

Matthew Tapie
The Mortara Case and Thomas Aquinas's
Defense of Jewish Parental Authority
with Original Documents from the Mortara Case:
Pro-memoria, Syllabus, Brevi cenni

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In 1858, papal police in Bologna forcibly removed a six-year-old Jewish boy from his family on the word of a Catholic nanny who claimed to have baptized him years before. The boy, Edgardo Mortara, was “adopted” by Pope Pius IX and went on to become a priest, taking the name Pio in honor of his papal patron. As David Kerzer detailed almost thirty years ago, the Mortara case became an international affair in a century that saw revolutions across Europe against religious authoritarianism, and an end to the papacy’s secular power in 1870.¹

While the sad history of Catholic treatment of Jews through the centuries is replete with injustices and atrocities of which Edgardo Mortara’s removal from his parents is just one, his young age and the relative recency of the event (Mortara died in 1940) give it a particular poignancy.² While almost nobody today seeks to defend the Church’s actions in this matter,³ the theological foundations used both to support Edgardo’s removal and the claims of his parents to have him restored have not been fully examined until Matthew Tapie’s detailed and welcome study. Mortara’s parents submitted two documents to the Holy Office offering theological arguments from the Catholic tradition supporting their son’s return. The Holy Office responded with a document denying this request with countering theological arguments. For the first time, these primary sources are available here in transcription and translation. Because both sides founded their positions on Aquinas, Tapie’s study begins with the question of which party in the dispute interpreted Aquinas’s thoughts more accurately.

¹ David Kerzer, *The Kidnapping of Edgardo Mortara* (New York: Vintage Books, 1997).

² Evidenced also in the 2023 Italian film adaption, *Rapito* (Kidnapped) directed by Marco Bellocchio. See also Daniele Scalise, *Il caso Mortara* (Milan: Mondadori, 2023).

³ But see Ronanus Cessario, OP, “Non Possumus,” *First Things* (February 2018): 55-58.

With clarity and precision, Tapie analyzes texts in the Thomistic corpus regarding forced baptism of Jews and child baptism *invitis parentibus* (without the parents' permission) setting them in their 13th century context and tracing their reception in later theological and magisterial documents. Thomas argued against baptism *invitis parentibus* because it violates the rights of parents over their children given by natural law. The administration of a sacrament does not abrogate these rights because doing so pits nature against grace, insofar as the good of the natural law is annulled by the good of the sacrament. Thomas' argument was carried forward by later Dominican theologians, as cited in the Mortaras' appeal and analyzed by Tapie. In contrast, the Holy Office's response drew on a tradition from Duns Scotus and later theologians that allows for baptism of the unwilling if there is danger of death. This tradition was given magisterial force by Benedict XIV in 1747 which permitted baptism *invitis parentibus* and subsequent removal of the child if the child is in danger of a physical death. Tapie demonstrates that this use of Aquinas by Benedict XIV is also based on a misreading of the *sed contra* in the *Summa* (II.II.10.12) as the thought of Aquinas rather than as an opinion that Aquinas cites but does not hold. The indisputable conclusion of this analysis is that Aquinas was firmly against baptism *invitis parentibus* because he saw it as a violation of the natural law which could not be set against the law of grace, and that in the dispute between the Mortara family and the Holy Office, Aquinas's thought unequivocally supported Edgardo's parents.

Such meticulous, well-argued work concerning the primary documents alone makes Tapie's book worth reading, but he also looks at the implications of the Mortara case for contemporary Catholic-Jewish relations. First, the 1983 Code of Canon Law states, "An infant of Catholic parents or even of non-Catholic parents is baptized licitly in danger of death even against the will of the parents" (868.2). Not only does this fly in the face of Thomas' teaching but it also contradicts established Church teaching from Vatican II in its *Declaration on Religious Freedom*. The implications of this contradiction are profound: while the Vatican no longer has the temporal power to remove a child from their household, as it did with Edgardo Mortara, canon law still supports baptism *invitis parentibus*. The fact that the rationale behind Mortara's kidnapping remains expressed in canon law underscores the ongoing theological question of how Catholic theology understands the coexistence of two truths, i.e., that God's covenant with Israel is inviolable and that Christ is the means of salvation for all humanity. Tapie retraces the debates behind the drafting of *Nostra Aetate* that led its authors to omit any call for Jewish conversion and rather to express an eschatological desire for a unity whose exact shape cannot be seen. This is taken up in the Vatican document *The Gifts and the Calling of God Are Irrevocable*. This text also expresses a fitting theological humility in the resolution of this question, stating, "That the Jews are participants in God's salvation is theologically unquestionable, but how that can be possible without confessing Christ explicitly, is and remains an unfathomable divine mystery."⁴ This

⁴ Commission for Religious Relations with the Jews, "The Gifts and the Calling of God are Irrevocable" (*Rom 11:29*) (December 10, 2015): paragraph 36.

language of eschatological mystery in both documents takes its scriptural warrant from Romans 11:25-26⁵ and here Tapie brings the thought of Benedict XVI to bear. Benedict clearly articulated that there is no evangelizing mission to the Jews and, in writings from before, during, and after his pontificate, provides an exegesis of Romans 11 that does justice to Paul's eschatological hope without implying that the Jews must necessarily become Christians to be saved.

Tapie pursues his analysis and states his conclusions with a refreshing lack of vitriol which in no way inhibits his assessment that the Church was wrong to take Edgardo Mortara from his home. Rather than taking the easy road of laying this decision at the feet of a reactionary pope, Tapie instead shows how the interpretive tradition from Thomas and other scholastic theologians changed over time and was in turn shaped by a variety of historical contexts that allowed theologians and canon lawyers to sanction baptism *invitis parentibus* in the belief that this practice was true to the Catholic faith. He reveals that this erroneous belief still lies dormant in canon law, and he brings recent conciliar and papal teaching to bear on how to address it. This book is a detailed analysis of the circuitous routes and historical contingencies that impact the tradition. It demonstrates how post-conciliar Catholic teaching has deep roots in Scripture and the Magisterium and offers a blueprint for responsible retrieval of tradition.

⁵ "I do not want you to be unaware of this mystery, brothers, so that you will not become wise [in] your own estimation: a hardening has come upon Israel in part, until the full number of the Gentiles comes in and thus all Israel will be saved" (NABRE).