

## PROBLEMS OF PROHIBITED BOOKS: AN EXPLORATORY DISCUSSION

The Catholic Theological Society of America through its official representatives has agreed to discuss in this convention the question: to what extent, if any, do changed conditions in modern society call for revision of the Church's law prohibiting the reading of dangerous books?

We are all in some measure aware of the development of different practices and legal measures in the Church to restrain men from reading literature calculated to undermine their supernatural faith and moral life. The variety of means employed by the Christian community to protect Christians from the spiritual poison of certain books has ranged all the way from simple condemnation and public burning of books, in the days when books were hard to come by, to the prohibition and cataloguing of prohibited books, to general decrees describing abstractly traits that make books harmful for most of the faithful, books therefore not to be read without permission.

The story is briefly told in Leo XIII's Apostolic Constitution, *Officiorum ac Munerum*, January 25, 1897, which ushered in the last significant change both in the Index and in the general rules on prohibition of books prior to the new Code of Canon Law. With every successive change in the shape of the growing law that the pope takes notice of, he remarks (a) that the change was introduced "for the common good," "in the interest of the public," and (b) that the measures themselves had to be gradually more carefully devised and more restrictive, due to the increasing flood of books destructive of faith and morals. Finally, Leo XIII observed that "there is no field of knowledge in which literature has not run riot . . . the civil laws allow the wildest license . . . many minds are in a state of anxiety . . . there is unlimited opportunity for every kind of reading."<sup>1</sup> The pope declares that besides revising the Index

<sup>1</sup> Apostolic Constitution, *Officiorum ac Munerum*, Jan. 25, 1897, The Great Encyclicals of Pope Leo XIII, New York, 1903.

of prohibited books he has determined (in the year 1897) to make general laws somewhat milder, without changing their nature, so that it cannot be too difficult or irksome for any person of good will to obey them.

With a view to setting the stage for our discussion it seems reasonable to evoke and keep in mind the philosophical and theological principles behind the ecclesiastical legislation on prohibition of books. The principles concern: the right of the Church to legislate in this matter; the present law; changing the present law.

#### I. THE RIGHT OF THE CHURCH TO PROHIBIT THE READING OF BOOKS

It is the unquestioned duty and right of the Church founded by Jesus Christ to take appropriate measures that the integrity of Christian faith and morals suffer no diminution. "Go into the whole world and preach the Gospel to every creature."<sup>2</sup> "All power in heaven and on earth has been given to me. Go, therefore, and make disciples of all nations . . . teaching them to observe all things that I have commanded you."<sup>3</sup> There can be no doubt in the mind of an instructed Catholic that the Church has the authority to command Catholics to do or omit what she in the person of her divinely constituted rulers decides is requisite to guard and preserve in them the gift of faith and the life of grace. If there should be books calculated to make men generally feel intolerably like fools if they continue to believe truths admittedly beyond reason, or even truths difficult for men as a rule to know with natural certitude and purified of error, and if there should be books such as to seduce the pleasure-hungry hearts of most ordinary men, then assuredly the Church is within her rights, and bound, to restrain her children as well as she can from putting themselves in the occasion of giving up grace, or faith, or even of tarnishing the luster of these gifts. And if there be some of her members who because of excelling qualities of mind and will think they have ability to read the same books without offending God and hurting themselves even to the extent of venial sin, the

<sup>2</sup> Mk 15, 16.

<sup>3</sup> Mt 28, 18-20.

Church has a right and duty to ask for assurances that this is the truth before she gives her maternal approval. The power therefore of the Church to make a law forbidding her members to read pernicious books stems from the divine constitution of the Church as infallible guardian and teacher of divinely revealed truth, of truth that does not exist in a vacuum or in books, or in Denzinger's *Enchiridion*, but in the fragile minds and hearts of men whose highest hope is to persevere as children of God.

The right of the Church to make laws forbidding pernicious books is further evident to Catholics, who believe that the Church has the power to make laws binding their consciences, and that she alone has infallible authority to interpret the extent of the power given her by Christ. Now she not only expressly claims the power to forbid the reading of books for a just cause, but she has ever *de facto* striven by laws and decrees to restrain men from reading bad books as "from deadly poison," to use the phrase of Leo XIII. The right itself is so intimately bound up with the Church's constitution that she cannot renounce it, though according to circumstances of fact she can obviously use it more or less elaborately; and conceivably not use it at all, though this to some would seem most unlikely.

## II. THE EXISTING LAW PROHIBITING BOOKS

The present law of the Church aimed at controlling the reading of publications harmful to faith and morals is substantially as follows:

1. General rules describing various sets of characteristics by which books forbidden by the general law of the Church can be identified, e.g., canon 1399.

2. An Index of forbidden books, i.e., a catalogue of books that have been reported to the Holy See as pernicious,<sup>4</sup> and judged to be generally harmful for the general reading public by decree of one of the Sacred Congregations, usually that of the Holy Office, or even by decree of the pope himself.<sup>5</sup>

<sup>4</sup> Canon 1397 contains rules for reporting books thought to be dangerous.

<sup>5</sup> Books forbidden by the Index are usually already forbidden by the general law itself, namely, can. 1399.

3. Prescriptions concerning permission to read forbidden books: the law itself granting limited permission to scriptural and theological students as well as to certain prelates, Cardinals, Ordinaries; other permission to be obtained primarily from the Holy See, secondarily from Ordinaries in urgent cases, and from bishops who may have, moreover, special delegated power.<sup>6</sup>

The principle operating behind this legislation is obviously not only the one which affirms the right of the Church to frame laws forbidding, for a just cause, certain books to be read, but also, at least implicitly, the judgment in the prudential order that a generalized fact exists justifying and indeed calling for the prudent use of that power. The generalized fact judged to exist is twofold: the ready availability of many genre of publications all of which are too much for most men to cope with without being led astray in matters of Catholic faith or morals; and the fact that most men need the help of positive human law to enable them to appreciate and apply to themselves the precepts of divine law, natural and supernatural.

In venturing to criticize these laws, in a spirit that is ready to obey them, it seems well to take to heart several principles for our own guidance. First of all we might keep in mind certain obvious requirements for human law in general. Does genuine obedience to these laws prohibiting books put us in conflict with the divine positive law or natural law; or does such obedience seem to contribute to our supernatural and natural good? Do these laws demand of us conduct that is unreasonable, in the sense that to obey them would involve going against right reason? Do they ask of us conduct that is too burdensome and irksome, too much out of step with praiseworthy reading custom of the society in which we live? Are these laws badly adapted to circumstances in which we must hold fast to our faith and strive to grow in the life of grace? Are these laws necessary and useful for the end for which they are designed, namely, warding off certain publications sufficient of themselves to corrode the faith and morals of most or, shall we say, the generality of Catholics likely to read them.<sup>7</sup>

<sup>6</sup> E.g., quinquennial faculties granted bishops in the U.S. by the Holy Office.

<sup>7</sup> Cf. St. Thomas, *S. T.*, I-II, 95, 4.

In presuming to look critically at the present "prohibited-books" legislation, it would be fitting to remember that we are dealing with a *general* law of the Church, with some aspects of the law binding the members of the eastern as well as the western Church.<sup>8</sup> It is a solid theological position, *salvo meliori iudicio*, that the general laws of the Church are, as far as their substance is concerned, infallibly in accord with the deposit of revealed doctrine to be believed and practiced.<sup>9</sup> It is also accepted, I believe, that at the time *general* laws are made, they are made prudently, fittingly, opportunely, as far as circumstances are concerned.

### III. RECOMMENDING CHANGES IN THE PRESENT LAW

In considering ways in which the Church's law on the forbidding of books might be changed for the better, we must not lose sight of, or concern for, the end of the law; namely, the preservation of the faith and moral goodness of men against the contamination that would undoubtedly come to some men, and the present law implies most men, from reading certain types of easily available books. If there is to be a change, it must be based on the fact that either the Church has learned some new way of effectively controlling the reading of pernicious books, or changed conditions and habits in the life of the faithful have removed in part or wholly the need of positive ecclesiastical legislation in the matter.<sup>10</sup> Since law must always be contributory to the common good, there will be point to changing the present legislation to the extent that some new plan will confer

<sup>8</sup> Cf. canon 1396; *S.C.Or.*, declaration, May 28, 1928 (*A.A.S.*, 20, 195; Bouscaren, *Canon Law Digest*, I, 685).

<sup>9</sup> Cf. condemned doctrine of the Synod of Pistoia, condemned in Constitution *Auctorem Fidei*, Aug. 28, 1794, of Pius VI: namely, *De Collationibus Ecclesiasticis*, p. 4: . . . quatenus pro generalitate verborum comprehendat et praescripto examini subiciat etiam disciplinam ab Ecclesia constitutam et probatam, quasi Ecclesia, quae spiritu Dei regitur, disciplinam constituere posset non solum inutilem et onerosiorem quam libertas christiana patiat, sed et periculosam, noxiam, inducentem in superstitionem et materialismum: falsa, scandalosa, perniciosa, etc." (*D* 1578).

<sup>10</sup> Cf. St. Thomas, *S. T.*, I-II, 97, 1, on the two basic reasons why sometimes human law should be changed: improved insights of legislators over the years; changed conditions of men, to whom different things are expedient according to different human conditions.

an *evidently* superior benefit; or will do away with an arrangement that is clearly unjust or whose observance is notably harmful.

Finally, for a balanced view, it seems important to distinguish between the laws and general decrees themselves, which state the rules forbidding books to be read without lawful permission, and the norms to be observed by those who seek and those who are empowered to grant permission, on the one hand, and on the other, the procedures that are *de facto* employed in particular cases to facilitate the observance of the law and the furthering of its end, *sc.*, perseverance and growth in truth and goodness. A law may be adequate in itself, but a fault can enter, unwittingly sometimes, into the practice of the law, especially where the matter of the law is already delicate and difficult as in the present situation. On the other hand if fault is judged generally to exist in the practice, this may be a sign that the law itself requires adjustment.

#### IV. SUGGESTIONS

The following are a few suggestions as to what we might reasonably hope will be done by way of adjusting the canon law and practice to the necessities of life in the Church today, to the necessities of understanding the world in which we live, the necessities of sharing in the Church's mission to overcome error with truth.

1. A rethinking and restatement of the general law, specifically c. 1399, describing the kinds of books which are considered to be dangerous occasions of sin for members of the Church in general. The purpose would be to eliminate some categories entirely, and define more specifically books that would be for most persons so dangerous that no excuse would warrant their being read by such persons.
2. Those with a Licentiate in the Sacred Sciences—theology, holy Scripture, canon law, philosophy—would be granted permission to read books which pertain to these fields.
3. Teachers and others professionally interested in literature would be granted permission to read classical works, ancient and modern, in view of their artistic elegance and propriety, even though they treat *ex professo* of lascivious and obscene things, on account of which they are prohibited by the law of the Code, *sc.*, by c. 1399,

n. 9. This was at one time granted in the general law (Apost. Const. *Officiorum ac Munerum*, Leo XIII).

4. A law granting bishops and other ordinaries full power to permit the reading of forbidden books *positis ponendis*, i.e., provided there is a need to read specific books and assurance that the reader will not be in proximate occasion of sin from the reading. An additional law, allowing the bishops and other ordinaries to delegate the faculty of permitting the reading of forbidden books under the same condition—to delegate to all priests to whom they give the faculties of hearing confessions within their jurisdiction.

5. Heads of Catholic Universities, those canonically erected or with ecclesiastical approval, would be by law empowered to grant permission to professors and students, at least in the graduate schools, to read forbidden books, *positis ponendis*, i.e.,

- a) provided there is need (some fields do not call for this)
- b) for certain specified books
- c) for unspecified books for a certain time
- d) with the proviso that the books be kept from those not authorized to read them
- e) with the understanding that the natural law forbids any reading that is a proximate occasion of ruin to faith and morals, and that obviously there are no dispensations here for any reason.

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