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## Reverend Robert J. Henle, S.J., Dies

Reverend Robert J. Henle, S.J., former president of Georgetown University and former academic vice president of Saint Louis University, died on Thursday, January 20, 2000 at the Jesuit infirmary residence in Saint Louis.

He was an eminent Catholic philosopher in the United States for many years, a veteran teacher, a prolific author, and an experienced and successful administrator. Born in 1909 in Muscatine, Iowa, he entered the Society of Jesus at Florissant, Missouri, in 1927. As a Jesuit seminarian, he taught at the Saint Louis University High School from 1935 to 1937, during which time he

began to write a series of Latin textbooks that are still in print and that over the subsequent years have sold more than a million copies. He was ordained a Roman Catholic priest in 1940, and received his doctorate from the University of Toronto, where he studied philosophy under such renowned scholars as Jacques Maritain and Etienne Gilson.

Father Henle taught at Saint Louis University for many years, where he was also at various times superior of the younger Jesuits in studies, dean of the School of Philosophy and Letters, university research administrator, dean of the Graduate School, and academic vice president. Between 1969 and 1976 Fr. Henle was the President of Georgetown University in Washington, D.C., where he oversaw many of the facets of its

growth into an international institution. He then returned to Saint Louis University, where he taught in both the philosophy department and the School of Law. He became the first incumbent of the chair of "Justice in American Society," established by the McDonnell Foundation. He was honored by the Italian and German governments and by universities both in the United States and abroad. With more than 200 articles and almost a dozen books to his credit, in his late eighties he published a translation of St. Thomas Aquinas' *De Veritate*, or *On Truth*, a fitting climax to a life dedicated to the search for and furthering of such truth. A last collection of essays and papers was published this past year by the Saint Louis University Press under the title of *The American Thomistic Revival*. ❖

## NEWS

### McInerny Honored in Festschrift

Dr. Ralph M. McInerny, President Emeritus of the Fellowship of Catholic Scholars, was honored in a day long conference at the University of Notre Dame on Saturday, December 4, 1999. The event coincided with the Notre Dame Press publication of *Recovering Nature: Essays in Natural Philosophy, Ethics and Metaphysics in Honor of Ralph McInerny*, edited by John O'Callaghan and Thomas Hibbs.

The conference was divided into two substantive panel discussions on "McInerny and the Philosophy of Religion" and

"McInerny and Ethics." The first session was moderated by John O'Callaghan of Creighton University, and the participants were Alvin Plantinga of the University of Notre Dame, Fr. David Burrell of the University of Notre Dame, and Laura Garcia of Rutgers University. The second session, moderated by Thomas Hibbs of Boston College, featured Janet Smith of the University of Dallas, David Solomon of the University of Notre Dame and John Haldane of the University of St. Andrews in Glasgow.

The day ended with a gala banquet, where Fr. Marvin

O'Connell, professor emeritus of history at the University of Notre Dame, gave an unforgettable speech about his days with Ralph McInerny in the minor seminary.

Dr. McInerny is Michael P. Grace professor of medieval studies and director of the Jacques Maritain Center at the University of Notre Dame. He has taught at the university since 1955 and is former director of the Medieval Institute. He earned his doctorate in philosophy at Laval University in Quebec.

McInerny is currently the editor of the *Fellowship of Catholic Scholars Quarterly*.

# Will *Ex Corde Ecclesiae* Really Be Implemented in the United States?

by Kenneth D. Whitehead

It is heartening that the U.S. Catholic bishops, at their national meeting in November 1999, approved by such a large majority of 223 to 31 an "Application" document for Pope John Paul II's 1990 apostolic exhortation on the Catholic University *Ex Corde Ecclesiae* ("from the heart of the Church"). This decision has been nearly a decade in the making, and has only come about after numerous delays, and the overcoming of many obstacles, mostly thrown up by the leaders of Catholic academia in the United States.

Nevertheless, it is surely a giant stride that has been taken with the enactment of this bishops' *ECE* "Application" document, which requires, among other things, that:

"Presidents of Catholic universities should be Catholics and must take the Oath of Fidelity (including a Profession of Faith), as stipulated by Canon 833 of the 1983 Code of Canon Law.

"To the extent possible the majority of the Board should be Catholics committed to the Church."

"The university should strive to recruit and appoint Catholics as professors so that, to the extent possible, those committed to the witness of the faith will constitute a majority of the faculty."

"Catholics who teach the theological disciplines in a Catholic university are required to have a *mandatum* granted by competent ecclesiastical authority" (the diocesan bishop), in accordance with Canon 812; "[they] have a corresponding duty to be faithful to the Church's magisterium as the authoritative interpreter of sacred Scripture and sacred Tradition."

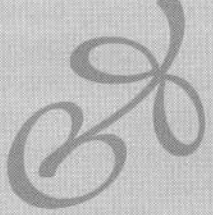
"Catholic students have a right to receive from a university instruction in authentic Catholic doctrine and practice...Catholic teaching should have a place... in the various disciplines taught in the university..."

Obviously, if and when all these requirements are implemented, a fundamental re-orientation will have been made away from the secularization that has increasingly characterized most Catholic higher education institutions over the last 30 years, and towards a re-Catholicization of our colleges and universities.

But the question remains: will these (and other) provisions of the bishops' *ECE* Application document actually be implemented by all, or even many, of the 230-odd Catholic higher education institutions in the United States? What will happen to the institution that does not implement the document—or to the theologian who declines to seek the *mandatum*? Does the bishops' vote signal the beginning of an end to the toleration of the heterodox teaching and aberrant practices on too many Catholic campuses that have obtained up to now?

Even while voting in these new university norms and requirements, many key bishops went out of their way to indicate that perhaps not all that much really had been changed by the bishops' vote. Bishop John J. Leibrecht of Springfield-Cape Girardeau, Missouri, chairman of the bishops' committee that

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produced the *ECE* Application document, emphasized that the new rules were both “flexible” and “benign”; and he specifically noted that the bishop’s role would continue to be only “persuasive” as far as higher education was concerned. “He can’t make things happen because the institution is autonomous,” Bishop Leibrecht said.

Even Cardinal Anthony Bevilacqua of Philadelphia, the prelate who headed the bishops’ subcommittee of mostly trained bishop-canonists who actually wrote the *ECE* Application document, was careful to say that the theologian’s *mandatum* would not entail any “intensive, intrusive, prolonged investigations of [a] theologian’s writings”; there would be no “inquisition,” according to the Philadelphia cardinal.

Cardinal Roger Mahoney of Los Angeles was quoted as follows: “I would say to presidents of Catholic colleges and universities: ‘You have nothing to fear from us, from the Church, from the implementation of *Ex Corde Ecclesiae*.’” Auxiliary Bishop Edward K. Braxton of St. Louis said that conservatives who expect the new document to be applied in a “heavy-handed way” (as if this were what conservatives do expect) would be “disappointed.”

The only bishop to speak out publicly against the document prior to the vote, Archbishop Rembert Weakland of Milwaukee, declared that a favorable vote on it would “create a pastoral disaster for the Church in the U.S.A.”; and he warned that theologians would become “the object of vigilante groups.” All in all, though, he seemed to be talking about a different document than the one the other bishops had before them.

Once the vote had been taken, even the presidents of some of those institutions that had once taken a lead in opposing the implementation of *Ex Corde Ecclesiae* were quoted as also suggesting that, indeed, not all that much really had been changed. Fr. James L. Heft, S.M., chancellor of the University of Dayton and, currently, chairman of the Association of Catholic Colleges and Universities (ACCU), while expressing disappointment with the outcome, nevertheless averred that “I don’t think it means any of [the presidents] are about to walk away from the table.” Yet the ACCU had taken the lead in opposing the implementation of *Ex Corde Ecclesiae* in this country from the moment the question was first raised.

The Rev. Leo J. O’Donovan, president of Washington’s Georgetown University, the nation’s

oldest Catholic university, actually “welcomed” the new bishops’ document, blandly noting how “critical” and “helpful” it was, conclusions that could never have been predicted from Georgetown’s typical practice. Fr. O’Donovan even mentioned that the *ECE* Application document was supportive of institutional autonomy and academic freedom (as, of course, *Ex Corde Ecclesiae* has been all along, although no one would ever have guessed this, given the typical rhetoric that has been elicited from opponents of the papal document).

His fellow Jesuit President, Fr. Joseph O’Hare, of New York’s Fordham University, while also expressing his “disappointment,” was nevertheless confident that the bishops would apply the new norms in a “wise and sensitive way.” He said he doubted that the new rule concerning board majorities would change the way his own—secularized—institution went about its business. “I believe we will continue on the path of the last thirty years,” he was quoted in the *New York Times* as saying. (But if we “continue on the path of the last thirty years,” we will, precisely, *not* adopt the new norms and requirements contained in the bishops’ *ECE* Application document! This document manifestly had to be enacted *because* of the path that has been followed by too many Catholic colleges and universities over the last thirty years...)

Even if we discount them as simply putting the best face on a bad situation (for them), these apparently unruffled words of some of the very presidents, the state of whose institutions motivated the Holy Father and the bishops to get into the university question to begin with, are scarcely characteristic of what was being said about the *ECE* Application document before the bishops approved it. The fact is that the document has been subjected to virtually unremitting attack, and this from the time the draft was introduced to the bishops at their meeting last year in November, 1998.

When we consider the vehemence and even obstinacy with which some of these same people and institutions opposed any implementation of *Ex Corde Ecclesiae*, these comments after the fact seem mild and anti-climactic indeed. And when we consider how reluctant the bishops also were during the same period to take any action except when pressed by Rome, we can only ask at this point: what was all the sound and fury over *Ex Corde Ecclesiae* about then? Why was there even any controversy about it?

Does the apparent downplaying now on all sides of the importance of what the bishops have done portend a neglect in practice of actually carrying out what the bishops have now decided?

In seeking to answer these questions, it should be noted that, as far as the theologian's *mandatum* is concerned, a number of dissenting theologians immediately stepped forward, as soon as the vote was announced, to declare that they would never and on principle even try to seek a *mandatum* from the local bishop. One of them—probably predictably—was Notre Dame's Fr. Richard P. McBrien, who stated that the *mandatum* "compromises the academic integrity of the faculty and university."

Another one was ex-priest Daniel Maguire, who long since seems to have abandoned any position properly describable as "Catholic"; he declared that his "mandate" comes from his "competence" and his "conscience," and that in no way would he ever request one from any bishop. He chided the Association of Catholic Colleges and Universities (ACCU) and the Catholic Theological Society of America (CTSA) for what he styled their "pusillanimous" response to what he called the bishops' "draconian intrusion into the academy." "When the camel announced it was about to put its nose under the tent," Maguire said, "The CTSA and the ACCU began to negotiate with the camel..." (he certainly seems to assume that something has been changed by the bishops' vote!).

This reaction from such established dissenters as Maguire and McBrien surely does underline the serious question of what is to be done about theologians (or institutions) that refuse to abide by the new norms. According to Missouri Bishop John J. Leibracht, the bishops plan to develop procedures for the requesting and granting of the *mandatum*, but what about theologians who simply will not apply for one? In his press conference following the bishops' vote, Bishop Leibracht said that this problem would be a problem for the university, not the bishop. "The bishop is not involved in the internal affairs of the institution," he said. "If a particular theologian does not have a *mandatum*, it is up to the university to decide what to do."

But what if the institution decides to do—nothing? (which is pretty much the case at present for theologians who express views at variance with the teachings of the Church). And it is only too true that

the bishops' *ECE* Application document does not specifically provide for the disciplining of dissenting theologians. No more does it specify what will be done in the case of institutions that fail to comply with its norms. Some would say that this constitutes a defect in the bishops' document.

Nevertheless, it is also the case that *Ex Corde Ecclesiae* itself has all along made the university responsible for maintaining its own Catholic character, including, presumably, guaranteeing the Catholic authenticity of its theological faculty. The problem has been all along, precisely, that too many Catholic colleges and universities have been failing to do this in any effective way—which is why the Pope and the bishops were obliged to get into the university question in the first place.

If an institution fails to do what the Church requires, the only ultimate recourse in the hands of the bishop would seem to be to declare that the institution is no longer Catholic. But this too is something the American bishops up to now have shown themselves quite unwilling to do, even in the face of the strong and mounting evidence that so many of our Catholic colleges and universities no longer are Catholic in important ways.

What, then, is the value of this new *ECE* Application document of the bishops? If the whole thing simply goes back to whether or not the institutions are willing to *be* Catholic at the same time as they describe themselves as such, then there would seem to be no great improvement over what the situation already was before. And if the whole thing similarly depends upon the will of the bishops to insist that institutions calling themselves Catholic must be Catholic in a real sense, then how does simply issuing yet another document really affect anything?

The answer is that the vote of the bishops points to a renewed will on their part to do something about a university situation that everyone has known for a long time was unsatisfactory. The new document, with its specific norms, now serves to refocus the attention of all concerned with the Catholic university situation upon the *fact* that our higher education institutions have been allowed to drift away from their Catholic moorings over the past thirty years. This fact has not always been easily or explicitly admitted, but it is admitted now by the very fact that the bishops have officially prescribed a remedy for it. Their action represents their recognition of the *need* to correct a situa-

tion that has tended to be obscured, precisely because the de-Catholicization of our Catholic colleges and universities has so typically been downplayed or denied, at least in practice.

Moreover, now that the bishops have enacted their own norms for Catholic universities, it is no longer going to be quite so easy for institutions to go on calling themselves Catholic, meanwhile allowing and even mandating things inimical to the faith and to the teachings of the Church on their campuses. The many departures from authentic Catholic faith and practice observable over the past generation have mostly come about in the *absence* of specific norms and requirements for what constitutes a truly Catholic university. These specific norms and requirements are what the *ECE* Application document now does concretely provide and spell out for us. Until now, schools have been able to go on saying they were still Catholic while increasingly conforming to the norms of a decadent secular culture in whatever way they chose. Also, with the enactment of these norms by the American bishops themselves, it can no longer be alleged that they are impositions from Rome alien to American higher education practice. In this situation, the chances of actually moving some of these institutions back towards Catholicity are now much greater.

For one thing, university officers, trustees, faculty, donors, and such no longer have the excuse that they do not *know* what is required for an institution to be authentically Catholic: it has now been unmistakably spelled out for them. For another thing, those among them that do want to restore an authentically Catholic character to their institutions—and there may be more of these than we have imagined—now find themselves on the side of the “law,” and can no longer so readily be dismissed as “outdated”—or even as “agitators” or “extremists.”

Yet another important factor in the new situation is that disobedience to or disregard of the new norms and requirements is now disobedience to or disregard of what the American bishops have themselves laid down, not something distant Rome is trying to impose. Nevertheless, implementation of *Ex Corde Ecclesiae* in the manner the American bishops have now called for will no doubt be neither automatic nor easy. No doubt many of those who have opposed the papal prescriptions for the Catholic university will be equally opposed to the new episcopal prescriptions.

On the other hand, the bishops’ action has already brought about some interesting rethinking of the whole question on the part of some, and it may well bring about more such rethinking as it becomes clear that there will be consequences for opposing what the bishops have prescribed.

Of course, dissent from some important Catholic teachings, as well as the outright denial of them in practice, surely remains rife on many Catholic campuses, and this dissent still has to be confronted a step at a time. Nor has the large majority vote of the body of bishops in favor of implementing *Ex Corde Ecclesiae* necessarily eliminated the marked reluctance of most individual bishops to deal with the admittedly difficult and until now intractable university question in their dioceses; but at least the vote signals some episcopal solidarity in favor of grasping the nettle which was not necessarily there before.

It is significant, by the way, that the *ECE* Application document represents one of the very few times the U.S. bishops have ever explicitly required in one of their own documents that theologians must be “faithful to the Church’s magisterium”; up to now, this requirement has mostly been encountered only in Roman documents—just as sanctions against dissenters such as a Charles Curran or a Matthew Fox—or a Robert Nugent or Jeannine Gramick, for that matter—have almost always come from the Congregation for the Doctrine of the Faith, not the bishops.

In spite of the manifest and continuing difficulties inherent in implementing *Ex Corde Ecclesiae*, then, the fact remains that the chances of an effective implementation of it—and perhaps on more campuses than we once thought possible—appears much more likely than it did just a short few months ago. This apostolic constitution *can* be implemented in this country, and the chances that it *will* be implemented have now been immeasurably increased by the bishops’ favorable vote.

*Kenneth D. Whitehead is a former U.S. Assistant Secretary of Education for Postsecondary Education and the author, among other books, of Catholic Colleges and Federal Funding (Ignatius, 1988).*

# Structures of Evil—Structures of Good

## On the Centrality of Personal Sin

by Fr. James V. Schall, S.J.

### I.

**C**lassical political philosophy recognizes a relationship between the inner life and character of individuals as citizens and the form of polity they choose to put into existence to manifest and habitualize this inner life. Habits, good or bad, are established by repeated acts, good or bad. If the inner life is virtuous, the forms of rule will be constructed to foster this virtue. If inner life is degrading or selfish, by virtue of a person's choosing as his exclusive good either wealth, pleasure, or power as ends, the forms of rule will be deliberately designed to enhance the disordered ends chosen deep in the personal souls of the citizens. The historic distinctions between monarchy, aristocracy, and polity, the good forms of rule, on the one hand, and tyranny, oligarchy, and democracy, the bad forms in all their varieties, on the other, were rooted in this diversity within citizen souls about what they defined as happiness and good and what actions they selected to achieve this purpose.

Individuals were free to reject the highest things as the ultimate purpose of their lives. It is largely the practical intellectual virtue of prudence that guides each citizen in deciding which forms foster virtue and which enable vice when the ends of soul are chosen. There can be a wide variety of practical arrangements to achieve either virtuous or vicious rule, as Aristotle already indicated in his *Politics*, but not so wide that external forms of rule were totally unrelated to the inner condition of soul that they are designed to encourage.

To describe this relationship of inner and outer man to the state, the American columnist George Will has coined the happy, very Platonic-sounding phrase, "soul-craft is state-craft," and vice versa, "state-craft is soul-craft." Modernity at times,

following Machiavelli and Hobbes, would like us to think that there is a "science" of government, modeled on the physical sciences, that would somehow bypass the free choices of lived lives so that some certain "knowledge" of state-craft could always be discovered and relied upon. Classic theories of political prudence, contrariwise, argued that rule included precisely the practical reason and the free choices of the citizens in their personal lives. The state itself has no substantial being outside the relationships of citizens to one another. Political and ethical human things, moreover, were true only "for the most part." We should not expect more certitude of a subject matter than the subject can yield. In this case, the subject matter of politics is the variable free choices of human persons interrelating with one another. Political things can always be "otherwise" because of their rootedness in human freedom, including freedom to sin.

Philosophers like Edmund Burke have recognized that political structures or forms that are commonly considered to be seriously defective can actually, in practice, work in a tolerable manner if the people under them are themselves becoming wise and virtuous, either because of reason, experience, or revelation. There is no need always to change laws if something better in theory appears, as St. Thomas also has reminded us (I-II, q. 97, art. 2). Mathematical consistency is not necessarily a virtue in politics. Likewise, forms of elections, say proportional representation, that seem so equitable and logical, may in fact wreak havoc on a society. Often, in proportion as a thing is arithmetically perfect, it is politically unstable. What we often today call political "structures" are nothing but the habitual forms of custom and law developed through human actions by a nation to guide its ways of living and doing. Political structures do not determine, though they may influence, human behavior for better or worse.

It is largely Rousseau who has conditioned us to think that what is wrong with our inner, spiritual life

comes, not from within ourselves as we have been taught since Genesis and Plato, but from our institutions, our “structures.” In this Rousseauian view, contrary to Burke, if we want to save ourselves we have to change radically our institutions or structures. This latter view puts the primary responsibility for our souls in the hands of political or economic “structures,” as they are called. Thus, we are put in the hands of those anxious to reform and refashion men through reforming and refashioning their institutions. We are left morally free, by such a theory, to do about as we please or as we must, depending on what emphasis we want to place on the consequences of the theory. In either case, we are not responsible for our inner condition; our structures are.

Christianity, thanks to Scripture and to its Greek and Roman heritage through Augustine and Aquinas, has not been Rousseauian. With Aristotle, Christianity has always begun its political thinking with personal ethics. It has argued that we could lose our souls in the best of structural societies under whatever forms. Likewise, we could save them in the worst of tyrannies or in the most dissolute of democracies. This latter truth is witnessed by a Maximillian Kolbe or by a Solzhenitsyn in his account of life in the Gulag. On the whole, Christianity has been instinctively, when not explicitly, Aristotelian. That is, we need a certain amount of wealth to practice virtue. Christianity does not treat human beings as if they were angels or totally incapable of ruling and habituating themselves. It has also been instinctively Chestertonian, that is, it suspected that the worst moral environment in which we can find ourselves is not poverty—the poor are “blessed”—but great wealth that provides us with many kinds of temptations in all areas, as Aristotle too already saw. We should not be under the illusion that the poor cannot sin or lose their own souls. The drama of salvation takes place in every walk of life, every economic condition, every generation, every land, and every heart.

The philosopher Eric Voegelin remarked that we do not *have* to participate in the disorders of our time. That is, he argued that we are not determined by our political or economic forms. This truth recalls Socrates’ persistent refrains in *The Apology* and *The Crito* that “it is never right to do wrong; that it is better to suffer evil than to do it.” When given a choice

between doing wrong and dying, we should choose the latter. We do not know that dying is evil, but we do know that doing wrong is. The Holy Father, in a number of instances, has noted the similarity of the death of Socrates and the death of Christ, especially on this point. “Christ was not simply a wise man as was Socrates.” John Paul II wrote in *Crossing the Threshold of Hope* (p. 43). “[Socrates’] free acceptance of death in the name of truth nevertheless has a similarity with the sacrifice of the Cross.” Most of the disorder and controversy about our public life concerns its relation to our private or internal life.

On the one hand, we are told confidently that there exists no relation between the inner life of a politician and his public deeds or leadership; he can be a good politician without being a good man. Leaders themselves repeat this dubious thesis, especially when their inner lives are known to be sordid. Contrariwise, we are told that it makes no sense to forbid by laws certain sins, even the most publicly destructive ones of which St. Thomas spoke, because laws are said to have no relation to morals. This odd theory exists in a world in which we are told more and more, for instance, by ever more severe laws and penalties that we cannot smoke. We become simultaneously rigid Puritans in one area and moral laxists in another.

## II.

**J**an Cardinal Schotte gave the Commencement Address in 1999 at Thomas Aquinas College in California (*Thomas Aquinas College Newsletter*, Summer 1999). Schotte noted the tendency to judge the Church by applying to it “sociological measurements, namely, statistics, opinion polls, majority acceptance, an applause meter.” Schotte remarked that many people today look on the Church primarily “for her apostolic activity on behalf of the needy and oppressed, as a kind of philanthropic United Nations.” The result is a down-playing of the vertical or transcendent centrality of the Church.

Schotte, in a reflective analysis, proceeds to draw out the consequences of this position quite bluntly:

Though the Church has an organizational system, she is not an instrument of some horizontal humanitarian religion, but first and foremost a community of



sinner, saved in the blood of Christ, and therefore, a people dedicated to the worship and praise of God, and because of Him, dedicated to the service of others! In over-emphasizing service of others, some limit the definition of Christian living solely to the obligation of loving one's neighbor. If the Church were nothing more than a philanthropic United Nations, it would follow that her hierarchical structure would be hopelessly out-dated in a democratic society, where all its citizens decide the system of government and continuously adapt the workings of government to the ever-changing circumstances and realities of the times (p. 6).

Schotte clearly stresses the danger of making Christianity into obedience only to the Second Commandment while neglecting the First.

The Belgian Cardinal makes two very significant observations that serve to illustrate how religion in general and Christianity in particular can become little less than a function of politics. First, he points out that church architecture often has become merely functional. "The architectural area is no longer exclusively 'worship space,' the point of meeting between God and His people. On the contrary, it loses its spiritual significance, the building becomes purely functional, totally identified with the various human necessities of society, or totally focused on the assembly itself." This is very well said. It points to the great danger that confronts the Church today, the claim to be able to eliminate the hierarchy and its great purpose with regard to the deposit of faith to be passed on down the ages. It proposes the replacement of both God and hierarchy by the community as, in practice, the new object of worship. "We risk forgetting the ultimate aim of all human existence, and in doing so we reduce Christian hope to an all-inclusive but worldly utopia."

The second aspect of this unfortunate elevation of the Second Commandment, one similar to secularization of architecture, is downgrading of the Incarnation and its transcendent implication for eternal life. The utopians want a perfect world and cannot stand the incarnational aspect of the Church itself. Jan Schotte explains: "People continue to have an idea of the Church which expects her to be beyond all human weakness and tension, passing through history as a hot air balloon floats over the prairies and mountains. People dream that, like the balloon,

she will be able to regulate her ascent and descent according to the obstacles along the way. They envisage the Church as if the Son of God never walked the earth. They see the Church as exclusively divine." But if the Church is exclusively divine, then the Incarnation never happened, nor is the Mass with the priesthood possible or feasible. Anyone can function as head of a community turned in on itself.

Again we see in this kind of reasoning the "reductionism" that the Holy Father so often refers to when social scientists think they can analyze faith by rational methodologies. Schotte's way of putting the problem is remarkably clear:

Liturgy is an indispensable part of the Christian life, requiring a proper formation. In this way, there will be eliminated an excessively horizontal or sociological view which consists in wrongly looking at the Mass as simply an act of the assembly gathered, or viewing the priest as simply a "presider" over the assembly, or seeing the altar as simply a table for a meal. Instead, by adding the vertical or divine dimension, the Liturgy, particularly the Mass, is rightly seen as Christ's act of worship to His Father, which goes beyond the group gathered. In this way, the words and gestures of the Mass are understood not to be the possession of the individual priest nor of the assembled worshipers, but a part of the patrimony of the Church, which needs to be faithfully respected and passed on intact to succeeding generations. (p. 7).

It will be noted that almost every major practical and theoretical problem in the Church is touched on in these remarks of Cardinal Schotte at Thomas Aquinas College.

### III.

I wish now to remark on how these considerations of political philosophy and the need to keep the centrality of the revelational tradition emphasized by Cardinal Schotte relate to the question of personal sin and so-called political "structures." In a single issue of *L'Osservatore Romano*, English (1 September 1999), we find 1) a letter of the Holy Father to Participants in a Study Week on Marriage and Family, followed by 2) an essay by Professor William May entitled "Partial-birth Abortion and Catholics," and finally 3) a Wednesday audience devoted precisely to the

relation between personal sin and society. Since these three subjects are so intimately intertwined and lead most directly to the heart of the central disorders in our society touched on earlier, I want to make some comment on them.

Behind each of these essays hovers the condition of the modern republic, of the culture to which it belongs. The modern republic bears, by its own choice, politicians and voters who have been intimately involved in establishing the "structures of evil" that have become justified in our laws and customs. Politically, we are no longer horrified by deeds we allow or promote with our laws. Recently, a friend of mine was at a prayer vigil before an abortion hospital run by a Christian organization. In the hospital they regularly aborted at five months children thought to be deformed in some sense. They simply induced the baby and let it die. When asked about this procedure, my friend was told that "this is what Christ would have done to show compassion." One hardly knows whether to laugh or cry. None of this means that absolutely everyone dealing with these horrid practices is a conscious sinner, but it does not deny either that much personal sin is involved. It does mean that those who are still anxious to practice virtue and define evil as evil have not managed to exercise their moral and political choices in such a way as to change the evident disorders of soul that are now part of our public order.

Our ability to examine our own souls is, at best, a curious and difficult one. Aristotle doubts very much, once we habituate ourselves to personal moral faults, to what we Christians call sins, that we will ever be able to see or acknowledge what is in fact good. Aristotle was not a determinist, nor was he a Christian. He was, however, quite aware of the depths of "wickedness," as he called it, to which our habits lead us and to the difficulty we have in changing the direction of our lives. In the doctrine of Original Sin, Christianity is conscious of a deeper disorder of soul than Aristotle perhaps ever realized. Likewise, with its teaching on grace and sacrifice, Christianity both provides a hope that originates outside of ourselves and a sobering caution to our Enlightenment-based optimism that we can and should do it all by ourselves. This latter Pelagian-like position has, in effect, proposed that we "lower our

sights" so that we are not bothered by what we "ought" to do. We should be content with some social engineering about what we do "do," which is often very base and indeed, by all criteria, becoming more so. We should not call "sin" what everyone does. Indeed, we should prevent by law calling "sins" certain practices that have now become common among us.

Themes of decline and fall are normally addressed to powers that have achieved some status in the world. John Adams, the second American president, seems to have held that once a society is on a road of moral decline, it is most doubtful if it can regain its moral center. Rarely are great powers defeated by outside forces until they have themselves become so disordered of soul that the task of defeating them becomes relatively simple. One can say, in a certain sense, that the primary sign of decline takes place when a people stops begetting itself, stops reproducing its own kind and must turn to other peoples to supply the labor and military forces that are needed in any society. This is the factual situation in almost all Western countries. If one walks our streets today, it is striking how the languages of those who do the heavy manual and light service work is almost never English— or, I presume, French or German or Italian. This may not be all bad as it gives other people's children a chance to become wealthier and to change their lives. But it is a sign that we must now import labor; we do not beget in any numbers adequate to keep ourselves in viable condition.

#### IV.

**T**he first of these materials that I want to reflect on deals directly with the question of whether some better way of begetting human beings than a family of one husband and one wife conceiving their own children from love and intercourse in a lifetime commitment is to be promoted by science or politics. If we need children but families do not produce them, perhaps we ought to turn the job over to science. This thought has been conceived before in the realms of philosophy. The matter was delicately broached most famously in *The Republic* of Plato, whether as a warning or seriously

still remains to be decided. In any case, Plato's guardians were not to know their parents or their brothers and sisters or their children. Everyone was to be called father, mother, brother, sister. Begetting was to be decided by the state as a reward for its own genetic and political purposes. Plato likens human breeding to the breeding of horses, thoroughbreds. His purpose is, evidently, a noble one, to produce the best human beings and the best polity. In this image, at least, he seems to indicate that virtue is a matter of breeding, not of habit and choice.

Christianity has not wholly rejected Plato. Monastic orders are in one sense "Platonic." That is, the lofty philosophic and moral ends that Plato wanted to achieve by his marriage proposals were to be achieved in another fashion. The vows of the Christian monasteries and convents were designed to have common property and a common life. They exactly paralleled Plato's purposes. New members were to "join" not by begetting but from the valid marriages already present in the society. The Christian guardians were to be free of too much reliance on material obligations so that, like the philosopher-kings, they could devote their lives to the highest things as revealed to us in Christ's "Come, follow me."

In his Letter to the Study Week on Marriage and Family, the Holy Father is clearly aware of how far efforts to separate begetting and family have progressed. Scientific "means" have enabled children to be conceived outside of the womb. Women can become temporary "nests" for fertilized ova to be implanted artificially. Many fertilized ova are discarded to assure one or two viable ones. The ultimate ambition would be to fertilize, gestate, and raise a human being totally outside the womb and apart from the care of given particular parents. The Holy Father writes to this effect:

The secular mentality regarding the truth about the person, marriage and the family has in a certain sense become even more radical. It is not only a question of debasing the individual moral norms of sexual and family ethics. The image of man/woman proper to natural reason and, in particular, to Christianity, is opposed with an alternative anthropology. This latter rejects the fact, inscribed in corporeality, that the sexual difference is an identifying characteristic of the person; consequently, the concept of the family

founded on the indissoluble marriage of a man and a woman, as the natural and basic cell of society, is critically challenged. Fatherhood and motherhood are conceived only as a private project, which can even be accomplished with the application of biomedical technology, without the exercise of conjugal sexuality (p. 4).

This passage again reveals, as I have often noted with regard to the papacy's position on marriage, that it is not science, but the Church, that defends sex as it is given to us in its essential beauty. Science proposes in effect to "divide freedom and nature," leaving us with sterile, meaningless sexual acts in return for its control over the human child. Individual men and women no longer have any "purpose" with regard to the next generation.

The Holy Father, thus, has clearly sensed what is at issue here. In examining what it is science is proposing to do to our very coming to be, he sees that the key issue is the protection of a man and a woman in their very ability to beget, care for, and educate their children. They are alone in charge. But if we beget children by other means, as we evidently can, we break that intimate bond that identifies us as the child of this father and this mother, from these families, that grounds us through the personal relations of parents to the human reality through which we are called to eternal life. "To eliminate the corporeal mediation of the conjugal act as the place where new human life can originate," the Pope continues, "means at the same time to degrade procreation from co-operation with God the Creator to the technically controlled 're-production' of an exemplar of the species and thus lose the unique personal dignity of the child." The dimensions of this issue could hardly be stated more succinctly.

## V.

This brings me to Professor William May's essay on "Partial-birth Abortion and Catholics." May is primarily concerned with Catholic legislators who are in a position to limit abortion or eliminate it but who do not vote for the means that might do so. They give various grounds for their action from not seeing anything wrong with abortion to not wanting to "impose" one's religion on some-

one else. Strictly speaking, abortion is not immediately a “religious” issue. It is primarily an issue of reason, of knowledge about what human life is and what begins it. As Professor May writes, “the point when human life begins is not a religious belief but a scientific fact—a fact on which there is clear agreement even among leading abortion advocates” (p. 6).

Since partial-birth abortion is a particularly brutal manner of killing the emerging baby, it has seemed to many that everyone would agree it was wrong and easily eliminated. This has not proved to be the case. The legal desire for allowing abortion of whatever form is so strong that some want to call it simply a “right,” to be protected by the state. When asked why this “right” is not likewise a “duty” to what is begotten, answers range from efforts to define “person” as not beginning till after birth to claiming that the child has no right to exist if it is not “wanted.” The various justifications for abortion are familiar. We might call abortion, with some justice, a “structure of evil.” It enables what is sinful to be easily, efficiently, and quietly done, though in fact all abortions leave their moral and spiritual consequences on souls of the women, the medical profession, and the lawmakers of a country.

Abortion evidently takes place, to go back to the Holy Father’s earlier remarks, when those who beget refuse to acknowledge what it is they do together. They do not want what they are in their acts. The whole Western legal tradition had originally sought to protect the family and the child. The family had responsibility for its own condition. Western law sought to be a “structure of good,” that is, to foster family care policies, not family death policies, as at present. Professor May’s analysis is particularly important because it is the first that I have seen directly take up the moral responsibility of Catholic legislators when these same legislators vote to keep abortion, particularly partial-birth abortion, legal. This is a point where political forms and personal conscience touch. As Professor May puts it:

The issue is clear. Catholic political leaders and legislators who, like the U.S. [Catholic] senators who refused to override President Clinton’s veto of a bill designed to protect unborn children from a particularly heinous and barbaric form of abortion (the Catholic votes made the difference) fail to ‘stand up

for human life’ and to do what lies in their power to protect the inviolability of innocent human life publically in a way contrary to their Catholic faith.

They objectively sin, in other words. The origin of the “structure of sin” is the inner life of individual persons, individual politicians. Soul-craft is state-craft.

## VI.

**I**n his Audience of August 25, 1999, John Paul II repeated a teaching that appeared in his Address to the Puebla Conference at the very beginning of his Pontificate, namely, that the term “social sin” can never be used as if it did not relate to and involve personal sin. Collective guilt, guilt without personal choice, is the scourge of this closing century. Some individual person always puts in place the acts that influence others in their wrong-doing. “Looking at the world today,” the Holy Father said in August,

we have to admit that there is a marked decline in the consciousness of sin. Because of widespread religious indifference or the rejection of all that right reason and revelation tell us about God, many men and women lack a sense of God’s Covenant and for his commandments. All too often the human sense of responsibility is blurred by a claim of absolute freedom, which it considers threatened and compromised by God, the supreme legislator (p. 7).

Notice how the Philosopher-Pope is constantly aware of the underlying intellectual issues.

Behind the abortion issue, behind the utopias, behind the effort to produce perfect human beings in a laboratory lies the claim to “absolute human freedom.” And this “freedom” necessarily involves a rejection of a law of nature, of anything outside the inner will that would oblige it to pay attention to something else besides itself. Ultimately, we are dealing with the claim in Genesis, which is the structure of every sin, to be ourselves the cause of the distinction between “good and evil.” With a theory of absolute autonomy, we do not find the good already there, in being. We cause it, subject to nothing else but our autonomy. All the killing of innocent life, all the legislation to allow it, all the “structures of evil” that support it are, basically, the claim to do as we will, whether as individuals or societies, in spite of

any objective, natural laws.

Christianity is not opposed to personal freedom. In fact, with Augustine, it might be said to have invented the idea. But freedom is precisely that, an either/or. "Personal freedom should be recognized and defended as a precious gift of God, resisting the tendency to lose it in the structures of social conditioning or to remove it from its inalienable reference to the Creator." The Pope is quite aware that modern sociological methodology does in fact "lose" freedom in structures as well as remove it from any responsibility to anything other than itself, to autonomy, whereby it creates its own definitions of good and evil. This premise, in fact, that man, not God, causes the distinction in things, is the only one that makes comprehensible the voting of legislators or the actions of doctors and women themselves and their supporters when they claim that the human child is not an object of love and protection that determines all our subsequent moral actions. Only arbitrary, autonomous will that has no connection to reality can end up justifying such actions as partial-birth abortion. The action necessarily leads to a philosophy, to an ideology, that permits the human actor to deny the reality, to deny *what is*. As Eric Voegelin said in the Introduction of his *Israel and Revelation*, "Ideology is existence in rebellion against God and man." This is indeed what our existence is when it kills our own, when it chooses what the Holy Father calls the "culture of death."

In this reflection on "structures of sin" and "structures of good," the Holy Father's final words seem most to the point. He sees in political forms or structures habits of deviant action. Actions, flowing from structures of good, on the one hand, are themselves rooted in the inner soul. They produce habits that enforce the acts of the will to the good by formulating themselves on natural law and the goodness of being as such. The classic Catholic position, following Aquinas, acknowledges that being is *good—omne ens est bonum*—while seeing with steady eyes that the Fall is a reality that still influences our wills to do terrible things to our kind, to our most innocent kind. The teachings on grace, moreover, remind us that while we should never underestimate our tendencies to evil, so likewise we should not deny our tendencies to the good.

But whether under grace or under the influence of "autonomous will," we still must choose. This choice defines the status of our being before God, defines whether, with Socrates, we know that "it is never right to do wrong." "It is also true that personal sin always has a social impact," John Paul II explains.

While he offends God and harms himself, the sinner also becomes responsible for the bad example and negative influences linked to his behaviour. Even when the sin is interior, it still causes a worsening of the human condition and diminishes that contribution which every person is called to make to the spiritual progress of the human community. In addition to all of this, the sins of individuals strengthen *those forms of social sin which are actually the fruit of an accumulation of many personal sins*. Obviously the real responsibility lies with the individuals, given that the social structure as such is not subject to moral acts. (Emphasis added)

How sound is this theology that refuses to see in politics or structures the subject of moral acts! Only human persons are the subject of moral acts.

Sometimes the force of habit and law, the latter of which, as Aquinas said, is usually but a way to induce habits through repetition of acts prescribed by legislation, can make it seem that we must sin inevitably. But the accumulation of personal sins is what we mean by habits of social pattern. The center of focus is always there on personal sins, even in the case of politicians. Yet, the Christian analysis does not despair at its realistic sense of sin with repeated personal sins that so harm others because "the proclamation of Christ's victory gives us certainty that eventually the strongest structures of evil can be overcome and replaced by the 'structures of good.'"

Thus we think of politicians who sin by not standing up to the truth, to the good, even if they know by their own acts they lose power. We think of those who justify the killing of the most innocent of our kind, repeatedly, by a metaphysical theory of autonomous freedom or simply a refusal to accept the responsibility of our acts. But we need not despair. It is true that scientists, philosophers, and politicians are planning to replace the family, politically and scientifically. It may be possible to do this, to produce a race or huge numbers of scientifically produced human beings. The Holy Father simply tells us, "Don't do it, don't break the connection of

love, body, life, and destiny wherein what comes to be among us is there by processes given to us by what causes us to be in the first place.”

The Fall makes us realize that it is possible, on a large scale, to reject the simplest of truths as it is possible to kill millions of conceived human lives and older ones too, seemingly without a qualm. In the end, to be a Christian means that the “structures of good,” good itself, will defeat the structures of evil. This will not happen finally in this world, certainly not

in utopia. It will happen in the kingdom of God for which all our personal choices of what is good are made and against which all our choices of ourselves stand. As Cardinal Schotte implied, to defend the Second Commandment, it is necessary, ultimately, to defend the First. This is the central purpose of Revelation and its inspired institutions in the world.

*Fr. James V. Schall, S.J. serves on the board of directors of the Fellowship of Catholic Scholars.*

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# Warren Carroll and Personalist History

by Mo Fung

As an undergraduate at Christendom College, I remember being grateful for a particular feature of Dr. Warren Carroll's history exams. On those exams, there were short answer essays which required us to identify individuals or events, explain their importance and place them in historical context by providing a date when the individual lived or when the event took place. As an alternative to this requirement, Dr. Carroll, my history professor and thesis director, would allow us to provide a notable contemporary—another person not directly involved, but in some way relevant to the individual or event in question—as a way of testing our overall grasp of the historical “picture.” I was grateful for this option, because it always seemed easier to provide a relevant person than to remember a specific date.

Looking back after time and further studies, I have come to realize that this option fit perfectly into Dr. Carroll's approach to history. Indeed, one might say that his acceptance of a historical contemporary as a means of testing a student's grasp of how an individual or event fit into history revealed his great respect for the centrality of the person in history.

Warren Carroll has an impressive and still growing body of work to his name, which includes several books and a projected six-volumed work entitled *A History of Christendom*. The purpose of this essay is to present how Warren Carroll describes his own approach and purpose to historical scholarship in the introduction to the first volume in his ongoing multi-volumed work, *The Founding of Christendom*, and to point out various correlations with some of the more notable personalist philosophers and theologians of our time. Many of the presuppositions concerning the person of John Paul II and others illuminate Warren Carroll's approach to history.

Carroll begins the introduction by answering the question, “What is Christendom?”

Christendom is the reign of Christ—that is to say, for the Christian, the reign of God recognized by men. Much of that reign is invisible, since His kingdom is not of this world. Much of it is personal, since

the primary concern of this divine Person is with us as human and eternal persons. But some of it is public and historical. Where men of courage and missionary spirit recognize Christ as their Lord and proclaim Him, Christendom appears as a social, cultural and political presence in the world. It grows with that courage and profession, and above all by the silent impetus of prayer and example. It fades with timidity, indifference, apostasy, and the lack of holiness.<sup>1</sup>

In this passage, there are two items worthy of examination. First, Carroll places the writing of history in a Christological context. Carroll presupposes that Christ came into history and continues to act in history. Things get “personal,” as Carroll puts it, when he connects Christ as a Person to man as “human and eternal persons.” Another way of characterizing this connection between Christ as Person and man as person would be to say that history is intrinsically bound up in the relation between Christ and man. Carroll implies relation with Christ's “concern” for man and man's acknowledgment of Christ's Lordship. With the notion of “relation” now present, a more traditional understanding of relation as constitutive of person emerges.

Cardinal Joseph Ratzinger echos this sentiment, saying that

As a consequence, dynamic definition of the human person flows from Christ, the new Adam. Christ is the directional arrow, as it were, that indicates what being human tends toward, although, as long as history is still on the way, this goal is never fully reached. At the same time it is clear that such a definition of being human manifests the historicity of the human person. If person is the relativity toward the eternal, then this relativity implies “being on the way” in the manner of human history.<sup>2</sup>

For Ratzinger too, the human person receives definition and direction from his relation to Christ. Consequently, it is this relation that also gives definition to human history, which Ratzinger characterizes as the “being on the way” to the One to whom we are in relation— Christ.

Second, Carroll's inclusion of the “silent impetus of prayer and example” as an influencing factor in history is very telling of a special nuance in his personalist approach to history. Carroll gives primacy to

prayer, virtue and example among the human actions. This acknowledgment of human action that is not external or visible is surely unique among contemporary historians. Carroll would contend that the action which takes place within the interior of the person and the daily life of virtue has a great significance in history.

Karol Wojtyla, in *The Acting Person*, makes a distinction between transitive and intransitive acts which helps to explain this point. "When we speak of 'performing an action' we see the person as the subject and the agent while the action itself appears as the consequence of the efficacy of the agent. This consequence is external with regard to the person, but it is also internal to, or immanent in, the person ... it is both transitive and intransitive with respect to the person."<sup>3</sup> One can readily see that the interior disposition which is cultivated by "prayer and example" which Carroll considers so important in history corresponds to the intransitive acts of the person which Karol Wojtyla carefully defines and emphasizes.

James Hanink provides a helpful assertion which further draws the two points together. He says, "But what of that which we create intransitively? The truth we live, the goodness we achieve, the beauty we reverence— these goods are never used up. The more they are realized, the more abundant they are."<sup>4</sup> Hanink makes the assertion that seems to echo Carroll in the acknowledgment of the production of interior goods.

Midway through the introduction, Carroll addresses the common view that history is determined by forces, dialectics or trends whether they be economic, political or evolutionary. Carroll writes:

Regarding social, political, and non-ecclesiastical institutional history, the writer would emphasize that as a Christian his interest is in *persons*. Persons in their earthly lives are indubitably very much affected by the social and institutional structures and by economic conditions. But the person is ultimately, metaphysically independent of them. He is *not* their creature, but God's creature. (emphasis in original)<sup>5</sup>

Here Carroll makes an important point, particularly in regards to the prevailing trends in contemporary historical scholarship. Carroll acknowledges the influential dimension of the cultural, economic and political orders, but he insists on the primacy of the person as the determining agent in all temporal affairs. This assertion stands in opposition to the pre-

vailing philosophy of history today which is dominated by the Hegelian dialectic. Carroll further reinforces his response to contemporary historiography by stating the following:

Christians do not see men as primarily shaped or dominated by extrinsic and nameless forces, structures, and trends. They see the drama of human life as primarily composed of personal thought and action, above all by the working of the *will*. (emphasis in original)<sup>6</sup>

Carroll's concept of man as person standing at the center of history now deserves more attention. In the passage just quoted, Carroll introduces the notion of man being "metaphysically independent" of temporal institutional influence. Undoubtedly, Carroll is basing this independence on the dignity of the person which is derived from his eternal origin and destiny to which he already referred. Karol Wojtyla refers to this same concept as self-determination. "The self, then, is not just self-consciousness, but it is also the self-possession and self-governance proper to a concrete human *suppositum*."<sup>7</sup>

Here Carroll's basic presupposition is aided by one of the Pope John Paul II's most foundational principles which is set forth in *Laborem Exercens*. With man's biblical mandate to subdue the earth, God gives the gift of work to man. Hence we have the famous axiom of *Laborem Exercens*: "work is for man, man is not for work."<sup>8</sup> Here the Pope is emphasizing that it is man who gives dignity to work and not work that gives dignity to man. More importantly to our discussion, the Holy Father is also teaching that man has been given the gift of work and therefore it is man who produces. Work does not produce man. Therefore man is responsible for the economic and political orders. The economic and political trends may affect man, but it is man who lies at their very origin and hence is it man who can change the direction of these trends. In this way Carroll justifies writing history from the perspective of the person rather than nameless forces.

Towards the end of his Introduction, Carroll explains his writing style. Carroll's special talent, which has become his signature, for producing history books that are as entertaining as they are factual and informative is no coincidence given his personalist outlook.

The writer firmly holds the perhaps unfashionable belief that any good history should be a good *story*.



Man's past is full of events more dramatic than any ever put on stage. The most dramatic of these events pertain directly to the supreme drama which is the action of Christ in the world, in preparing for His coming, in coming, and in living in His Church. There is no law of nature or of scholarship which says that a scholarly and reliable history must be dull, and no at all why it should be. (emphasis in original)<sup>9</sup>

Once again there are two items within the above passage worth exploring. First, Carroll connects the notion of drama to the nature of history. This is a direct consequence of Carroll's fundamental assumption that man is an actor. "Through our activity we are the authors of many effects outside of ourselves; through it we shape our surrounding reality."<sup>10</sup> The drama of human action is then derived from the "concrete human person who, in acting, takes up the task of integration and transcendence and thereby becomes the human agent who engages with others in the community of being."<sup>11</sup>

Second, implicit in this passage is Carroll's desire for the drama of history to be a thematic presentation. Human action, and consequently human history, will naturally bring forth themes which imply the "supreme drama which is the action of Christ in world" whether they are in harmony or disaccord with Christ. Hence we come to Carroll's ultimate purpose for historical scholarship. It is the drama of Christ that inspires the saga of man, how it unfolds and its eventual outcome.

Regarding this point it is worth mentioning Pope John Paul II's interest in drama both as an actor and a playwright. Poland suffered much during World War II. As a young man during this time, Karol Wojtyla was a member of a theatrical group and wrote several plays. It is understandable that the severity of the surrounding events, the war and Nazi occupation, also occupied the attention and imagination of young Wojtyla. Kenneth Schmitz says that "Wojtyla's interest leaned toward the record of that history as it was given expression by poets and national heroes.... But his religious interest was caught also by an older history—biblical history. His first works for the theater gave dramatic expression to the blending of themes played out in those different histories."<sup>12</sup> Wojtyla used the drama of history to enhance the thematic presentation of his theater. For Wojtyla, like Carroll, the thematic expression of the Person and event of Christ can be easily found and developed within the drama of human history.

Even though this consideration of Warren Carroll's approach to history with the help of other personalist thinkers has been relatively brief, one can readily see the personalist ideals in Carroll's approach to history. Carroll roots the person in his relation to Christ thus establishing the source and definition to man's dignity and the transcendence of human action. Following from the primacy of man within temporal reality, Carroll is steadfast in maintaining the person's independence with respect to cultural, political and economic forces. Lastly, Carroll's insistence that history be good story speaks of his natural assumption that the dignity of man and the transcendence of human acts is a drama in itself. This drama, in turn, speaks of the supreme drama which is the action of Christ. Indeed there is a great deal of coherence between Carroll, the personalist historian and Karol, the most brilliant personalist of the century.

At the close of the introduction, Carroll makes a call for more interest in history saying that "there is a crying need for rising young historical scholars possessing the gift of faith in Christ to answer the call for the reconstruction of Christian historiography."<sup>13</sup> In the same vein, this writer hopes that by drawing some correlation between personalist thought of Pope John Paul II, and other philosophers and theologians, to the historian Warren Carroll, that more interest in personalist history, as well as interdisciplinary personalism, is further stimulated. ☩

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## NOTES

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2. Joseph Cardinal Ratzinger, "Concerning the Notion of Person in Theology," *Communio* 17 (Fall 1990), 452.
3. Karol Wojtyla, *The Acting Person*, trans. Andrzej Potocki (Dordrecht: D. Reidel, 1979), 149 (from Hanink article).
4. James G. Hanink, "Karol Wojtyla: Personalism, intransitivity, and Character," *Communio* 23 (summer 1996), 251.
5. Carroll, 10.
6. Carroll, 10.
7. Wojtyla, 46.
8. Pope John Paul II, *Laborem exercens*, 6.
9. Carroll, 11.
10. Karol Wojtyla, "The Person: Subject and Community," reprinted in *Crisis* (April 1994), 44.
11. Kenneth Schmitz, *At the Center of the Human Drama* (Washington, DC: Catholic University of America Press, 1993), 145.
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13. Carroll, 11.

# Freedom in America vs. Love in the Heartland

*By Rev. Edward J. Richard*

I want to begin my talk this morning by telling you that I have it in my mind to bring about something of a renewal of yours. I am hoping to get you to see something about yourselves and the way you learned to think, especially about marriage, that you did not realize before. Taking the cue from St. Paul, I want to challenge you to not be conformed to the wisdom of this age, but be transformed by the renewal of your mind.

In order to help you I want to tell you a little something about myself. I am not one of the “lifers” in my vocation as a priest. I entered the seminary only after I had studied law and practiced for a couple of years. My vocation story may well be interesting but it will have to remain a little mysterious. Nonetheless, the crucial point in the story, the real turning point for me, was probably something you can all understand. You see, I had fallen in love. When I discovered by my vocation to the priesthood, I had only then come to know the love of my life, even though she was always with me. I was in love with the Church, who is Christ’s bride first, and I as a priest have the privilege of loving her, in the person of Christ. More on that later.

The reason I bring up my experience with the law is this: When I studied, as with all other law students, I learned how to be a lawyer according to the way we approach law here in the U.S. in the last half of this century. The method and philosophy of law we studied were part and parcel of the law as we came to know it. Therefore, it was never even suggested to us that the law could ever be founded upon anything different than what we were then learning from our professors. To be more specific, none of the professors ever told us that law in this country had begun to change tremendously just before the beginning of the turn of the century. They did not give us any clue that the way we understood the law would be based upon a way of thinking about man’s nature and ac-

tions that even our nation’s founders, no matter how unorthodox they might have been themselves, would have found very strange.

In the presentation of the law in law school and the cases we studied, all that was said is, “This is the law.” “This is the way we do it.” “This is the right way to do it.” It was a culture of law that attempted at every turn to be more and more consistent within itself. And if I wanted to be a lawyer, that is the way I would have to learn to think about the law.

Before I tell you anymore about the law and the changes that took place in legal and political philosophy that resulted in the predominant culture of law, I would like to get you to put yourself in a place similar to where I was then but with a different focus. For me, the focus was law as seen from the standpoint of the lawyer. I know what I know because I learned it from the primary teachers, the courts, the legislators, and the lawyers themselves. Now, I would like for you to focus on marriage and sexuality. My question to you is, how do you know most of what you know about marriage, spousal love, and sex? DON’T ANSWER THAT! Some of you are blushing. If I were to poll all of you I think I know what kind of answer I could formulate. Just like there is a culture of law that perpetuates itself through molding the minds of its subjects, we all live in a culture that passes along its own ideas about family, marriage, and therefore about love and the meaning of human sexuality.

Unlike myself and the law, most of you probably did not pick up many books about the meaning of marriage, how its done, how you show love to your spouse, what is the model for this love, and so on. On the other hand, in learning both the things we know about law and about love and marriage, some assumptions got communicated just by being in a culture that passes on its traditions to us in many ways. Television and movies (soap operas, educational programs, prime-time comedy and dramas), popular music (love songs, songs about love including extramarital love

affairs and adultery, loss of love), and popular literature (books and popular magazines) feed us information that not only tells us about love, but tells us about it as if it were the only way to understand it. I am not saying that these types of media are teaching anything that is not a reflection of our culture. But they are the means by which culture continues to hand on a certain view of love and marriage which we, all too often, take for granted. We don't have to study them to have them actually become part of our way of thinking. We just accept it.

At this point, I am hoping that some of you are saying, "Well, of course, that's what our culture does. This is where we live and that's the way it is. Marriage is marriage. Love is love." Well, that may be a phenomenon that we have to acknowledge as a part of our experience, but whether married love is really what we think it is does not depend upon, as our current president might say, what the meaning of the word "is" is.

Maybe all I can hope for is to plant a seed in your mind. Are all of the cultural ideas affecting you and your marriage and your view of sexuality and child-bearing really that wholesome? Maybe growing up in a good Catholic home, or going to Catholic schools, was not enough. Maybe the cultural biases that affect all of us have not been exposed to the light of the truth because we do not want them to be. Maybe we are content not to think about the truth of marriage and sexuality and do not want to be made uncomfortable by having to consider that there might be some truth to the matter other than what culture has taught us. You know, we hear a lot of people objecting to the Church's teaching because they are following their own conscience. But for all of the talk in our society, even by many Catholics, about "my" conscience, the individual, and our own individual opinions, it is somewhat amazing that so many individuals have the same moral values as are portrayed in the songs, magazines, and television shows I talked about. So much for the individual conscience.

Let me get back to my own story for a moment. I, like most people, was mesmerized by the concept of freedom taught by our judicial system. My assumption was that this was what the founders believed and therefore to be American was to be free from every possible imposition. I also believed that

this was the true meaning of freedom. It was not until I entered deeply into my doctoral research that I was surprised to discover that the methodology and philosophy of law that I learned was an innovation in the history of law. In fact, the way we approach law in this country now is fundamentally different than that which the country began with. More importantly, it is easy to see from the history why so many things which have become legal rights in the U.S. and elsewhere violate some human good that the Church promotes. This also begins to respond to an important question: If the principles in our Declaration of Independence and the Constitution helped us begin to overcome the tragedy of slavery by recognizing the dignity of all human beings, why did the Supreme Court go the wrong way on abortion?

## "Good Law" Or Good God!?

Part of the answer to the question about the Supreme Court's stand on abortion can be found in the history of law in this country where it is seen that some major thinkers began to abandon our law's connection to the "laws of nature and nature's God" which was inherent in the Declaration of Independence.<sup>1</sup> It is a matter of some interest that at the time the American jurists were seeking solutions to social problems by abandoning natural law, *Rerum novarum*, the great social encyclical of Leo XIII, in 1891 was upholding the rights of workers based upon natural law principles. But it is clear from reading the document that a fundamental issue is the question of the sense of God and human nature which supplies reason with certain criteria for honest judgment. Pope Leo made it clear that our creation as rational creatures established certain rights of ownership which contributed to the exercise of freedom. This freedom, it was clear, was not unlimited but founded in creation and under the Providence of God. As Leo put it:

Since [man]... has mastery over his own acts, he can govern himself by his own foresight and judgment, subject always to the eternal law, the guidance of God whose providence extends to all things. (*Rerum novarum*, 1891)

Moreover, this justice of the eternal law extended down to man by reason is the natural law to which all civil laws must conform and from which they receive their authority. Leo clearly expressed the fact that the state had a legitimate role in the protection of certain rights. But there were limits established by human nature, known and understood through created reason whose source is God himself. It is here that the State must stop. Unjust laws are those that violate that limit and, as a result, attack or weaken respect for human dignity. Pope Leo saw that the first and most serious mistake was the distancing of man from God.

My talk today is nothing other than the development of a very simple idea. The idea is this: The failure to acknowledge God and his relationship to us as persons will inevitably lead to corruption of human justice and human wisdom and the notion of human freedom. This is so much the case that when we do ignore this connection to God, even our own self-reflection will begin to suggest to us that we cannot know the answers to the really important questions in life. Why am I here? How did I come to be? Who am I? Furthermore, we even come to doubt that we will ever manage anything better. The very idea of our own reason is called into question. Do we have the capacity to know anything? Think about it. If we didn't question our ability to know the things that truly matter, how else could we be so unsure of the truth about our moral lives, about what is truly good and bad with respect to human flourishing? When we look at the big moral questions facing our nation such as homosexual union, abortion, divorce, euthanasia, cloning, and so on, we see that there really is no overarching notion of what is the good for man. This is strongly held by some of today's notable and learned political and legal theorists. St. Paul, on the other hand, tells us in Romans that because of the failure to acknowledge God, the supposed wisdom of the Greeks resulted in the worst kind of corruption. It might be a good idea to recall what he said:

Ever since the creation of the world, his invisible attributes of eternal power and divinity have been able to be understood and perceived in what he has made. As a result, they have no excuse; although they knew God they did not accord him glory as God or give

him thanks. Instead, they became vain in their reasoning, and their senseless minds were darkened. While claiming to be wise, they became fools and exchanged the glory of the immortal God for the likeness of an image of mortal man or of birds or of four-legged animals or of snakes. Therefore, God handed them over to their impurity through the lusts of their hearts for the mutual degradation of their bodies. (Rom 1:20-23, NAB)

I suspect that many of you think like I did, that the law's the law and that's it. It never changes and lawyers have always been doing the same thing. After all, even Jesus didn't like lawyers, right? Well, there's some truth in that, but there has been a major change in the way law affects our moral life. Early in the history of our country our courts were heavily influenced by European law, which itself had some pretty direct things to say about the influence of the truth about creation. Blackstone's *Commentaries on the Laws of England* (1765-69) became the foremost lawbook in England and the United States and played a significant role in the development of the U.S. legal system.<sup>2</sup> In that commentary which our lawyers and courts were studying, Blackstone wrote:

Those rights then which God and nature have established, and are therefore called natural rights such as are life and liberty, need not the aid of human laws to be more effectively invested in every man than they are; neither do they receive any additional strength when declared by the municipal laws to be inviolable. On the contrary, no human legislature has power to abridge or destroy them, unless the owner shall himself commit some act that amounts to a forfeiture. Neither do divine or natural duties (such as, for instance, the worship of God, the maintenance of children, and the like) receive any stronger sanction from being also declared to be duties by the law of the land.<sup>3</sup>

So he was pretty clear about the truth which law should be based upon and, as had been agreed upon for centuries, we mere mortals were endowed by our created nature with an ability to know that. The Catholic Church has always believed and taught that. She still does.

This idea was challenged later by Jeremy Bentham, perhaps the most influential reformer of the law of England. He gets the "credit" for demonstrating the alleged falsity of the moral requirement to which Blackstone attested for the law's validity.<sup>4</sup>

What we see in Bentham as the engine of reform, in fact in lawmaking, is the principle of utility.<sup>5</sup>

. . . . By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good or happiness, (all this in the present case comes to the same thing) or (what again comes to the same thing) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered. . . .<sup>6</sup>

A thing promotes the interest of the individual when it contributes to pleasure or diminishes pain.<sup>7</sup> Thus, not only is Bentham a legal theorist, he also creates a moral theory dependant upon the calculation of pains and pleasures by which legislators and interpreters were bound.<sup>8</sup> And it must be remembered that “[t]he interest of the community . . . is the sum interests of the several members who compose it.” (*Ibid.*, [ch. I, sec. 4] 12). This, of course, in principle, could vary from place to place and time to time. Therefore law had to be changeable depending upon the time and place.<sup>9</sup> As a result of these ideas and others, the concept of the dignity of the human person suffered a great blow in legal doctrine.

The influence of this kind of theory of laws can be seen in modern legal theory where there is a presumption that laws, generally, must be updated. We think far less of moral goodness any more and need to have legal rules for just about everything. One of the reasons for thinking of law in terms of positive rules is that rules can be changed, a convenient corollary to the goal of social change.<sup>10</sup> But it seems that our rules, no matter how many we make, are never found to be sufficient to meet the many rising demands constantly confronting the lawmakers.<sup>11</sup> But does anyone ever stop to ask what these changes do to our concept of the person and freedom based upon the truth about human dignity?

To illustrate the impact of utilitarian ideas upon the way we think, consider all the recent experimentation with forms of reproduction such as cloning, and the transfer of human genes to a cow's ovum. John Paul II calls this a spiritual crisis on the level of civilization itself. He said, “If this crisis deepens, utilitarianism will increasingly reduce human beings to objects for manipulation.” What does he relate it to? He adds, “Because the spiritual crisis of our

times is in fact a flight from God, it is at the same time a flight from the truth about the human person. . . . The culture of our day seeks to build without reference to the architect. (*Ad limina* address to New England Bishops, Oct. 24, 1998)

## American Legal Theory and Legal Method

**I**n this brief section on Anglo-American legal history, I will bring to the fore certain factors which help identify the elements the theory of law which began to materialize about the turn of this century.<sup>12</sup>

Consistent with the “declaratory” theory of Blackstone, American legal theory from the middle of the 1700's until the first decade of the twentieth century basically accepted the conventional position that the role of judges is to discover and “declare,” not create law.<sup>13</sup> Americans were highly impressed with a system of legal rules arising from a hierarchy of values and a political theory based on “natural law” principles.<sup>14</sup> This situation prevailed basically unchallenged until after the Civil War (although “by the 1820's the process of common-law decision-making had acquired certain qualities of legislation”).<sup>15</sup>

The discussion of social policy in judicial decision-making increased as social tensions escalated in post-Civil War society.<sup>16</sup> By the turn of the twentieth century, the basic tenet of political and legal theory in American society began to be examined.<sup>17</sup> Among those who worked to change the system was Oliver W. Holmes, Jr.<sup>18</sup> He, like the progressive reformers of his time, had great faith in the “potential for social evolution” through use of the law. He proposed legal analysis should take note of “community values”<sup>19</sup> embodied in experience.<sup>20</sup> Examining this experience one finds that “the customs, beliefs, or needs of a primitive time establish a rule or a formula.”<sup>21</sup> In a now famous line Holmes stated, “The life of the law has not been logic; it has been experience.”<sup>22</sup> He presented the development of common law in an “evolutionary framework” characterized by “a new emphasis on experience, process, growth, context and function.”<sup>23</sup> His goal for law was that it realize its potential to capitalize upon its capacity as an agent of change. He emphasized the importance of understanding how the system works and accepted the idea

from Charles Darwin's theory of evolution that long-term trends worked for the development of man's higher abilities. So he sought to expand the legal system's ability to expedite social change.<sup>24</sup>

Much of Holmes's work (in *The Common Law*) sought to demonstrate that rules originated in the tensions and conflicts of earlier times, and excluded the need to appeal to God or the Prince.<sup>25</sup> Furthermore, his study of history displayed a clear design for the present.<sup>26</sup>

He said, "The first requirement of a sound body of law is that it should correspond with the actual feelings and demand of the community, whether right or wrong."<sup>27</sup> Good legal education, he said, would have to reject the absoluteness of legal rules and understand them as the product of competing social forces, desires and purposes, as they developed over time.<sup>28</sup>

The political Progressive Movement of the twentieth century emphasized the inevitability of social change, change that could be directed toward beneficial ends.<sup>29</sup> But not only did change occur, the potential for change should be reaped and employed. In this line, Progressive thinkers like Holmes did not believe that judges should (or actually did) merely limit themselves to applying the law. And the claim was made that judges were impeding the "natural evolution and progress" of the nation.<sup>30</sup> Roscoe Pound, Dean of Harvard Law School, took up the banner to reform the judiciary into an institution for social change. Whereas Holmes had maintained that the law was a record of the history of political interests, "Pound insisted that law embodied important social values"<sup>31</sup> and that law should be an instrument for social growth or, as he called it, social engineering.<sup>32</sup>

Pound's ideas were held in common with the pragmatic philosopher William James.<sup>33</sup> In fact, the philosophy of the Pragmatists proved to be a major influence in the emerging theory which led to a more experience-based methodology.

One legal historian has noticed the influence of pragmatism on American law and says that it has produced a new theory of law.<sup>34</sup> In his description of the theory, he reported:

Between 1881 when Oliver Wendell Holmes published *The Common Law* and the 1930s, there was a

dramatic reorientation in American legal thought ... During the middle decades of this century this body of ideas, which I call pragmatic instrumentalism, was our most influential theory of law in jurisprudential circles, in the faculties of major law schools, and in important realms of bench and bar. Many of its tenets continue to be influential in the 1980s.<sup>35</sup>

Fortunately, we do not have time for me to bore you with all the details of this theory. Let me end this section, though, by pointing to a classic statement of this kind of law which was written in 1932 by the jurist Herman Oliphant, another Instrumentalist. Oliphant stated:

A century ago, Jeremy Bentham saw law not as an ultimate but merely as a means to an end and argued that it should be scientifically exploited as such. . . . Then came the pragmatism of James and the instrumental logic of Dewey, with the result that we are beginning to catch up with Bentham. Liberals now venture to talk of law as means to an end. . . . Many are eager to stop talking and begin studying law as a means to present ends.<sup>36</sup>

### Truth, Freedom and The Court

What I want to do now is show the influence of this new theory of law on moral matters in the United States. This will help you understand why our wonderful Church, which continues to speak out for the truth and the human good seems to be what some consider "behind the times." Recall Oliphant's statement. There are two points of interest for us in this statement: (1) One is that it summarizes the whole history of the change. But, (2) notice the date. About the same time, December, 1931, the encyclical *Casti connubii* was published by Pius XI, upholding the dignity of marriage and stressing that it was instituted by the Creator. It was not the process of social evolution but was created by God.

I would like to turn now, more specifically, to the law and the issue of freedom, but freedom as is understood in the context of marriage and family life. The question I want to raise is, does the freedom defined by the Supreme Court in America make it easier or more difficult to grow in true love within one's family with one's spouse?

Picking up where we were about 1931, let's go back to the specific question about marriage and sexuality. There is little doubt that the specific motivation for Pius XI's encyclical was that the Anglicans decided that a little bit of contraception in marriage would be all right. But Pius XI saw a much more dangerous problem. The whole problem of the pontificate of Pius XI centered around the proliferation of philosophies which repudiated God. These ideas saw the Church as an affront, a limitation upon human freedom. At the bottom of this alleged problem however was a notion of the state which made man the absolute subject of the state. This was especially true for democracy for which the individual had to be submissive to the blind tyranny of public opinion, which, of course, is easily manipulated.

One way of getting at what I am speaking about is by looking at the social teaching of the Church. Upholding human dignity in the workplace was a direct affront to the unbridled capitalism that claimed sovereignty in business. Unbridled capitalism had not wanted workers to organize for rightful representation in the workplace and market. But in spite of claims of freedom which were said to allow for the pursuit of free enterprise, almost everyone today would agree that there are some things that are below the dignity of the person—an unjust wage, for example. The Church stepped up to say that human dignity had certain claims to make in this arena. The demands of truth and justice require some kind of intervention which seeks to uphold human dignity. This, of course, was not always recognized by the alleged voices of freedom.

The difficulty lay in the view of man that was put forth which sought to put distance between God and man. This distance was not only the denial of God, it also could be a marked intellectual distancing. Man was increasingly held to be incapable of knowing anything about God and his truth. Whereas St. Thomas had systematically presented an explanation of Christian intelligence, wherein it is seen that man actually participates in God's eternal reason, increasingly, God was pushed to the side as the source of man's intelligence. The false claim was made, and still is, of course, that man's intelligence is ungrounded in the transcendent knowledge of God. If at all, it is only by the slightest thread that the

structure and content of reason has any grasp of the truth of its origin.

Apparently under the spell of modern theories and succumbing to social pressure, the Anglican Church's governing body, the Lambeth Conference, decided in 1930 to permit methods of controlling births other than abstinence. It condemned, however, "the use of any methods of conception control from motives of selfishness, luxury, or mere convenience." Shortly afterward came the encyclical of Pius XI. This was followed by a declaration which came from the U.S. Federal Council of Churches. On March 21, 1931, the majority of a committee of the Council endorsed, "the careful and restrained use of contraceptives by married people." It acknowledged, however, that "serious evils such as extramarital sex relations, may be increased by general knowledge of contraceptives."

Despite the Catholic Church's response, the stage was set both morally and legally for a complete rewriting of the doctrine of marriage and marital sexuality. Obviously, there were great efforts by the promoters of birth control to sway public attitude. But my story has to jump to the Supreme Court and the year 1965. The case was *Griswold v. Connecticut*. The case came to the Court on appeal of the conviction of two persons charged with dispensing contraceptive materials to married couples. The Court struck down the state's law saying it was a violation of the right of marital privacy.

Justice Douglas who wrote the opinion of the Court reasoned that the case was about the freedom of association between husband and wife. He acknowledged that it was not in the Constitution but said it was implied there. Justice Goldberg, in an important concurring opinion, also based his agreement on the concept of freedom in the Constitution but asserted the right of personal, as well as, marital privacy.

Now, we cannot get into the legal argument here about whether it is a good idea to legislate one type of morality or another. What I want to emphasize to you is that the Court took a critical stand here in severing the meaning of freedom and married love from the truth about what is really good for men and women who are married. It was not even considered that contraception could have had such a nega-

tive effect upon marriage, upon couples, or upon the individual spouses. The result was based upon a notion of freedom that was seen as a radical ability of each individual's will not to be interfered with.

What do I mean by negative effect? Well, there are plenty of statistics but just to point to a few things. Since the 1960's the divorce rate has risen to between 50 and 60 percent. In 1991 the National Commission on Children, established by Congress, said that one in four children in the U.S. is raised by just one parent, usually a divorced or unmarried mother. Many grow up without the consistent presence of a father in their lives. Add to that the tragedy of abortion and the epidemic of sexually transmitted diseases affecting young people.

Getting back to the Court, it is not difficult to produce evidence of the results of the Court's ruling in *Griswold*. The case that came before the U.S. Supreme Court concerning the Washington and New York laws which prohibited physicians from assisting in suicide had this legal pedigree that opposed life in its very origin. The fundamental issue addressed by the appeals court in the Washington case was defined by the question, "Is there a liberty interest in determining the time and manner of one's death?" The court said that its approach in defining that interest "is identical to the approach used by the Supreme Court in abortion cases."

The so-called liberty interest in abortion was first fashioned for the Court in Planned Parenthood's friend-of-the-court briefs in two major Supreme Court cases on contraception, *Griswold v. Connecticut* (1965) and *Eisenstadt v. Baird* (1972). By those decisions, the Supreme Court disqualified the chosen representatives of the people in Connecticut and Massachusetts, respectively, from restricting distribution of contraceptive materials.

John Paul II has repeatedly pointed to the connections between abortion and contraception, and abortion and euthanasia, both "voluntary" (a form of suicide) and involuntary. Paul VI did it before him. Many Catholics and others are convinced of what Church leaders have said concerning this link. The mentality that led to one of these would lead to the others. But the sad fulfillment of what our pontiffs and many bishops have predicted, displayed in the legal decisions of the highest courts in our land, is

startling, nonetheless. Why has the preservation of human life become such a menace that even the courts have become its enemy?

The answer can be traced to a flawed, restricted view of the human person and the meaning of life. The Court's working definition of life excludes some human beings from the respect and protection to be rendered by the state.

Without reference to the whole truth about the origin and goal of human existence, any concept of liberty will be a partial one, at best. As Paul VI's beautiful document on life, *Humanae vitae*, states, "The problem of birth, like every other problem regarding human life, is to be considered, beyond partial perspectives — whether of the biological or psychological, demographic or sociological orders — in the light of an integral vision of man and his vocation, not only his natural and earthly, but also his supernatural and eternal vocation." Our courts are faltering on life and death issues because the bases for their decisions are arbitrary social policies such as those enshrined in the contraception and abortion cases. The deadly results of such policies demonstrate that only the truth about the human person can secure life and liberty for all.

The Supreme Court's rulings on the issue of physician-assisted suicide demonstrated a welcome deference to the nation's legal heritage. The argument for assisted suicide asserted that there was a general tradition of self-sovereignty in the recent decisions of the Court. This general tradition, it was argued, should outstrip the perennial rejection of the specific practice of self-inflicted death. The Court, however, refused to accept the notion that "broad, individualistic principles" included the alleged right. In doing so, the Court seemed to significantly restrict one exaggerated claim of Justice O'Connor's opinion in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992).

The *Casey* decision spoke of the right to "define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." This concept was emphasized by the proponents of legalized assisted suicide. But, said the Court in the assisted suicide cases, while many of the rights protected by the Due Process Clause of the Constitution are founded in personal autonomy, this fact "does



not warrant the sweeping conclusion that any and all important, intimate, and personal decisions are so protected." Indeed.

Our optimism over this ruling rejecting a right to self-inflicted death, though merited, is dampened by an apparent contradiction in the fundamental principles of law and political theory in the ruling. Initially, the Court cites the venerable legal tradition rejecting self-murder. It even goes so far as to cite colonial legislation calling it "unnatural." This calls attention to the natural law theory in the work of Sir William Blackstone, whose commentaries were a primary legal authority for American lawyers throughout the 19<sup>th</sup> century. Unfortunately, the effect of the retrieval of this part of our legal heritage is mitigated by the mention of another means of deciding right and wrong.

The Court alludes to the possibility of deciding what should be done by democratic processes; a determination of truth by the voters. So, contrary to Blackstone, the Court envisions the sanctioning of the people's choice permitting the unnatural or ungodly. This translates into an open door to offenses against human dignity and life by agreement of the majority. Continued and sustained efforts will be needed to promote the Gospel of Life in this environment.

At this point I would just like to ask everyone to become faithful, dedicated, zealous Catholics on this issue. I have tried to show you a comparison if you will between the ideas of freedom promoted by our culture of death and the true freedom of the sons and daughters of God. A freedom founded on the idea that we can know the true good of our human nature. The Church has always had great expectations for humanity. She has always held out to the world the hope and belief that we could live out the truth about love. Love is not what Planned Parenthood decides it is. It is not what the President or the Congress or the Court defines it to be. It is not even necessarily what the majority decides it to be. Love has to respect the fact that it is human beings who are called to this love. This love is based upon the love that exists between the Divine Persons of the Blessed Trinity. It is this image that married love reflects. It is a generous love that holds out to the world the promise of real happiness, based upon the idea that there is more joy in giving than receiving.

It is a gift of God to man and woman that, indeed, he has chosen this way to continue the work of creation until the end of time, a beautiful image of his own inner life of communion and love for his glory and for all the world to see.

I ask you here today to keep this love alive in your hearts.—And I thank you. ✠

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## NOTES

<sup>1</sup> Part of this section and the following section on American Legal Theory is a restatement of material found in my article, "Law and Morality: Taking a Theoretical Break from the Norm," *Studia Morali* 35 (1997): 427-443 and 36 (1998): 239-265; reprinted in *National Lawyer's Association Review* (Fall, 1999): 6-8, Part I.

<sup>2</sup> Stanley N. Katz, "Introduction to Book I," *Commentaries on the Laws of England*, Vol. 1, a facsimile of the First Edition of 1765-1769, by William Blackstone (Chicago: University of Chicago Press, 1979), iii.

<sup>3</sup> He also said, "The case is the same as to crimes and misdmesnors (sic), that are forbidden by the superior laws, and therefore stiled (sic) *mala in se*, such as murder, theft, perjury; which contract no additional turpitude from being declared unlawful by the inferior legislature. For that legislature in all these cases acts only, as was before observed, in subordination to the great law-giver, transcribing and publishing his precepts. So that, upon the whole, the declaratory part of the municipal law has no force or operation at all, with regard to actions that are naturally and intrinsically right or wrong." (Blackstone, *Commentaries*, Vol. 1, 54.)

<sup>4</sup> See Jeremy Bentham, *A Comment on the Commentaries and A Fragment on Government*, ed. by J. H. Burns and H. L. A. Hart (London: University of London Athlone Press, 1977), esp. 498-9; and *The Collected Works of Jeremy Bentham*, ed. by J. H. Burns, *An Introduction to the Principles of Morals and Legislation*, ed. by J. H. Burns and H. L. A. Hart (London: University of London Athlone Press, 1970), esp. 11-33. Of Bentham's success D. Baumgardt wrote:

Blackstone, as an adherent of the old doctrine of the law of nature, assumed there exist "eternal immutable laws of good and evil" which "human reason" is able "to discover," and which form the so-called "law of nature" in contrast to the changing laws or moral codes of different communities and different times. . . . Bentham, however, shows in a short but instructive analysis how meaningless these pronouncements are and how little demonstrable is the moral validity of these laws. (David Baumgardt, *Bentham and the Ethics of Today* [New York: Octagon Books, 1966] 93).

<sup>5</sup> In *Morals and Legislation* ([ch. I, sec.2] 11-12) Bentham stated:

By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. . . .

<sup>6</sup> Bentham, *Morals and Legislation*, (ch. I, sec. 3) 12.

<sup>7</sup> It is in vain to talk of the interest of the community, without understanding what is the interest of the individual. A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains. (Bentham, *Morals and Legislation*, [ch. I, sec. 5] 12).

Sum up all the values of all the pleasures on the one side, and those of all

the *pains* on the other. The balance, if it be on the side of pleasure, will give the *good* tendency of the act upon the whole, with respect to the interests of that *individual* person; if on the side of pain, the *bad* tendency of it upon the whole. (*Ibid.*, [ch. IV, sec. 5] 40.)

<sup>8</sup> *Morals and Legislation*, (ch. I, sec. 7) 13 states:

A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.

<sup>9</sup> As D. Baumgardt pointed out, in later life Bentham recognized the difficulties of measuring pleasure and pain. (Baumgardt, *Bentham*, 456).

<sup>10</sup> "The insistence that all law is legislated law," says N. MacCormick, "makes possible the view that all law is changeable, and that is an essential postulate for those who wish to reform the law." Neil MacCormick, *Legal Reasoning and Legal Theory* (Oxford: Clarendon Press, 1978), 60.

<sup>11</sup> We "labor under two connected handicaps whenever we seek to regulate, unambiguously and in advance, some sphere of conduct by means of general standards." The two handicaps are the "relative ignorance of fact" and the "relative indeterminacy of aim." The world in which we live has an unlimited number of features and combinations thereof which preclude the possibility of making rules whose application calls for no further choice. (Hart, *The Concept of Law*, 125).

<sup>12</sup> See, Gary J. Aichele, *Legal Realism and Twentieth-Century American Jurisprudence: A Changing Consensus* (New York: Garland Publishing, 1990).

<sup>13</sup> Aichele, *Legal Realism*, 3.

<sup>14</sup> Aichele, *Legal Realism*, 4.

<sup>15</sup> Aichele, *Legal Realism*, 7.

<sup>16</sup> Added to this, American legal scholars were influenced by theories from Europe that challenged the American law's higher sources and the doctrine of natural rights thought embodied in the Constitution. Austin's positivism became popular in America because it seemed at that time to reinforce the conventional position that interpreters of law exercised only a declaratory function. (Aichele, *Legal Realism*, 8-10).

<sup>17</sup> Aichele states:

A growing dissatisfaction with the deficiencies of the traditional declaratory theory of the judicial function prompted extensive reconsideration of both the foundations and actual operation of the American legal system. . . . Taking the form of a general reexamination of the social position and political function of both bench and bar, leading scholars suggested an entirely new way of viewing the judicial function." (*Ibid.*, 11).

<sup>18</sup> In fact, Holmes became one of the most predominant figures in all of American legal history. According to Aichele, the writing of Holmes

became the starting point for almost all legal writing, providing the foundations upon which a significant superstructure would be built. . . . The great bulk of twentieth-century writing on the theory of judicial function can be viewed as an extended commentary on his legal philosophy. (*Ibid.*, 13-14).

<sup>19</sup> Aichele, *Legal Realism*, 14.

<sup>20</sup> If we want to know why a rule of law has taken its particular shape, and more or less if we want to know why it exists at all, we go to tradition. . . . The rational study of law is still to a large extent the study of history. History must be a part of the study, because without it we cannot know the precise scope of rules which it is our business to know. It is a part of the rational study, because it is the first step toward an enlightened skepticism, that is, toward a deliberate reconsideration of the worth of these rules. When you get the dragon out of his cave on to the plain and in the daylight, you can count his teeth and claws, and see just what is his strength. But to get him out is only the first step. The next is either to kill him, or to tame him and make him a useful animal. (Holmes, *The Path of Law*, 469).

<sup>21</sup> Oliver W. Holmes, *The Common Law* (Boston: Little, Brown and Co.; 1923), 5.

<sup>22</sup> Holmes, *The Common Law*, 1.

<sup>23</sup> Aichele, *Legal Realism*, 14.

<sup>24</sup> Aichele, *Legal Realism*, 15.

<sup>25</sup> You may assume, with Hobbes and Bentham and Austin, that all law emanates from the sovereign, even when the first human beings to enunciate it are the judges, or you may think that the law is the voice of the *Zeitgeist*, or what you like. Even if every decision required the sanction of an emperor with despotic power and a whimsical turn of mind, we should be interested none the less, still with a view to prediction, in discovering some order, some rational explanation, and some principle of growth for the rules which he laid down. In every system there are such explanations and principles to be found. (Holmes, *The Path of Law*, 465).

<sup>26</sup> We must beware of the pitfall of antiquarianism, and must remember that for our purposes our only interest in the past is for the light it throws upon the present. I look forward to the time when the part played by history in the explanation of dogma shall be very small, and instead of ingenious research we shall spend our energy on a study of the *ends sought to be attained and the reasons for desiring them*. (Holmes, *The Path of Law*, 474 [emphasis mine]). See, also, Holmes, *The Common Law*, 1.

<sup>27</sup> Holmes, *The Common Law*, 41.

<sup>28</sup> See Aichele, *Legal Realism*, 20.

<sup>29</sup> The distinguishing thing about Progressives . . . might be called "activism": they argued that social evils will not remedy themselves, and that it is wrong to sit by passively and wait for time to take care of them. . . . They believed that the people of the country should be stimulated to work energetically to bring about social progress, that the positive powers of government must be used to achieve this end. Conservatives generally believed in time and nature to bring progress. Progressives believed in energy and government action. (Richard Hofstadter, "The Meaning of the Progressive Movement," Introduction to *The Progressive Movement 1900-1915* [Englewood Cliff, NJ: Prentice-Hall, 1963] 4-5).

<sup>30</sup> Aichele, *Legal Realism*, 30.

<sup>31</sup> Aichele, *Legal Realism*, 30.

<sup>32</sup> Roscoe Pound, *An Introduction to the Philosophy of Law* (New Haven: Yale University Press, 1922) 98-99 (emphasis mine).

<sup>33</sup> According to Aichele this belief

informed Pound's insistence, that a method of pragmatism replace a method of deduction, and his exhortation that the law balance social interests which maximize social utility rather than simply enforce rules derived from predetermined postulates. (Aichele, *Legal Realism*, 32).

<sup>34</sup> Legal scholar Robert S. Summers has devoted a considerable effort to understand and explain the phenomenon of this change in law. He calls the particularly American legal theory which ensued "Pragmatic Instrumentalism." See, Summers, *Instrumentalism*; See also, Robert S. Summers, *Essays on the Nature of Law and Legal Reasoning* (Berlin: Duncker and Humboldt); and Summers and Atiyah, *Form and Substance in Anglo-American Law*.

<sup>35</sup> Summers, *Instrumentalism*, 19 (citation to publication data for *The Common Law* omitted). He adds elsewhere:

American pragmatic instrumentalism is of distinctive significance, and not just because it has been the most sustained and prominent movement in a major Western society. It is our only indigenous general theory of law and was our most influential legal theory during the middle decades of this century. I do not mean to suggest that instrumentalism ousted all other legal theories, that all its tenets were equally accepted, or even that each of those tenets commanded a majority in all branches of the legal profession. But one can assert that its influence in America exceeded that of any other general body of thought about the law, dwarfing analytical positivism as well as Catholic and secular natural law philosophies. (Historical jurisprudence never did gain much of a foothold in America.) (*Instrumentalism*, 35).

<sup>36</sup> Herman Oliphant, "The New Legal Education," *The Nation* 131 (1930): 495; quoted in Summers, *Instrumentalism*, 60.

# “Catholic” Universities: Independent or Nonsectarian?

by Msgr. Michael J. Wrenn

*These incredibly prophetic words of Msgr. Wrenn previously appeared in Fidelity magazine, March 1987.*

With the publication of the new Code of Canon Law in November, 1983, the Holy Father signaled the final implementation of the reforms proposed by the Second Vatican Council. In order to explain what was intended by the Canons of the Code of Canon Law dealing with Catholic institutions of higher education, the Congregation for Catholic Education issued a draft document containing guidelines for what exactly constitutes a Catholic university.

In doing so, this congregation is carrying out the thrust of the Council in moving the Church into what has been called the post-Constantinian era. (The term “Constantinian era” refers to the effects of the establishment of Christianity as the religion of the Roman Empire, a process begun by the Emperor Constantine.) The Fathers of Vatican II recognized that we had moved into a new era, one in which Christianity was no longer the dominant religion. Just as Dartmouth is no longer recognized as a training school for missionaries ministering to the Indians of New England, or Columbia as *the King’s College* in New York, so the Congregation for Catholic Education in the draft document points out that many institutions established as Catholic are no longer such. For example, the former Good Counsel College in White Plains now calls itself the College of White Plains of Pace University.

The draft document of the Congregation for Catholic Education deals with the places where the names have *not* been changed but the change has taken place.

At the October 25th (1986) Annual Meeting of the Catholic Commission on Intellectual and Cultural Affairs, the theme of which was “Catholic Universities: What Makes Them Catholic?,” the president of Fordham University gave his reaction to the draft document. In his address, “The Catholic

University: Identity and Pluralism,” Father Joseph A. O’Hare, S.J., President of Fordham and the host for the meeting, stated that the issuance of the proposed document on Catholic higher education would be “short-sighted.” He speculated that perhaps this document should not be defended in terms of its doctrinal orthodoxy but rather in terms of the need to support Catholic institutions of higher learning in repressive societies.

Father O’Hare further observed that, if the proposed document were to put Catholic institutions under ecclesiastical authority, Fordham would have to declare, “We are not a Catholic university in the sense of the document or the provisions of Canon Law.” There would be no problem, he said, if the local bishop agreed that the university was Catholic in a sense differing from the Congregation for Catholic Education’s understanding. But if ecclesiastical authority (in this case, John Cardinal O’Connor) requested that Fordham to cease calling itself Catholic, then the university would face morale, identity, and client (prospective student) problems. All of a sudden the ball was being placed squarely in the court of the Archdiocese of New York, with Cardinal O’Connor being drafted as a potential candidate for playing the heavy!

What Father O’Hare forgot to tell his audience is that Fordham itself has *legally* been calling itself *other* than Catholic for almost 20 years. The story of how this happened has been set down in *The Sectarian College and the Public Purse: Fordham, a Case Study*, by Walter Gellhorn and R. Kent Greenawalt (Dobbs Ferry, NY: Oceana Publications, 1970). In retrospect, it is fair to say that this work became the blueprint for other Catholic colleges that would choose to follow Fordham’s lead.

This work was commissioned by Fordham University and is the result of the study and recommendation of Professors Gellhorn and Greenawalt of Columbia University’s Law School as to what Fordham had to do in order to avail itself of Bundy Funds for higher education, by which New York State in the sixties was attempting to save its private colleges and universities. At first it had been

intended to distribute this funding without any question of the religious nature of the institution, just as had been the case with the Federal G.I. Bill of Rights. Unfortunately, it was determined that the New York State Constitution prohibits any aid to religious schools. Hence, Fordham said that it would have to demonstrate that it was in fact not a religious school. (It might be added that not all New York Catholic colleges and universities took this route. The three that did not— and which have survived without this aid— are St. John's University, Niagara University, and Molloy College.)

Back in 1948, Fordham had certified that it was controlled by the "Society of Jesus (Roman Catholic)," thus remaining free to apply religious tests in selecting its students. Writing in the introduction to Gellhorn and Greenawalt's book, Father Timothy S. Healy, S.J., now President of Georgetown University, declared: "In 1948 Fordham University formally filed with the New York State Department of Education a description of itself as a "religious institution."... Twenty years later, after Marshall McLuhan, two small wars and one Ecumenical Council, Fordham just as formally requested that its self-description as a religious institution be withdrawn and that its only denomination be that of "independent university" (p. vii.).

Professors Gellhorn and Greenawalt devote the bulk of their study to Fordham "as it is and as it might be." Although Father Healy referred to Fordham's calling itself an "independent university" in 1968, the authors quote the more accurate self-description when they cite a communication to the New York State Department of Education dated July 19, 1968: "Fordham University now wishes to withdraw this certificate and elects to be considered as [sic] nondenominational institution for the purposes of Section 313 of the Education Law." On November 21, 1968, the State Education Department notified Fordham that its certificate filed under Section 313 was withdrawn.

Gellhorn and Greenawalt speak next of changes in the number of members of the board of trustees, and of how in December 1968 the new President, Father Michael Walsh, S.J., was elected to this office by the board, rather than designated for this post by ecclesiastical authorities as had been the case up until then. Our authors also point out that "nothing in the by-laws of the board of trustees nor any other ex-

press or implied mandate in any of the constituent documents of the University requires that the President (or, for that matter, any other officer or employee) be a Jesuit or a Roman Catholic" (p. 118). They cite the fact that no longer would the president of the university be the rector or superior of the religious community of Jesuits, and thus the rector or Jesuit superior has no power over university matters. Similarly, the president has no more power over religious personnel than over any other Fordham personnel (p. 119). Neither the Society of Jesus nor any other external body within the Church was to provide financial assistance to the university. The individual Jesuits connected with Fordham founded a separate corporation, The Jesuits of Fordham, Inc. Steps were taken to disentangle Fordham and its properties from "relationships that might have ambiguous connotations" (p. 119).

Finally, on February 19, 1970, the New York State Commissioner of Education, Dr. Ewald B. Nyquist, announced that Fordham, Manhattanville College, and St. John Fisher College were eligible for aid, with Fordham receiving \$1,000,000 that year. In the words of our authors, "after careful examination of relevant documents and the report of an outside theologian [a distinguished Protestant professor of theology from Chicago] who studied the university's offerings in theology and philosophy, the Department concluded that Fordham was no longer a *sectarian* institution" (p. 124).

Gellhorn and Greenawalt are extremely fair in citing some truly telling and prophetic excerpts from an article written in *America* magazine by Father Charles M. Whalen, S.J., entitled "Catholic Universities and the Gellhorn Report" (*America*, November 16, 1969, pp. 474-479). Father Whalen, of the Fordham Law Faculty, who had seen an earlier draft of the Gellhorn Report, stated:

Fordham, of course, is only one of many Catholic universities manifesting the symptoms of an identity crisis. Every American Catholic university has serious financial and academic problems. The most important question, therefore, is whether the Gellhorn Report offers an acceptable solution.

*In my judgment, it emphatically does not. I do not see how any university that honestly executed the Gellhorn recommendations could seriously call itself Catholic.* Gellhorn and Greenawalt, understandably misled by the questions they were asked to answer, lost sight of

the real problem at Fordham: not how to change it into another Columbia, but how to develop it into a first-rate Catholic university....

Is Fordham, then, condemned to be second-best? The answer depends on the standard of excellence you choose. If Harvard, Yale and Columbia are the models, then I have no doubt that, in certain areas, Fordham for the present and the foreseeable future is and will be second-best. If, on the other hand, the standard of excellence is that found in the best traditions of Catholic universities throughout the world, I think that Fordham has an enormous opportunity, in many areas, to achieve and maintain the summit.

If only the goal be kept clear, the means can be found. Patience, sacrifice and perseverance will be necessary, as they are necessary to any great enterprise. Let the goal, however, become confused, and no amount of money or talent will make any Catholic university what it ought to be: an intellectual community centered on the Truth that is Christ.

Father Whalen's concerns anticipated by eighteen years the hopes for Catholic education expressed in the draft document of the Sacred Congregation for Catholic Education. Gellhorn and Greenawalt in their report described the recommendations they made toward Fordham's search for an final attainment of independent, nondenominational, and non-sectarian status.

Father O'Hare speculated about the need to speak of the draft document as dealing with the needs of Catholic universities in societies with repressive governments. He overlooks another possibility. The Greeks had a legend in which the sun and the cold wind argued as to which was the stronger. They decided to test their strength on a solitary traveler. First the wind blew harder and harder in order to blow the cloak off the traveler. Needless to say, the wind failed because the traveler pulled his cloak more tightly about him. When the sun in turn demonstrated its strength, it showered its rays upon the traveler more and more warmly. Finally, overcome with heat, the traveler could tolerate no more, and discarded his cloak.

Behind the Iron Curtain there is a flourishing Catholic university in Lublin which has survived 40 years of government repression and lack of support. Here in the United States many Catholic universities, after over 20 years of increasing government support following the Second World War, discarded their Catholic identity almost 20 years ago. They

should not and really cannot object now if the Roman Congregation for Education, like the small boy in the story, is impolite enough to point out that the Emperor has no clothes!

There is one further issue, having to do with the right of Fordham or of any other Catholic institution unilaterally to withdraw itself from the obligation to abide by Church law. Canon law states: "All temporal goods which belong to the universal Church, to the Apostolic See or other public juridic persons within the Church are ecclesiastical goods and are regulated by the following canons as well as by their own statutes" (Canon 1257). United States jurisprudence has traditionally held that persons who freely belong to an organization are obliged by the rules of that organization. If, therefore, Church law lays down norms for the valid transfer of Church property, contravention of such norms would render the transfer invalid even in civil law, if past precedents mean anything.

Not a few American Catholic institutions have been changing the composition of their boards of directors in such a way that the ecclesiastical owner loses civil control of its property. This maneuver constitutes, in effect, the invalid alienation of Church property, because rightful ownership is transferred from the ecclesiastical owner to another without due authorization. All the technical ramifications of alienation cannot be treated here, but one essential requisite is that the alienating party obtain permission from competent ecclesiastical superiors; otherwise the transfer would be invalid, ecclesiastically and eventually civilly (Canon 1292).

The point is that ecclesiastical property is owned by the whole Church, that is, by all the faithful together; individuals and institutions within the Church are merely the administrators of that property and may not dispose of it except according to Church law. Thus it would seem that, if Fordham University or any other Catholic institution, on its own authority, declared itself not to be Catholic, the faithful could bring such an institution before both ecclesiastical and civil tribunals in order to protect their rights as members of the Catholic Church, the ultimate owner of the property at issue. ❧

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by James Hitchcock

The Holy See's Congregation for Divine Worship has demanded significant reorganization of the International Committee for English in the Liturgy (ICEL), which has had major responsibility for the English-language liturgy since the Second Vatican Council.

In a letter to ICEL president Bishop Maurice Taylor of Galloway (Scotland), Cardinal Jorge Medina Estevez, Prefect of the Congregation, charged that the ICEL staff has often been unresponsive to the expressed concerns of the Holy See and that some of its work is unacceptable as an authentic vernacular rendering of the liturgy. He reminded ICEL that it has no authority to compose new prayers and noted that the ICEL staff exercises authority which rightly belongs to the bishops of the English-speaking countries.

The American representative to ICEL, Cardinal Francis George of Chicago, defended Cardinal Medina Estevez's intervention and affirmed that reforms in substance and procedures are needed.

\* \* \*

Cardinal George has established a new liturgical institute in connection with St. Mary of the Lake, the seminary for the Archdiocese of Chicago. The institute will train people in liturgy and serve as a center for research and publication. Its director will be Msgr. Francis Mannion, rector of the Cathedral of the Madeleine in Salt Lake City. The establishment of the new institute was criticized by Gabe Huck, head of Liturgy Training Publications, an agency under Chicago archdiocesan auspices, as a move which threatens liturgical progress.

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Priests of the Archdiocese of St. Louis pronounced as a success a Reconciliation Weekend in early November, during which 62 parishes were designated as centers for hearing confessions on a Friday evening and all day Saturday. Participating priests reported that they had a steady stream of penitents during the weekend.

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Bishops who spoke on the subject at the annual meeting of the American hierarchy were virtually unanimous in urging that the tabernacle occupy a central and conspicuous place in every church. Numerous bishops took the floor to argue that placing the tabernacle in obscure parts of churches has contributed to a decline of belief in and reverence for the Blessed Sacrament.

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The bishops delayed voting on a proposed new document pertaining to liturgical architecture and church design, *Domus Dei (The House of God)*, which would replace the existing document called *Environment and Art in Catholic Worship*. The latter document has been used to instigate major changes in church buildings, including the removal of tabernacles from the main altar.

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Leading liturgists ridiculed the bishops' concerns. David Philipart of Liturgy Training Publications called it "a cheap, easy solution" and claimed that it ignores the ecumenism of the Second Vatican Council. Benedictine Father Aidan Kavanaugh of St. Meinrad's Abbey (Indiana), called the idea "rubbish" and predicted, "If you start gooping up the churches again it will look like a mob scene out of 'Carmen.'"

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Worshippers should not gather around the altar during the Consecration of the Mass, according to Archbishop John F. Donoghue of Atlanta. He called the practice a "liturgical error" which confuses the identities of priest and people.

\* \* \*

Mass *ad orientem* (towards the East), with priest and people facing in the same direction, has been forbidden by Bishop David Foley of Birmingham (Ala.), who has threatened to suspend any priest who engages in the practice. Bishop Foley claims that the eastward position, which has been advocated by, among others, Cardinal Joseph Ratzinger of the Congregation for the Doctrine of the Faith, is forbidden by church law. Bishop Foley stated that his action was motivated by a concern for "novelty and sacrilege."

The only worshipping community known to use the eastward position in the Birmingham diocese was Our Lady of the Angels Monastery, whose abbess is Mother Angelica, head of the EWTN communications network.

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The Holy See has ordered a community of sisters in Sydney to cease operating a "safe room" where heroin addicts could obtain drugs under sanitary conditions. The practice involved unacceptable cooperation with evil, according to the CDF.

\* \* \*

*The National Catholic Reporter* has defended the consecration of schismatic bishops by the Patriotic Church in China, in defiance of the Holy See, on the grounds that the practice whereby the Holy See appoints bishops is an undesirable modern innovation. The paper cited a recent book by retired Archbishop John R. Quinn of San Francisco in support of its position.

\* \* \*

Despite a ruling by the Congregation of the Doctrine of the Faith that Salvatorian Father Robert Nugent and Sister Jeannine Gramick, a School Sister of Notre Dame, must desist from all pastoral activities among homosexuals, both continue to speak publicly on the subject and to criticize the Vatican decree. Bishop Joseph A. Fiorenza of Galveston-Houston, president of the American bishops, rejected a petition in support of Nugent and Gramick signed by over 4000 people. Bishop Fiorenza stated that the CDF's decision was based on an accurate view of Nugent and Gramick's activities.

\* \* \*

Father Peter Liuzzi, director of "gay and lesbian ministries" for the archdiocese of Los Angeles, has expressed public disappointment at the fact that the dioceses of California, including Los Angeles, have given monetary support to a campaign to define marriage in law as exclusively a relationship between a man and woman.

\* \* \*

Bishop Thomas Daily of Brooklyn has characterized as "chilling" a growing rash of church vandalisms in his diocese. Similar acts have been reported in other parts of the country.

\* \* \*

The British House of Lords, whose continued existence is in doubt, rejected a proposal to amend British law to allow Catholics to ascend the throne, a proposal opposed by Prime Minister Tony Blair but supported by many Protestants. Catholicism is the only religion whose adherents are explicitly barred from the throne, a law dating from the time of the Glorious Revolution of 1688, when the Catholic James II was overthrown.

\* \* \*

The official document *Ex Corde Ecclesiae*, governing Catholic colleges and universities, has no relevance in the Archdiocese of Cincinnati, according to Archbishop Daniel Pilarczyk, a former president of the American bishops. The archbishop told the media that he has been meeting with Catholic educators in his archdiocese for a number of years and is unaware of any rejection of Catholic teaching.

Among theologians in the Archdiocese of Cincinnati is Xavier University professor Paul Knitter, a major figure in the move to relativize Christianity in the face of other world religions, who regards much of the New Testament as historically unreliable.

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Sister Wendy Becket, a well-known English television personality who comments on art, has not officially been a Catholic religious since 1970, when she left her Notre Dame order. Sister Wendy wears a religious habit and lives on the grounds of a Carmelite convent but has no canonical standing as a religious, according to a report in *The Wanderer*.

\* \* \*

Bishop Karl Lehmann of Mainz, president of the German bishops' conference, suggested in a radio interview that Pope John Paul II will resign if he is unable to carry out his duties. Subsequently Bishop Lehmann said he did not intend to advocate that the Pope resign. Dissident theologian Hans Kung praised Bishop Lehmann for his remarks. The German hierarchy have been in tension with the Holy See over the German Church's practice of granting certificates to women seeking abortions, certifying that they have received counseling.

\* \* \*

Cardinal Carlo Montini of Milan, leader of the liberal faction of bishops at the Synod for Europe last year, has repeated his call for "shared governance" in the Church at all levels and raising the possibility of a Third Vatican Council.

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Pope John Paul has urged bishops to exercise caution and restraint in speaking to the media.

\* \* \*

Officials of Dialogue for Austria, a dissident group which last year won international attention for its stands against official Church teachings, has complained that the Austrian bishops have ceased their willingness to dialogue with the organization and that the media also have lost interest.

\* \* \*

A police investigation in Santa Rosa (Ca.) concluded that retired Bishop Patrick Ziemann mismanaged \$16 million in diocesan funds but that no criminal charges would be filed.

\* \* \*

Tobias Meeker, the official medical-moral ethicist at St. John's Hospital in Springfield (Mo.), told the press that he considers himself a Buddhist as well as a Catholic and that he is unconcerned about issues which Buddhism considers "nonessential," such as the existence of God or whether God created the universe. The Catholic concept of God as all-powerful makes God "a monster," according to Meeker, who asked, "How could you worship a god like that?" ☩

Dennis Smith,  
*A Song for Mary.*  
 Warner Books, 1999.  
 369 pages. \$24.95.

Reviewed by Msgr. George A. Kelly

**A** *Song for Mary* is a good book for Catholics who are looking for an author who celebrates his family background and his faith without hiding the hardships or demands of either. Unlike some other authors, Dennis Smith likes being the son of an Irish Catholic mother and of the Church.

This is an account also of one man's rise to literacy (nine books, four best sellers), a man still comfortable with his Irish-American Catholic roots. He is a far cry from his grandfather who described the old country this way: "Dey was ten o' us ind a room and dare was a lot less meat dare den music." Warner Books, the publisher, would enhance Dennis Smith by claiming that he writes in the tradition of Frank McCourt (*Angela's Ashes*) and Pete Hamill (*A Drinking Life*), but Smith is himself a far cry from authors like them, who gain fame at the expense of their Irish Catholic identity. This author does not hide his early poverty or the foibles of his co-religionists, including those of his mother. He exudes joy and humor, faith, hope and charity in every chapter.

In brief, *A Song for Mary* tells about a child's life in a four-story walk-up, in a family without a father during his growing years, in a neighborhood where weekly salaries averaged \$35.00 at Dennis' birth, in a parish which unsurprisingly owed its existence to a brewmaster (Peter Doelger), and kept together with the likes of his mother's "Sunday nickel in the sacrifice box." Here is a mosaic of fifty-four chapters, hardly one of

which is longer than four pages. It is scarcely a novel, but reads like one. A good read. The tale of a boy who learned how to fight before he acquired the King's English, dragged up literally by a mother who, having lost her husband to a hospital, effectively taught her son the Irish culture and its Catholicity, and was elated when Dennis reached the noble estate of N.Y.C. Fireman.

But most of all, *A Song for Mary* deals with Mrs. Smith and how she raised two literate sons—though virtually husbandless—while on the welfare rolls, and housecleaning fancy Sutton Place apartments for pin money, even when she was sick and tired. Mother Smith didn't know Carl Rogers, nor did she read Sigmund Freud, but she could dialogue with her sons about the catechism, even about the Holy Ghost. She believed that the world was God's, and that her sons needed to fit into his demands. Her faith, etched into the marrow of her bones, begot its own common sense. Since God rewards the good and punishes the bad, she could do no less, and she delegated the punishment part of the human deal to no one, not even to the nuns. She carried her crosses well and insisted that her sons do the same. She gave little credit to excuses or rebellions. Being on welfare was no fun, she said: "it was like eating sugar sweet to the taste, but bad for one's health." She told her son bluntly, "You should get a job."

The genius of this lady is encapsulated in one chapter of a mere 87 words:

My mother is holding me in her arms. I am eleven years old and my mother is holding me in her arms like I was two. She is sitting on a kitchen chair, and she is just staring at a hole in the kitchen door, and she is rocking. Billy is standing next to her with his

hand on her shoulder.

"I just have you two guys," my mother says, wiping a tear off on the shoulder of my undershirt, "I just have you guys to help me."

Her impact on her son—and undoubtedly others—was dramatically expressed at her funeral when on impulse Dennis rose at Communion time to seek permission to say something about his mother's life. In due course, the priest allowed him to say this to the mourners:

"The true epitaph is not the message epitomizing a person that is etched into a headstone, but the memory that resides in the swelling of the heart. So I ask you to remember Mary like this."

Mother Smith could be loving when a boy as impish as Dennis got "a whack with the pointer across the back of my pants" from Sister Maureen. He received no sympathy from Mama, who simply said: "She was right. You have to learn to control yourself or you'll never get out of trouble."

The book has a few other *bon mots* from several of the actors, which explain why it interested me:

"I am seven years old and I know the difference between right and wrong;" "Confession is great, because if you did wrong you can just say it in confession and then forget about it;" "My mother gets on her high horse sometimes, and she would tell off the Queen of England if she wanted to;" "I love talking to God because I know he cares about me just like my mother does. But I worry that he has too many people talking to him at the same time, and doesn't have time to get to me;" "I was given a second chance. I don't know where that another chance came from, if it didn't come from God;" "If there is anyone to thank for getting me through to where I am, it is my mother."



Those Americanists who deprecate "the office of motherhood" (the literal meaning of *matri-mony*) as a divine vocation will have no idea what Mrs. Smith or her son are singing about in *A Song for Mary*.

*Msgr. George A. Kelly is President Emeritus of the Fellowship of Catholic Scholars.*

***Philosopher at Work: Essays by Yves R. Simon.*** A.O. Simon, ed. Lanham, Md.: Rowman & Littlefield Publishers, Inc., 1999. viii + 217 pages.

*Reviewed by Dr. Jude P. Dougherty*

One must be grateful to Anthony O. Simon for collecting and editing these essays by his distinguished father. Any one of them would be worth the purchase of the book. In an essay entitled "The Philosopher's Calling," Simon declares, "Generally speaking, the human mind is not at its best in philosophy." That said, as if to refute his dictum, Simon goes on to show his readers what a mind respectful of a tradition that dates to Plato and Aristotle can say about the human condition. Successive chapters, among others, are entitled "The Concept of Work," "Nature and the Process of Mathematical Abstraction," "On Order in Analogical Sets," and "An Essay on Sensation."

Simon (1903-1961) was born in Cherbourg and educated at the Sorbonne and the Institut Catholique de Paris. He taught for many years in Paris and Lille before coming to the United States. When Paris fell in 1940, he was a visiting professor at the University of Notre Dame. He remained in the States, teaching at Notre Dame until 1948 when Robert M. Hutchins as Chancellor of the

University of Chicago appointed him to the Committee on Social Thought, where he taught until his death thirteen years later. Simon's years in America were undoubtedly his most productive, resulting in some of his most notable works, *Nature and Functions of Authority* (1940), *Philosophy of Democratic Government* (1951), and *A General Theory of Authority* (1962). All three remain in print.

As a metaphysician Simon stands in the tradition of Aristotle and Aquinas. For him political philosophy is not a logical exercise grounded in some imaginary set of assumptions. Philosophy is the pursuit of both speculative and practical wisdom.

Disagreement among philosophers, he notes, is to be expected, but is not intolerable. We cannot expect in philosophy the same consensus that exists in the natural sciences. "The urge to perform the unprecedented is not peculiar to the philosopher;" although too often it militates against objectivity. The teamwork that brings so much comfort to the scientist is rarely possible in philosophy. The work of the philosopher is done for the most part in solitude. But "a philosopher who has succeeded in communicating his inspiration ... and who has experienced the joy of a friendship born of such communication will always feel that if he had to choose again, philosophy would be his calling."

Yet there is more at stake than personal satisfaction. The habits of intellect and will make up the cure of culture. Having identified with the *philosophia perennis*, Simon's insights themselves are timeless.

*Jude P. Dougherty is professor and dean emeritus of philosophy at The Catholic University of America.*

***The Winning Side: Questions on Living the Culture of Life,*** by Charles E. Rice. Mishawaka, IN: St. Brendan's Institute, 1999. xv + 373 pp. Index.

Charlie Rice already loomed large in the pro-life cause early in his career and he has been getting larger all the time. There is no more eloquent and incisive spokesmen for the legal and moral doctrine that undergirds what John Paul II has called the Culture of Life. The doctrine is a positive and liberating vision of the human person which gives rise to a conception of law which promotes uses of freedom which enhance human dignity. The morality is at once natural and supernatural; Rice is a professor of law, not a theologian, and he uses Church doctrine as the support and illuminator of natural morality. In a series of books notable for clarity and precision, Rice has helped his fellow Catholics understand and celebrate the moral teachings of their Church.

The Culture of Life has as its opponent the Culture of Death. Rice minces no words when he discusses the inroads that deadly culture has made in the country he honorably served as a United States Marine. His analysis and criticism of court decisions and his mordant judgment that the American Republic is no more do not lead to despondency. Only when one understands the opponent can one deliver the decisive blow, as the author, a sometime pugilist, might put it.

The book is divided into two parts, the problem, and the solution. The style is one Rice has used in previous books, but brings to perfection in this one. Like his mentor, Saint Thomas Aquinas, he emphasizes that positions represent answers to an underlying question. So why leave the question implicit? Each part

of the book consists of chapters headed by a specific question, the practical import of which can be lost on no one. The following samples will provide a foretaste. "What did the Supreme Court do in *Roe v. Wade*?" "How did secularism become the official religion of the nation?" "How did abortion become a private choice beyond the law?" "Why is contraception the decisive issue?" "Can we be pro-life and support capital punishment?"

Rice's position on that last question has changed in response to what he takes to be the implications of *Evangelium Vitae* and the revised relevant paragraphs of the *Catechism of the Catholic Church*. This change reveals a man always intent on having a mentality in accord with the teaching Church. The issues he discusses are legal and moral, but Rice emphasizes that the real answers, the ones that count, are spiritual. It is not simply a matter of winning an argument. Rather, it is one of saving souls.

Call this book Rice's *Summa*. It should be in the hands of every Catholic who wants to know what the Church teaches, to understand why she teaches it, and how to defend it against the Culture of Death. The book's final question is, "Are we *really* on the winning side?" No one can doubt the answer provided, and lived, by the happy warrior, Charles E. Rice.

Ralph McInerney

***Catholics and American Culture: Fulton Sheen, Dorothy Day, and the Notre Dame Football Team***

by Mark S. Massa  
New York: Crossroad Publishing Company, 1999. 269 pages.

Reviewed by Timothy L. Smith

The focus of this book is the period of transformation in American Catholicism from the end of the Second World War and the opening of Vatican II. Taking up the theme of irony in American religious history from Reinhold Neibuhr's *The Irony of American History*, Massa argues convincingly that the "heroes" of American Catholics were in fact "Americanizers." Far from being threats to American freedom or other American cultural values as Paul Blanshard's best-selling *American Freedom and Catholic Power* would have us believe, Catholics after the war to a large extent fell all over themselves in their rush to embrace American culture. They moved from the margins to the mainstream of American culture, "even making

claims to being the 'last, best hope' of liberal democratic values in the 'Redeemer Nation.'" As Massa reveals, however, what is gained in this shift is far removed from what was desired.

Massa charts the progress (loosely used) of American Catholicism in the post-War period through the lives of its heroes: Leonard Feeney, Thomas Merton, Joe McCarthy, Fulton Sheen, Dorothy Day, John F. Kennedy. These heroes in a very ironic way were actually competing for the "American" designation and contributed mightily to the mainstreaming of Catholicism. The election of Kennedy served only to prove the fact of the transformation: Catholics were now the insiders of the "city on a hill," the guardians of the culture "too easily loved." Unfortunately, rather than returning to specifically Catholic values and to the heart of Catholic teaching, principles of egalitarianism, middle-class affluence and ultimately crabgrass became overriding concerns. In its lack of praise for such changes in American Catholicism, this work offers a sober alternative to Robert

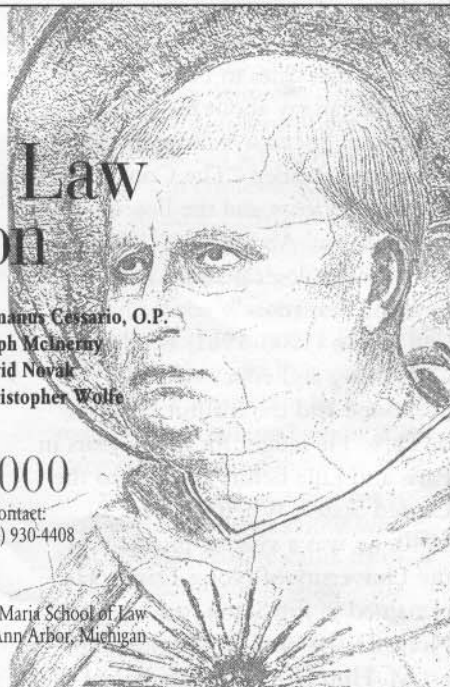
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Burns' triumphant *Being Catholic, Being American* published in the same year.

In each chapter, the author proposes a particular interpretive tool for understanding the events under consideration. For example, for his interpretation of the Boston heresy case, the author employs the boundary theories of a cultural anthropologist, Mary Douglas. Douglas' theory reveals the way this particular event provided the opportunity for the boundaries between "insiders" and "outsiders" to be redefined. Feeney's teaching on the dictum "outside the Church, there is no salvation" (*extra ecclesiam nulla salus*) was, according to Massa, closer to official dogmatic statements from the Reformation onward than was the interpretation of Feeney's "liberal" Catholic opponents. Yet when all was said and done in this case, the very defender of that position was excommunicated. Feeney's teaching simply no longer cohered with the changing construct of Church identity. To be sure, Feeney was officially denounced by Rome for lack of discipline. Nevertheless, the boundary defining "those in communion with Rome" was in the process greatly enlarged. With the expansion of such categories as "implicit desire" and "invincible ignorance," the "insider" group came to include practically every American, even those with no desire whatsoever to be in communion with Rome. According to this reading then, the avowed "insider" was ironically condemned to the "outside."

In a similar way, Massa interprets the impact of Thomas Merton on American Catholicism according to a developmental theory. Through this interpretive lens, the author views Merton as a cultural paradigm whose personal, ideological solution to a common crisis provided a pattern for others. Merton's solution to his "identity crisis" involved sloughing

off the cramped, narrow world of the Catholic "ministate." His new intellectual model for American Catholicism, his call for serious reflection and his new appropriation of ancient ideas announced to the country that Catholics were the "real insiders to the life of the mind and the peaks of spiritual sophistication." The irony here, according to the author, is that American Catholicism's postwar "identity crisis" found its resolution not in sacramental models of Christianity but in the "democratic and perfectionist preserve of spirituality." More ironic still, Merton's own work became popularized as one more "therapeutic" spirituality next to Peale's and Liebmann's. Failing to convert the multitudes to the radical demands of Cistercian monasticism, Merton gave real legitimacy to a sophisticated spirituality for aspiring middle-class Catholics.

Massa goes on to argue, however, that it was only with the work of Fulton Sheen, specifically his television show "Life is Worth Living," that American Catholics truly found a place at the center of culture. The author locates Sheen's success in his shifting of the dominant paradigm from Niebuhr's "Christ above Culture" to one of "Christ of Culture" in which Christianity acts as the guardian of human culture. This model does not demand that one leave home and family but instead brings Christ into human associations as the presence of grace. In offering what many took as general religious pronouncements, Sheen improved the image and reputation of the Catholic Church in the general culture. Of course, some objected that there was in these pronouncements something too popular and too simplistic to provide a solid foundation for lived Catholic faith. Indeed, his "peace of soul" message all too easily fit into the mold of "religion-as-pop-psychology." According to Massa, on the

other hand, the effect should not be confused with the thing itself. Sheen was "relentlessly Catholic" and in fact offered a solid view of reality true to his neo-scholastic formation. What many in his audience took to be ecumenical "chats" was in reality natural law Thomism dressed up in "homely metaphors" and stories.

With these chapters on Merton and Sheen, it becomes evident that the author's argument involves an unusual assumption. He notes in these and other chapters that the "event" under discussion is a product of the times, or rather demanded by the times. There is a necessary character about each one of these episodes in light of the then current state of affairs in postwar American Catholic experience. Moreover, the actions of the protagonists are absorbed into the larger context in a way often directly contrary to the protagonists' intentions. The principle of irony ultimately flattens out cultural development in so far as such "heroes" are not movers but themselves moved. This ironic reading presumes that such "heroes" exerted no positive influence—their intentions were thwarted and even reversed. I wonder then to what extent the actors are still actors in this case and not mere "expressions" of the wider culture? Massa's own tendency to speak of Merton and Sheen in particular as culturally demanded figures suggests that they are not in fact causes in any profound sense. According to the author, for instance, Merton experienced instant popularity precisely because Catholic intellectual and ecclesial leaders "had sought to prove how thoroughly *American* their religious tradition was." Rather than making waves, it would seem that such figures as Merton and Sheen, according to this reading, were only riding them.

Massa's portrait of postwar American Catholicism suggests that every one of these persons and

events was “just what America needed” at that time, even predictably so. An interesting example concerns the author’s interpretation of Dorothy Day and her Catholic Worker movement according to Victor Turner’s theories concerning “rites of passage.” The author measures the importance of Day according to the way she contributes to such a passage for American Catholicism. To be sure, Day and her followers did in fact oppose the emerging “suburban captivity” of the Church, but she also rejected the older “ministate” model of Catholicism. Hers was a righteous nonconformity. And according to the author, her protest was one of the most revered paths of “Americanization.” Day mingled the American tradition of localism with the “mystical/social” tradition of Chesterton and St. Therese of Lisieux to construct her anti-structural gospel—a typically American call to fidelity by “returning to the roots.” Yet the result of this “rite of passage” in which Day played a crucial role was neither the reconstruction of a Catholic culture nor the emergence of a personalist model of Catholic social works, but ironically, a Catholicism that reflected the political and social divisions of American culture. Her “radical” call to pursue the good of the poor and marginalized as a way of returning the Church to its center ironically led to the polarization of traditionalists and accommodationists in that very Church. Day is then, according to Massa’s reading, the most American of these Catholic “heroes.” She is also most obviously a product of the times, and a virtual cliché of American religious history—the righteous non-conformist—seeming even to disdain popularity and masses of followers, the very lack of which serves to prove her nonconformity.

Massa’s ironic reading of postwar American Catholicism is undoubt-

edly interesting and, at times, compelling. The reader will certainly gain a better sense of the stakes and terms in contemporary debates on the Church’s proper attitude to the wider culture. Massa is solid in his assessment of the ultimate effects of the mainstreaming of Catholicism in America at mid-century. The shifting views of identity, boundaries and roles in American Catholicism provide the framework for interpreting the greatness and failure of Merton, Sheen, Day and others. The physical structure or proximity of the Catholic community, the perception of Catholics by the wider culture and Catholics’ own self-perception were stronger determining factors than the actual teachings of the most popular preacher or writer. And as it bought into wider culture phenomena, postwar American Catholicism has indeed allowed itself to be shaped from outside.

The implication of such a reading, however, is that what have typically been seen as major causes in cultural development are actually effects or at least no more than an indications of changes already present. According to this reading the inability of these major figures to influence the larger group, or society as a whole, reveals a profound impotence. As the author demonstrates, the wider culture often appropriates the work and words of these figures for alien and even contrary uses. For example, Merton wanted to offer an alternative to dry intellectualism but himself contributed to it. Sheen proposed a deeper view of the human condition to counter the shallow pop psychology but was himself received as another of its prophets. Day sought to bring the right and left back together at the heart of the Church’s work but instead pushed those two poles farther apart, making the rift virtually unbridgeable. Seeking non-conformity, Day in fact embodied perfect conformity with

the a growing popular movement of radical anti-structuralism.

Certainly with the election of Kennedy and the national prominence of the University of Notre Dame in the 1960s, Catholicism had achieved the mainstream in American culture. Gone forever was the “ghetto mentality” that informed Gary Wills’ “Memories of a Catholic Boyhood.” The modern transformation of American Catholicism began long before Vatican II and cannot be blamed solely upon the Council, and Massa is right in extending the arena of investigation. Yet the issue of culture and the Church’s relation to it as pursued in this book raises a deeper question:

If the “Christ” in the phrase “Christ and Culture” is defined by the Catholic Church, and not by Protestant sects as it was in Niebuhr’s well-known book of that title, then should we interpret the possible relations of that “Christ” to the culture in the same way? Is the dichotomy so strict as Niebuhr makes it out to be? In the later Middle Ages, for example, the Church dominated the culture and even defined it.

Moreover, the culture in question here, the American one, is not without its roots in the ancient Christian tradition. Massa’s most “American” persona in his study is the righteous non-conformist, Day. Yet it would not be difficult at all to see the parallels between Day and various biblical prophets, the ancient monastics who fled the Romanized Christianity of the first centuries, and even St. Francis, all of whom called the Church back to its center and stood apart from the crowd physically and spiritually. Indeed, it does not appear that Catholic Christianity is inimical to all democratic or American principles. St. Paul’s teaching on the unity of the body of Christ, on the equality of all before the impartial judgment of God, on the need for masters to be just and fair to slaves and

even to receive them as brothers in Christ does not present us with a clear contradiction between egalitarian principles and a hierarchically ordered society or Church.

This is not to say that American culture is Catholic or even Christian in any real sense, however. What is meant here is that the sacred/secular dichotomy is only one part of the relation between Church and culture. As Massa pointed out in his discussion of Kennedy, it was seen by all as an anomaly for any American to claim the total separation of religious belief

from the fulfillment of public service. There is no question that American Catholicism today embraces more aspects of American culture than in the first half of the century. And yet the relation of the Church to the wider culture involves at the same time both an aloof stance in radical non-conformity and an intimate involvement both criticizing and blessing what it finds there, all the while suffusing the culture with grace. The richness of the Catholic tradition with its monks and bishops, ascetics and intellectuals is not so easily ex-

plained as Niebuhr's model would suggest. Further, beyond the issue of accretions to and developments in a religious tradition, the more important question concerns what was lost. For the answer to that question, one must turn to the post-Vatican II period, not to the "Americanizers" but to the "Dissenters."

*Timothy L. Smith is a post-doctoral fellow in theology at The University of Notre Dame.*

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*When You Hurt.* Lou Torok. x + 83 pages. \$4.95 paper. ISBN 0-8189-0874-2

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*The Renovation Manipulation.* Michael S. Rose. iv + 161 pages. \$12.95 paper. ISBN 0-9676317-0-4

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*A Student's Guide to Philosophy.* Ralph M. McInerny. 75 pages. \$5.95 paper. ISBN 1-882926-39-0

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## Itching Ears

**S**top Itching Ears." This sign, seen in a doctor's office, was not as one might have supposed a reference to St. Paul's remarks to Timothy. But then Paul's metaphor is based on the ailment my doctor offered to cure. "For the time will come when men will not put up with sound doctrine. Instead, to suit their own desires, they will gather around them a great number of teachers to say what their itching ears want to hear" (2 Timothy 4:3). There is an urgency in itching that seeks relief in scratching, which often increases the difficulty. Scholars are often insufficiently aware that the activity in which we charac-

teristically engage can take a corrupt form.

Paul warned the Colossians not to be led astray by philosophy, but of course it was not philosophy properly pursued that he had in mind. In matters of faith, the tendency to make one's own lights the ultimate arbiter of truth produces the ailment Paul refers to. A good thing gone bad is all the worse. *Corruptio optimi pessima*. The Catholic scholar's heroes and models had a salutary sense of both the range and the weakness of human reason. And they saw the pursuit of truth in the context of the ultimate purpose of human life. The natural desire to know can be corrupted by other desires. Pride goeth before a fall. And there is a pride of lions who go about the world seeking whom they might devour. When our ears itch, we should not scratch, but see our doctor. RM

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