

Dennis O'Brien

Divorced from Reality

A Church That Can and Cannot Change

The Development of Catholic Moral Teaching

John T. Noonan

University of Notre Dame Press, \$30, 284 pp.

On May 5, 1888, Leo XIII issued the document *In plurimus* addressed to the bishops of Brazil on the "happy event" of the legal abolition of slavery in that country. He noted that human beings were born free but as penalty for sin they had been subject to slavery. The Christian attitude toward slavery was marked, said Leo, "by great gentleness and humanity" in contrast to pagans who treated slaves with "cruelty and wickedness." Popes since the time of Gregory I "did their best for slaves." Catholics were urged to follow the model of Peter Claver (canonized also in 1888) who had labored to help slaves in Cartagena, South America's principal slave market.

Leo offered no evidence that Christian slavery was different from pagan slavery. He accepted the traditional teaching that slavery was a punishment for sin without explaining how that penalty was visited on the children of slaves. He failed to mention that Gregory I owned slaves. Omitted was Nicholas V's bull *Romanus pontifex* (1452) granting the right to the king of Portugal in his new colonial domains to "reduce [pagan] persons to perpetual slavery." Finally, Leo failed to note that while Peter Claver provided sustenance to slaves, he never criticized slavery or the trade in slaves.

In *Veritatis splendor* (1993), John Paul II declared slavery a clear case of "intrinsic evil" as the moral tradition of the church attests. No wonder Andrew Greeley has opined that the Catholic Church "reforms by amnesia."

The account of *In plurimus*, which for the first time put the papacy on record against slavery, is succinctly recorded in John Noonan's immensely valuable and scrupulously researched (fifty-eight pages

of citations) record of how Catholic moral teaching has altered over the centuries. He also repairs the historical amnesia of the document through a detailed review of theology, canon law, and papal pronouncements on slavery over the centuries. Slavery may be the most exemplary case for change because of the firm conviction of the present age that it is a practice which "never, under any conditions, can be held to be a response congruent with the dignity of the person" (quoting *Veritatis splendor*). Noonan casts an equally perspicacious glance at the tangles in the moral history of usury, the right of religious freedom, and the curious contradictions in the developing Catholic attitude toward divorce. In none of these histories does the papacy shine as a beacon of moral insight. He concludes this history of significant change with a prudent assessment of what can and cannot be expected from moral argument—even from a divinely inspired church.

The historical course of moral thought may be tragic, comic, or simply bizarre depending on the issue involved. Slavery and the repression of religious freedom by fire and the sword qualify for the tragic muse. Usury has overtones of comedy. The problem with charging interest on money was that it was "unnatural." Money, being an artificial thing, could not breed. When a burgeoning money economy began to emerge at the end of the Middle Ages, the first ecclesiastical response was legal trickery (a form of legalese called "the German contract") which, as Noonan comments, would do credit to an Enron accountant. A series of investment commitments, charges, guarantees, and whatnot ended by creating the "5 Percent Contract" guaranteeing that amount of interest on the loan-that-was-not-a-loan. Official condemnation of usury and attendant elegant subterfuges marked the history of moral doctrine for several centuries. By the nineteenth century, however, if penitents asked about usury in confession,



"I was afraid of this—the rule of law!"

Baloo

Rome advised "*Non esse inquietandum*": "Do not disturb." Having vanished from the confessional, usury vanished from the church's moral agenda, emerging only as a faint echo in John Paul's urging for-giveness of third-world debt.

Divorce may be the most interesting case since it seems a work in confusion—if not in progress. John Paul II has been a staunch defender of the indissolubility of marriage. In the current *Catechism of the Catholic Church*, divorce is labeled "a grave offense against the natural law," a judgment which is "a sure norm for the teaching of the faith." The actual history of this "sure norm" is more complex, far from "sure," and more than a little bizarre.

The problem starts with St. Paul. He opined that if a woman converts to the faith and then the unbelieving husband separates, "let him separate." ("Neither a brother or a sister is enslaved in such matter" [1 Cor 7:12-16].) This is the scriptural warrant for the "Pauline privilege" which allows remarriage in the event of such a separation. Paul does not, though, say that remarriage is licit; he is only saying that separation is allowed. It wasn't until AD 380 that a Roman lawyer interpreted Paul in such fashion that the first marriage was dissolved, thus opening the way for a new marriage. Whether that was what Paul meant, the ruling was clear enough. But you never know what history may turn up. When the missionaries went forth in the great age of discovery, they were frustrated by the fact that polygamy was an obstacle for the conversion of native peoples. Which of the wives of the polygamous chief was the proper wife? Rome ruled the first spouse, but in 1535, Paul III allowed that if the chief could not remember which was the first wife, he could choose among the lot. As Noonan dryly remarks: "The bull helped chiefs with poor memories." Then there was the problem of slaves whose marriages were broken when one of the partners was sold and transported to a remote locale. Assuming that the slave converted and wanted to marry, Gregory XIII ruled that this was acceptable so that the convert might "persist in the faith." (The wishes and religious

status of the distant partner were not an issue.)


Ruling "in favor of the faith" as in the case of the marriage broken by slavery has had broad play in the recent years. Despite the "natural law" that marriage is indissoluble, successive popes from Pius XII on through Paul VI were quite prepared to regard a prior marriage to a non-believer as dissolved if the Catholic party now wished to remarry and practice the faith. The logic of the situation is a mess:

marriage is indissoluble (natural law: what God has joined no man can put asunder) but marriage can be dissolved "in favor of the faith." On what authority? Some canonists argued on the pope's authority as "vicar of Christ," because the pope, being something more than a man, can put asunder a marriage! The theology behind dissolution "in favor of the faith" is so curious that there has been a definite attempt of late to restrict the practice and to keep it relatively un-

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known. However one comes out of the tangle of theology and canon law about "in favor of the faith," it does seem that Noonan's conclusion is accurate: "The present practice implies that most of the marriages of the world (since they involve one or more nonbelievers) are not indissoluble." It would seem that the only really indissoluble marriages are those between two believers. When a tradition gets into such confusion, development of moral doctrine should be on the way.

Noonan ends by offering appropriately judicious remarks about how moral argument proceeds. By analogy; but does the analogy fit? Balance; but what is the right balance of values? Logic; but is the major premise true? Experience; but whose experience? The last is vital: no matter how neat the logic, how persuasive the analogy, one needs to look to the experience of those affected by the ruling. The sixteenth-century Dominican Bartolomé de las Casas is one of the heroes in Noonan's history because he considered slavery from the experience of slaves and found it profoundly immoral.

The popes are said to be "infallible in matters of faith and morals." Faith, maybe, but on the historical record at least, the ordinary magisterium has been quite fallible on morals. If one accepts Noonan's characterization of the way in which moral thought proceeds, it would seem that the morality game cannot be infallible; in moral argument one cannot always have the winning hand. New situations and new experience defy analogy and logical deduction. The fact that infallibility is not a possibility in moral thought does not mean that one should abandon the effort. On the contrary, it is the overwhelming importance of morality combined with the complexity of the issues that demands the kind of honest review exemplified in Noonan's trenchant historical account. An overall conclusion might be that the Catholic Church is an institution which believes in tradition but not in history. But if history without moral tradition is blind, moral tradition without history is empty. ■

Dennis O'Brien's most recent book is *The Idea of a Catholic University* (University of Chicago Press).

Thomas Baker

Calls to Action

Faith That Dares to Speak

Donald Cozzens

Liturgical Press, \$19.95, 138 pp.

Common Calling

The Laity and Governance of the Catholic Church

Stephen J. Pope, editor

Georgetown University Press, \$26.95, 272 pp.

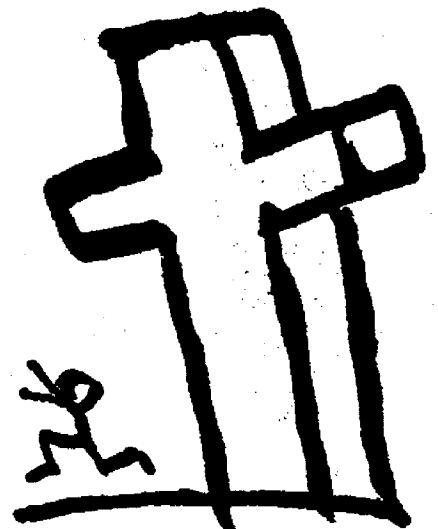
It happens so frequently that most of those involved in the church no longer find it as discouraging as they should. Recently, in a single week, I attended three meetings—one in a parish, two at the diocesan level—where at least one participant prefaced some remark with: "I can't say this publicly, of course, but..." (here insert opinions related to, say, the priesthood, liturgical translations, or presidential politics). As in a tightly run corporation, every level in the church hesitates to antagonize the next level up—and, as often happens in such cases, in the process only weakens the organization it is trying to protect.

Given a church structure offering few settings for honest talk, I had high hopes for Donald Cozzens's latest book, *Faith That Dares to Speak*. Cozzens, a former seminary rector with wide acquaintance among American bishops, has set his own examples of forthright speech with his previous books, most notably *Sacred Silence* and *The Changing Face of the Priesthood*. Here, he again paints a distressing picture of a church in denial, a feudal hierarchy where obvious facts and urgent problems remain undiscussed out of loyalty, ambition, or arrogance. Little has changed, Cozzens says, in how the church is governed since the eruption of scandals involving sexual abuse. Despite some bishops' eagerness to classify errors in that area as "history," a fading priesthood, accelerated parish closings, and mounting financial crises are signs of even broader problems.

In the midst of such urgent issues, I was hoping for something more than

Cozzens delivers. *Faith That Dares* adds little to the vivid indictments of church culture he has made in his previous books. In addition, while he wants Catholics to lose their traditional fear of church authorities, a drone of rather mournful victim language occasionally seems to set us up as more oppressed than we actually feel. In just one four-page stretch, he decries the *exile, deep pain, grief, anguish, deep grief, grieving, and lament* of those who feel unheard or ignored by the church. Many Catholics are more frustrated and offended (or perhaps even bemused) by their leaders than these words might suggest, and are ready to hear, not just that they are called to speak up, but to whom and how they might do that most usefully.

Cozzens clearly did not set out to write a political tract, and he wisely reminds Catholics to shun the unbending "willful" anger that seems to motivate so many of the church's guardians of the status quo. He offers welcome praise for specific people and publications (including *Commonweal*) that have made effective statements of criticism and suggestion, but the balance between problems and opportunities still seems too tilted toward restating the former. (Do we really need to hear about Galileo again?) Cozzens remains one of the church's ad-



Charlot