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A Response to John T. Noonan, Jr. Concerning the Development of Catholic Moral Doctrine

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JOHN T. NOONAN, JR., THE ABLE PHILOSOPHER, RESPECTED JURIST, AND PROMINENT lay Catholic intellectual, could not have picked a better time-or a worse time-to bring up crucial questions about the development of Catholic moral doctrine. In an article entitled, "Development in Moral Doctrine,"[1] Noonan considers the problems posed for Catholic teaching authority by the changes which have occurred in Catholic moral doctrine in the course of the centuries.

It is an appropriate time to consider Catholic moral doctrine because the primary heresies the Church faces today are heresies centered upon issues of moral doctrine. Although virtually every heresy can be found, at least in miniature, in every age, certain ages are marked by prominent heresies that deal with particular themes. In the early centuries, Christological heresies predominated. At the time of the Protestant Reformation, ecclesiological, soteriological, and sacramentological heresies held sway. Today, the scene of battle has moved to questions of moral theology, so that the dominant heresies of our age are moral heresies.

There have been moral heresies before, of course, but in the past most moral heterodoxy has followed from some broader theological basis. Thus for example, the Pelagians, on account of their ultra-libertarianism, came ultimately to oppose permanent vows such as the marriage vow or religious vows of poverty, chastity, and obedience. Their view on these moral questions took shape within the larger context of their heterodox theology of human nature and freedom.

Today, however, the moral issues themselves are the primary and direct objects of doctrinal dissent. Support for the socalled "right to abortion" did not arise because people widely held to the metaphysical and psychological position that the fetus does not have a soul. Rather, moral dissenters have adopted certain philosophical positions regarding fetal ensoulment in order to facilitate acceptance of abortion. In point of fact, some philosophers-such as Judith J. Thomson[2]-do not even bother to deny fetal personhood in their arguments in support of abortion. Thus, in cases such as abortion, the focal point of the rejection of Church teaching is not some larger theoretical issue like fetal ensoulment, but the precise moral prohibition itself.

On account of the moral assault against the Church which rages today, therefore, Noonan's piece is both timely and potentially dangerous-dangerous because anything which opens a potential for doubt about the authority and reliability of the Church's teachings on moral matters will be exploited at once and ruthlessly by those who wish to undermine the Church's opposition to abortion, artificial birth control, divorce, what are euphemistically called "alternative life styles" (including gay marriage), euthanasia, pre-marital sex and "trial marriage," artificial insemination, *in-vitro* fertilization, surrogate motherhood, etc.

It should be noted that Noonan has no apparent sympathy with any of the aforementioned causes which seek to undermine the moral teaching authority of the ordinary and extraordinary Magisterium of the Church, with the

exception of artificial birth control, which Noonan is on record as supporting.[3] On the other hand, he has been a most resolute and scholarly opponent of abortion.[4] His concern is precisely that in the climate of the times, with its unprecedented moral upheaval, the Church must have a clear and convincing explanation that deals with the changes (and/or seeming changes) which have historically been observed in Catholic moral teachings.

Noonan is unquestionably sincere and his inquiry undoubtedly worthwhile, but some may understandably feel that the topic might be an unwise one for the Church to confront publicly at this time. After all, it has long been the prudential judgment of Catholic moral instructors to avoid certain topics with particular audiences on account of the potential for ill effects. Audiences of extremely young students are usually spared any detailed discussion of the moral issues involved in sexual perversion, and Catholic moral teachers often avoid topics such as "occult compensation" for any but very advanced graduate students or seminarians because of the easy abuse to which this quite legitimate moral teaching might be put through perversion of conscience. Nonetheless, I believe Noonan to be correct in thinking that this topic cannot be avoided within the current intellectual climate, because the enemies of the Church and of its teachings will use any seeming inconsistencies in Catholic moral doctrine to attempt to undermine confidence in the teaching authority of the Church.

John T. Noonan, Jr.

It should be noted at once that Noonan does not proffer any original solutions to the problem he raises. His title and the comments which accompany his article suggest that he looks to John Henry Newman's solution to the question of why the Church seems to be proclaiming new doctrines along the centuries of its existence.

In his last days as an Anglican, the future Cardinal Newman penned his masterpiece, *An Essay on the Development of Christian Doctrine*, wherein he confronted the challenging question of how the Christian Church could have legitimately proclaimed "new" doctrines centuries after the Ascension, which ended Christ's public ministry, and centuries after the canon of the New Testament closed-ending the sources of legitimate public revelation. Newman presented a number of different, but very convincing and cogent answers to the difficulty, but his main thesis was that "new" doctrines were only more elaborate formulations of older truths that brought out features that were implicit but unstated in the earlier expressions of the truth, but that now needed to be clarified explicitly in light of heretical denials.

To cite trinitarian and Christological doctrines as examples: the text of Scripture does not contain the term "Trinity," but it does contain numerous references to the Father, the Son, and the Holy Ghost. The early Christians had in their prayers references to "the Father, Son, and Holy Ghost," but when the Trideist heretics proclaimed these Divine Persons to be three gods, the Church was forced to elaborate the simple formulation of "Father, Son, and Holy Ghost," with the explicit expression of the truth which had always been implicit in the pre-heretical formulation, because the heterodox challenge now necessitated a more elaborate foundation. The Church thus clarified that the simple expression of "Father, Son, and Holy Ghost" did not refer to three gods, but to one Triune God with a single Divine essence and a Trinity of distinct Persons.

Then, when Arius arose and denied the equality of the Son to the Father, the Church had to teach specifically the equality of Persons, and when the Semi-Arians, or homoioussians, argued that the Son was of "like substance" with the Father, the Church had to elaborate its formulation to proclaim explicitly that the Father and Son were of the *same* substance, and so forth through all the permutations of heterodox challenge and orthodox counterthrust.

The references to Newman in Noonan are understandable, because Newman's theory of the development of Christian doctrine has never been refuted or eclipsed, and its cogency has seldom been doubted by objective scholars, whether they are believers or not. Nonetheless, Newman's approach can be of only limited aid in the area of moral theology. To return to trinitarian doctrine for a moment, it is at once clear that there is no contradiction between the propositions that make up the progression from "Father, Son, and Holy Ghost" to "Father, Son, and

Holy Ghost-Trinity" to "Father, Son, and Holy Ghost-Trinity of Divine Persons of the same substance," and so forth.

There are areas where the Newman analysis could be easily applied to Catholic moral doctrine, e.g., where established moral prohibitions are extended to actions or practices not previously covered. 17th-Century Spanish theology "took the position that it is possible for the Church to work out the logical implications of Scripture and so reach, and declare as true, propositions not contained in Scripture...," as Noonan himself notes.[5] This idea can easily be expanded to cover the application of the moral teachings of Scripture to areas not originally explicitly covered. The Bible, for example, specifically condemns a number of forms of sexual impurity, including simple fornication, adultery, male homosexuality, lesbianism, bestiality, *coitus interruptus*, transvestitism, etc., but Holy Writ has not (mercifully) prefigured Kraft-Ebing's *Psychopathia Sexualis*. There are innumerable permutations of lust and perversion to which the explicit proscriptions of Holy Scripture do not extend, but which the moral teachings of the Church could easily recognize as covered by the logical extensions of scriptural principles and natural law. Sado-masochism, for example, is something with which Scripture does not deal directly, but few moral theologians would seriously challenge the idea that biblical moral prohibitions encompass it.

There are other areas of Catholic moral doctrine, however, where the history is more complicated, and the claim is often made that in these areas the Church's teaching has in some way changed. Let us examine the four specific cases of alleged alteration in Catholic moral doctrine presented by Noonan to see if we can get a better grasp on that challenge of mutation to which Noonan has alluded-moral doctrines concerning usury, dissolution of marriage, slavery, and religious freedom. (I should note that for the purposes of this article, Noonan's choices are most praiseworthy because they help to illustrate quite different theoretical approaches to the morphology of Catholic moral doctrine. Perhaps it may be the case that Noonan chose these issues on that account.)

Consider the Church's stand on "usury"-the charging of interest for the borrowing of money. It is true, of course, that there are passages in the Old and New Testaments which forbid usury, but misinterpretation of such passages does not appear to be at the root of the Church's centuries-long ban on the charging of interest. Once that proscription had been abandoned, the reinterpretation of those scriptural verses presented little difficulty because it had long been recognized that some of the laws imposed by God on the Israelites6 did not arise from the intrinsic morality directly derived from the natural law, as did Divine commands such as "Thou shalt not kill" or "Thou shalt not steal," but instead derived from the extrinsic moral realm (malum prohibitum) through the Divine law, whereby (amongst other things) God prescribed special statutes for Israel on account of that holy nation's unique position in Sacred History (and in the economy of salvation) and because of its special covenantial relationship to God.

The New Testament instances-more specifically Christ's injunction to "Lend freely, hoping for nothing thereby"[7]---could then be seen as related to one of the evangelical counsels. The evangelical counsels---such as absolute celibacy, absolute pacifism, absolute poverty---are supererogatory counsels of perfection, and it would not seem to be a great stretch in logic to say that if Christ could recommend absolute poverty as a counsel of perfection, He could likewise exhort followers to a lesser, but still supererogatory, standard of action. If selling all one's goods and donating the proceeds to the poor is praiseworthy,[8] it can also be virtuous (albeit to a lesser degree) to forego requiring the payment of interest on loans to the poor, to friends, or to the general public, for that matter.

Also, apart from supererogation, in certain circumstances, an interest-free loan might be a moral obligation where one has a duty of charity and where, for prudential reasons, an interest-free loan would prove preferable to an outright gift. Prudential reasons might include-but would not be limited to-the existence of other obligations which preclude outright donation, the desire to stimulate responsibility and industry in the beneficiary, and the need to maintain sufficient resources for other charitable works. If a direct grant of aid without any duty of repayment is in some circumstances morally required, then *a fortiori*, the lesser act of giving an interest-free loan to an unfortunate may also be such an obligation. This explanation can, perhaps, reconcile scriptural

exhortations with the "new" Church position on the charging of interest, but how does one explain the change in the Church's position? Noonan, of course, has written extensively on the history of the prohibition on usury.[9]

The Church may err in *falsos testes*-because of inaccurate testimony (whether that inaccuracy be willful or inadvertent). This includes expert testimony in the literal sense of the sworn statements of laymen and scholars alike, as well as general scholarly opinion, or even the general popular opinion, in an area outside of faith and morals, but related to those judgments made regarding issues of faith and morals.

In the papal bull Apostolicae curae, Pope Leo XIII declared Anglican orders to be "absolutely null and utterly void," on the basis of certain irregularities of form and defects of intention, but the existence of the facts backing the existence of such irregularities and defects depended on the assumption of the correctness of certain historical accounts by ecclesiastical historians.[10] Pope Leo's judgment concerning the validity of Anglican orders is, in effect, two judgments. The "faith and morals" part, which partakes of papal infallibility, should be stated as a hypothetical, "If these events (S,T,U) occurred, then Anglican orders are invalid, because the validity of priestly orders depends upon conditions X, Y, Z." This hypothetical is undoubtedly correct, but it is followed by a second premise, "Events S,T,U did occur," the truth of which is not a matter of faith and morals, but of historical fact. Matters of historical fact, except for those facts attested by Scripture or which are logi cally entailed by doctrines of the faith, do not enjoy any assumption of inerrancy, but are held probabilistically and corrigibly.

The error concerning the charging of interest is an example of correct moral principles (against economic exploitation and so forth) mistakenly applied on account of the inadequacies of early economic theory. When better economic theory became available (along with the lessons of practical experience), the Church could change its position because the fundamental form of her judgment was: "If W is the economic function involved in the charging of interest, then the charging of interest is immoral, because economic activities must adhere to rule X (or rules X, Y, & Z)." Changes under these circumstances do not threaten the claims of the magisterium of the Church in any way. The discovery that the charging of interest does not (necessarily) involve exploitation, but represents instead legitimate payment for the time-value of money and for the risk factors endured by the lender, denies the antecedent of the hypothetical.[11] Antiusury laws (as well as anti-loan-sharking laws) which prohibit excessive interest rates-at least on certain types of loansreflect the wide-spread public recognition of the correctness of the Church's moral judgment in this area-albeit the Church's judgment as modified by improving economic expertise.

Noonan's second case concerns the rules regulating the indissolubility of Christian marriage, about which he has written extensively elsewhere.[12] Here, I believe, the problem lies in Noonan's analysis, which I see as inadvertently flawed, rather than in any difficulty in understanding the cause of the change in the Church's teachings. The rule on the indissolubility of marriage was set, as Noonan notes,[13] by Christ's statement in Matthew 19:2-9, with His memorable command, "Whom God therefore has joined together, let no man put asunder."

Noonan goes awry, it could be argued, by treating the socalled Pauline privilege, based on I Corinthians 7:10-16, as a kind of exception granted by the Church to the iron-clad rules on the subject set down by Christ: "St. Paul's original modification of monogamy responded to conditions he encountered affecting conversion."[14] This treats Paul as an ecclesiastical hierarch in the early Church, which he undeniably was, but it ignores or misunderstands that he was acting primarily as a writer of Scripture when he penned I Corinthians.

Obviously, we would not normally think of the statements of St. Paul as on a par with the statements of Christ. Yet in this context, both statements enjoy "equal" authority as texts of Sacred Scripture. The parity which Noonan seems to ignore arises because it is only the doctrine of the inerrancy of Scripture (understood in the Catholic, not the Protestant fundamentalist sense, of course) which guarantees that Matthew 19:2-9 does, in fact, accurately and in context convey Christ's words to us. Paul's pronouncement of an "exception" to the indissolubility of marriage was not, then, the Church's creation of an exception, although Paul acted as an Apostle and a bishop, but was the biblical completion of the understanding of Christ's meaning.

Whether that "exception" arose out of Paul's intellectual understanding of the meaning of Christ's command concerning marriage (which seems plausible), or whether it arose out of something which Christ told his

disciples and which subsequently continued in the Oral Tradition of the Church (which seems less likely and is, in any case, quite unknowable), Paul's inclusion of it within the text of canonical Scripture gives it, through the action of the Holy Spirit who inspires all Scripture, an authority not at all inferior to Matthew 19.

Paul as a governor of the early church could err, and doubtlessly did, as did St. Peter (the first pope}-who erred morally when he denied Christ out of cowardice[15] and doctrinally when he temporarily insisted *contra* Paul that the observances of the Jewish faith had to be continued in the Christian Church.[16]

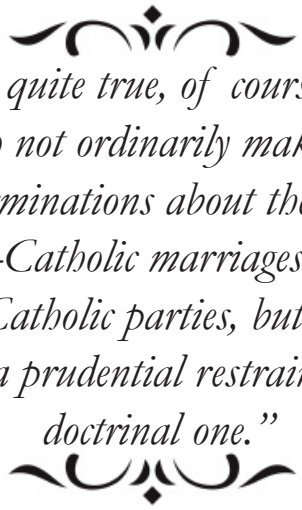
Paul as an author of canonical Scripture, however, could not err in those judgments which he (or rather the Holy Spirit through him) enshrined in Holy Writ.

To move to another aspect of Noonan's concern with change in the moral doctrine regarding marriage, it is noteworthy that he cites a famous case from the 1920s:

> The next step in this direction was taken under the impetus of the great canonist Cardinal Pietro Gaspari in the 1920s. In a case from Helena, Montana, Gerard G. Marsh, unbaptized, had married Frances F. Groom, an Anglican. They divorced; Groom remarried. Two years later Marsh sought to marry a Catholic, Lulu La Hood; Pius XI dissolved Marsh's marriage to Groom "in favor of the faith" of Miss La Hood. Apparently exercising jurisdiction over the marriage of two non-Catholics (Groom and Marsh), the Pope authorized Marsh to marry a Catholic under circumstances that but for the papal action would (morally, not civilly) have constituted bigamy for Marsh and adultery for La Hood.[17]

It seems that two further problems arise in Noonan's analysis. He narrowly construes the Pauline privilege without recognizing that the principle implicit in the granting of that privilege is the idea that the natural-law principle of the indissolubility of valid marriage may be "superseded" by the higher principle of the establishment or preservation of the faith in the heart of a man or a woman.

This alteration in the moral understanding of the Church would ultimately, in this case at least, require no more elaborate explanation than that afforded by Newman's approach to doctrinal development, combined with the 17th-Century Spanish moralist hermeneutic. The understanding of the Pauline Privilege underwent an expansion in the pontificate of Pius XI so that its rationale was seen as implying applications beyond that specified by St. Paul in his epistle. Cardinal Gaspari, the distinguished canonist who was most associated with this expansion of the application of the privilege, in the 1932 revision of his volume, De Matrimonio, included a new section entitled, "The Dissolution of Legitimate Marriages by the Holy See When the Salvation of Souls Demands It and Scandal Is Absent," which defended the expansion of the understanding of the Pauline Privilege, as Noonan himself notes.[18]



It should be remarked that there is a further problem in the Noonan examination of Catholic teaching on the indissolubility of valid marriage-his seeming confusion over the fact that the Pope "[a]pparently exercis[ed] jurisdiction over the marriage of two non-Catholics..." in judging the state of the Groom-Marsh marriage for the purpose of ruling on the permissibility of the Marsh-La Hood union. It is quite true, of course, that popes do not ordinarily make rulings or determinations about the validity of non-Catholic marriages between non-Catholic parties, but this is surely a prudential restraint, not a doctrinal one. If an analogy may be permitted here, this is rather to be compared to the way that nations tend to avoid unnecessary extraterritorial extension of their laws. They do this because of (1) lack of interest in foreign activities, (2) difficulties in enforcing such laws, and (3) problems that they create in relations withforeign governments; but nothing prevents such extraterritorial extensions when it is intended by the law-giver. It is worth observing that certain statutes, such as treason laws, have almost always, in all nations throughout history, been given extraterritorial effect.

In the case of the Groom-Marsh marriage, the Pope did not gratuitously intrude his authority, but exercised this extraordinary jurisdiction because the status of that marriage had a direct bearing on the Marsh-La Hood case, which was immediately before him.

Next let us deal with the issue of slavery as it appears in Noonan. Slavery is a fairly complex matter, of course. We find it a simple issue today only because we are not forced by cir cumstances to consider all of its aspects clearly. First, let us note that numerous passages in the Old Testament justified slavery under conditions which were designed to ensure humane treatment and (under proper circumstances) ultimate freedom.[19]

In ancient times, slavery was seen as justly arising from one of three circumstances: (1) capture in war, (2) punishment for crime, and (3) obligation for debt. Enslavement for debt would be the least reconcilable to Catholic doctrine, although the Church had to deal with it as an historical reality in Roman law, reacting prudentially in order to mitigate the evil without creating greater ones. Regarding prisoners of war, however, more deserves to be said. Biblical slavery could be seen as a reform, a lesser evil made necessary by the inability of societies to hold war prisoners in idleness due to scarcity of resources. Release of prisoners was extremely impractical when wars lasted many generations, as did Israel's wars with her hostile neighbors, the Greek struggles with the Persian Empire, or the Punic Wars between Rome and Carthage. Humane slavery (always a Catholic requirement) was a superior option to the suicidal release of prisoners of war, the economic impossibility of simply imprisoning war captives, or the terribly inhumane alternative of executing captured enemies.

It is important to note that the Catholic Church in past centuries did not intend to endorse authoritatively any specific instances of slavery, but only the principle that slavery could be justified as the lesser of evils in certain circumstances. The situation surrounding ancient warfare illustrates one particular application of this principle. The same notion of the "lesser evil" was also applied to the question of the status of the chil dren of slave mothers. As Noonan observes, "St. Antoninus of Florence followed St. Thomas in acquiescing in the civil law permitting slave status to follow birth to a slave woman,"[20] but in noting that the eminent Jesuit moralist Cardinal Juan De Lugo "found slavery 'beyond the intention of nature,' but `introduced to prevent greater evils,'"[21] Noonan does not see the clear extension of that principle to the conveyance of the mother's status to the children.

One can easily see that if the Church had attempted to bestow freedom upon the children of slaves, owners might well have denied the right of slaves to marry, with all the attendant evils that would involve, and owners might not have properly cared for the offspring of slaves-offspring over whom they would have enjoyed no property right.

Thus, we can see the complicated case for accepting slavery as a social condition arising from prolonged periods of warfare. John Locke's justification of slavery in his late 17th-Century work, *Two Treatises on Civil Government*, contains the same rationale as has been given here.[22] It will be recalled, of course, that much of modern slavery did not so originate, since innocent and nonbelligerent persons were set upon (usually in Africa) and impressed into slavery without moral justification and in the most inhumane of conditions.

Finally, classical morality accepted the legitimacy of slavery for crime. This form of slavery, it would seem, can be easily justified, and under a different name, this penal slavery is still the practice of most nations. It is not accidental that in the af termath of the American Civil War, the framers of the Thirteenth Amendment to the U.S. Constitution wrote into that amendment an exception to the prohibition on involuntary servitude. The text of the 13th Amendment states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist...." Prisoners may be compelled to work, their liberties are often seriously curtailed, and although the vast majority remain in this condition for only a limited period of time, "life without parole" is an increasingly used option, as are finite sentences of such duration as to ensure that they constitute *de jure* life imprisonment.

The change of the Church's attitude toward slavery reflects the changed circumstances of the world more than it reflects any revolution in moral theology. Wars tend to be of shorter duration in the modern world (though often of far greater severity); nations often possess surpluses out of which they can feed and care for prisoners of war who are held as prisoners rather than as slaves as would have been the case in previous times, and most importantly, perhaps, civil authorities are willing, in

general, not only to abolish slavery, but to extirpate those greater evils the avoidance of which made slavery's existence permissible. In this new environment, the Church may put greater emphasis on its statements that "slavery is evil"-but it had never judged otherwise. The Church had done no more than proclaim that in other sets of social and historical circumstances, slavery represented the lesser of evils.

If we were to posit a science-fiction scenario, we might hold that if the Church were to find itself in a devastated, postnuclear world, as in the excellent novel *A Canticle for Leibowitz*,[23] where conditions identical to those in ancient Israel, the European Middle Ages, or the early modern era existed, then in those circumstances, the Church might again have to accept (prudentially, as the lesser of evils) the reinstatement of slavery. However, one would naturally expect the Church's historical experience to facilitate her efforts to mitigate, restrict, or eliminate the more serious evils attendant upon this lesser evil.

Finally, in tackling Noonan's last example of moral doctrinal change, we are forced to confront the extremely troublesome issue of religious toleration/religious liberty. Prior to Vatican II, Catholic moral teaching maintained that tolerance could be extended to heretics on account of certain prudential judgments concerning the efficacy of persecution and its effects on the treatment of Catholics in Protestant countries, etc. Historically, the Church had endorsed the persecution of heretics and even their execution by the civil authorities, and this position had been backed by theologians of the stature of St. Augustine and St. Thomas Aquinas, as well as others.[24] Also, as Noonan states,[25] this doctrine was taught by numerous popes: "...[I]t was universally taught that the duty of a good ruler was to extirpate not only heresy but heretics."[26]

There is not space here to trace the historical development of the practice of toleration within the Catholic Church. A few remarks must suffice. Protestantism developed toleration prag matically, before the Catholic Church had done so. There were numerous reasons for the Protestant advances in this area, but one more than any other-the practical need of the Protestant sects to extend toleration to one another given the pressures of the Reformation and Counter Reformation, arising especially from the fissiparous nature of Protestantism. Protestants such as Lutherans, Calvinists, Anabaptists, etc. had to make common cause or be overwhelmed in the struggles with Roman Catholicism. Ultimately, Catholicism adopted toleration as a prudentially sanctioned policy. Certain additional lessons applicable to the prudential considerations involved were discovered during the growth and acceptance of tolerance.

Explaining the origins of the prudential judgments in favor of toleration, however, will never be enough in this case, for Vatican II raised toleration from something morally permissible to something morally obligatory. Indeed, Vatican II extended the boundaries of toleration to such an extent that it came to be designated "religious liberty" rather than simple toleration. Noonan paraphrases[27] and summarizes the documents of the Second Vatican Council thus: "Now each human being was seen as the possessor of a precious right to believe and to practice in accordance with belief. Religious liberty was established. The state's interference with conscience denounced."[28]

One could easily see, without the need for elaborate explanation, how pragmatic considerations over the centuries might have strengthened and expanded the prudential judgments in favor of toleration, but what seems to be lacking is an explana tion of how prudential judgments for toleration could ever transform themselves into a moral principle of religious liberty.

At one time, however, the common consensus was that persecution could serve to protect the state and the Church, both of which were universally seen as threatened by heterodoxy. This common opinion was not a matter of moral theology per se, but arose from a certain understanding of history, psychology, and other secular disciplines. As experience with both toleration and persecution taught the Church new lessons in these fields of secular knowledge, however, the old view became increasingly problematical. Eventually, the opposite view came to be the generally accepted opinion in secular society and in the Church. Preservation of Church and state were then no longer seen to be served by persecution.

Primacy of conscience is an accepted Catholic

principle, but such a principle is never envisioned as taking precedence over the protection of society. The Catholic principle of freedom of conscience could not operate in the persecution/toleration/religious liberty equation as long as heresy was viewed as a threat to Church and state.

The position of the Church might be characterized thus: If and only if persecution were necessary to protect Church and state, then it would be morally justified-but prudential judgments may also justify as permissible a policy of religious toleration. With the determination from historical experience and psychological understanding that persecution is not in this way necessary, however, its moral justification evaporates, and the more general Catholic principle of freedom of conscience comes into the picture by the simple removal of the justification of persecution. As secular knowledge increased, the removal of lesser restrictions came to be included within the meaning of "toleration." In this way, religious liberty becomes the operative principle in default of any alternative position.

Noonan summarizes his analysis by noting what appears to be a dramatic shift in the Church's moral doctrine: "In the course of this displacement of one set of principles, what was forbidden became lawful (the cases of usury and marriage); what was permissible became unlawful (the case of slavery); and what was required became forbidden (the persecution of heretics)." Furthermore, he laments that "...no great theologians have immersed themselves deeply in these mutations of morals."[29] In all of these seeming shifts in moral doctrine, however, we have seen that the key moral principles of the Church have remained intact; only judgments of circumstances in the world have altered.

Noonan delineates some of the perplexing problems offered by the history of moral theology, but his own approach to these problems is altogether too ready to see radical transformations of doctrine where none exist, and to call for bold new theories of the morphology of moral theology where none are necessary. What is necessary to understand and appreciate the essential consistency of the Magisterium's pronouncements on the doctrines of moral theology is merely a more intricate application of already existing principles and a more careful analysis of their historical context.

Notes

1*Theological Studies* 54 (1993) 662-677; a more developed version of the Thomas Vernon Moore Lecture, sponsored by St. Anselm's Abbey, September 29, 1990, at the Catholic University of America.

2 "A Defense of Abortion," *Philosophy and Public Affairs* 1, no. 1 (197 1); reprinted in Brooke Noel Moore and Robert Michael Stewart, *Moral Philosophy: A Comprehensive Introduction* (Mountain View, CA: Mayfield Publishing, 1994), pp. 507-517.

3 John T. Noonan, *Contraception: A History of Its Treatment by Catholic Theologians and Canonists* (Cambridge, MA: Harvard University Press, 1966); reprinted in an enlarged 2d edition [1986].

4 *Vide The Morality of Abortion-Legal and Historical Perspectives* (Cambridge, MA: Harvard University Press, 1970) and *A Private Choice: Abortion in America in the Seventies* (New York: Macmillan Publishing, 1979).

5 "Development in Moral Doctrine," p. 670.

6 E.g., Lev. 25: 35-37, Ezek. 18:5-9, Ps. 14:5 (directly); and Amos 8:46 and Deut. 15:7-10 (by interpretation).

7Lk. 6:35.

8Lk. 18:20-27.

9John T. Noonan, Jr., *The Scholastic Analysis of Usury* (Cambridge, MA: Harvard University Press, 1957).

10John Jay Hughes, *Absolutely Null and Utterly Void: The Papal Condemnation of Anglican Orders, 1896* (Washington, DC: Corpus Books, 1968).

11 This does not partake of the fallacy of "denying the antecedent," because the Church's judgment that the charging of interest is permissible is based not only on the denial of the antecedent, which simply prevents the conclusion of impermissibility, but also on the absence of support for any conclusion of impermissibility.

12 John T. Noonan, Jr., *Power to Dissolve: Lawyers and Marriage in the Courts of the Roman Curia* (Cambridge, MA: Harvard University Press, 1972).

13 "Development of Moral Doctrine," pp. 663-664.

14 Ibid., p. 675.

15 Mt. 26:69-75.

16 Acts 15:1-35.

17 "Development in Moral Doctrine," p. 664

18 *Power to Dissolve*, p. 374.

19 E.g., Ex. 21:1-11; Lev. 25:11, 47-55; Deut. 23:15-16.

20 "Development of Moral Doctrine," p. 666.

21 Ibid.

22 John Locke, *The Second treatise on Civil Government*, IV. 21-23.

23 Walter M. Miller, Jr., *A Canticle for Leibowitz* (New York: Bantam Books, 1961).

24 St. Augustine to Boniface, *Epistula* 185 (PL 33.803); St. Thomas Aquinas, *Summa Theologica* II-II, Q. 11, A. 3; A. 4 ad 1.

25 "Development of Moral Doctrine," p. 667.

26 E.g., Lucius II, *Ad abolendam* (*Decretales Gregorii* IX 5.7.9) [asparaphrased by Noonan].

27 "Development of Moral Doctrine," p. 668.

28 Vatican II, *Dignitatis humanae personae* no. 2, Second Vatican Council, *Constitutiones* 55.

29 "Development of Moral Doctrine," p. 669.