

INTRODUCTION

DEFINING THE PROBLEM

It is an important development in recent American politics that religious fundamentalists from diverse denominations and theologies (e.g., Protestants, Catholics, Mormons) have found common ground and not only have aggressively moved into American politics but also have been increasingly influential, notably on the two administrations of President George W. Bush.¹ One of the ways in which this development has been expressed is in the role such fundamentalists have increasingly played in influencing judicial appointments, including those to the Supreme Court. Their preferred approach to constitutional interpretation is originalism, a view advocated by Justices Scalia and Thomas, appointed, respectively, by Presidents Reagan and George H. W. Bush to the Supreme Court. More recently, two justices were successfully appointed by President George W. Bush to our highest court, Chief Justice Roberts and Justice Alito, at least one of whom (Alito) may be an originalist and the other (Roberts) often allied with them.² During the presidential election campaign of 2008, the Republican candidate, John McCain, though critical of many of the policies of George Bush, followed Bush and Republican Party orthodoxy in advocating strict constructionism as the appropriate criterion for appointments to the federal judiciary, including the Supreme Court (citing, as models, Roberts and Alito, and the late chief justice Rehnquist).³ His Democratic opponent, Barack Obama, clearly rejected this approach to constitutional interpretation; indeed, as a senator, he opposed and voted against the appointments of both Roberts and Alito.⁴ It is already quite clear, in terms of the pending nomination by President Obama of Sonia Sotomayor to the Supreme

¹ See Damon Linker, *The Theocons: Secular America under Siege* (New York: Doubleday, 2006); Kevin Phillips, *American Theocracy: The Peril and Politics of Radical Religion, Oil, and Borrowed Money in the 21st Century* (New York: Viking, 2006).

² See, in general, Ronald Dworkin, *The Supreme Court Phalanx: The Court's New Right-Wing Bloc* (New York: New York Review of Books, 2008).

³ See Jess Bravin, "John McCain: Looking to the Framers," *Wall Street Journal*, October 7, 2008, A22.

⁴ See Barack Obama, *The Audacity of Hope* (New York: Three Rivers Press, 2006), at 89–97; Charlie Savage, "Scouring Obama's Past for Clues on Judiciary," *New York Times*, May 10, 2009, 19.

Court (replacing the retiring Justice Souter) and probable later appointments, that arguments over judicial appointments by President Obama, including opposition to his proposed appointees, will continue to be framed in terms of what has become Republican Party orthodoxy on constitutional interpretation.⁵

If there were ever a time for a closer normative and explanatory study of these developments, it is now. The stakes could not be higher, and it is crucial that we understand what those stakes are. This book undertakes an original critical and psychological study of both these developments, one that is both timely and important. It both supports President Obama's rejection of originalism and illuminates why his approach deserves the support of Americans in general concerned with preserving the integrity of our democratic constitutionalism. Properly understood, the issue should transcend party affiliation, as all Americans have an overriding interest in what distinctively unites us as a free people under law, our constitutionalism. On examination, originalism, which claims to honor our founders, dishonors and betrays them.

Obama distinguishes himself from all other American political leaders in the way he has opposed originalism. Why? It is not just because compelling normative arguments are available that support his position. Such arguments have been available for some time,⁶ but no politician of Obama's stature has felt moved to embrace them as part of a larger program for reclaiming and extending American democracy itself. There is both a cultural and a psychological question here. Culturally, why do these arguments come to have an appeal for Obama and others at a certain point in American cultural and political history? And psychologically, what in Obama's background explains why he is so moved to resist originalism? The interest of this book for many may be the ways its critical perspectives on the merits and psychology of fundamentalism as well as the resistance to fundamentalism yield, at the end of my argument, illuminating answers to both questions. To anticipate, let me sketch these answers now, as a way of persuading you that my argument may help you understand both how and why Obama has had the appeal he has, and what he may mean for the future of our democracy and for democracy everywhere.

On the cultural point, this book views the appeal of originalism to be rooted in a patriarchal psychology very much threatened by the advances in the understanding and protection of human rights made possible by the human rights

⁵ See Jonathan Weisman and Jess Bravin, "Obama to Seek a Justice Attuned to 'Daily Realities,'" *Wall Street Journal*, May 2–3, 2009, A3 (citing Justice Scalia as "capturing the public imagination with compelling visions of constitutional law").

⁶ See Ronald Dworkin, *Freedom's Law: The Moral Reading of the American Constitution* (Cambridge, Mass.: Harvard University Press, 1996); David A. J. Richards, *Toleration and the Constitution* (New York: Oxford University Press, 1986); Richards, *Foundations of American Constitutionalism* (New York: Oxford University Press, 1989); Richards, *Conscience and the Constitution: History, Theory, and Law of the Reconstruction Amendments* (Princeton, N.J.: Princeton University Press, 1993).

movements of the 1960s and later. These advances were themselves made possible, I argue, by a personal and political psychology of resistance to injustices that Americans had come to regard as in the nature of things. Originalism has had the appeal it has had not on its normative merits, but as the expression of a reactionary psychology that sought to limit and even reverse the advances made in the 1960s and later. American politics had been dominated since Ronald Reagan's presidency by a conservative movement that drew its appeal from this psychology. Obama's appeal arose at a time when Americans began to confront how bad the consequences of the power this movement had uncritically enjoyed for much too long had been for American democracy. Obama spoke very much in a voice made possible by the human rights movements of the 1960s, in particular, the voice of Martin Luther King, who appealed to Americans across the chasm of race that had unjustly divided them for so long. Obama, a man of color, found a voice with a similar appeal, resisting the ways in which conservative politicians had divided Americans from one another, appealing to a deeper basis of common values rooted in our common constitutional values. At a moment when national crisis brought into doubt the long domination of our politics by reactionary conservatism, Americans were ready to respond to this moral voice. So much for the cultural question.

On the psychological point, my argument offers a personal and political psychology that explains both how resistance to injustice arises and how such resistance is quashed. Because the argument appeals at both points to a psychology rooted in both resistance to and enforcement of patriarchal values and practices, it makes possible a fresh rethinking of psychological questions not previously addressed. In particular, it offers a plausible explanation of what it is in Obama's psychological development that explains why he sees what he has seen about originalism as a threat to democracy. I take what Obama sees – patriarchy as a threat to democracy – as the subtitle of this book because it explains, as I hope to show, what a certain kind of antipatriarchal developmental psychology makes possible in the emotional intelligence, including the ethical and political intelligence, of humans. What I show this psychology enables is hearing, listening to, and giving appropriate ethical and political weight to the resisting voices of precisely those groups whom patriarchy ignores, indeed represses. What Obama accordingly demands from constitutional interpretation is an interpretive attitude democratically responsive to those voices, grounded, as they often are, in the more just protection of the basic human rights owed to all Americans under our constitutionalism.

There have been a number of important studies of fundamentalism both in American religion and in American politics and constitutional law.⁷ But, aside

⁷ See, e.g., Ernest R. Sandeen, *The Roots of Fundamentalism: British and American Millenarianism, 1800–1930* (Chicago: University of Chicago Press, 1970); George M. Marsden, *Fundamentalism and American Culture*, 2nd ed. (New York: Oxford University Press, 2006) (first published as

from one important book by Vincent Crapanzano, there has been little interest in what they share in common. Even Crapanzano, while placing the anthropological study of religion and law side by side, confesses having “not . . . much faith in most sociological or psychological answers” to the appeal of fundamentalism in law,⁸ and acknowledges as well his “inability to view the two literalist discourses [in religion and constitutional law] from the same vantage point.”⁹ My aim in this book is, building on Crapanzano’s insights (in particular, into fundamentalist American religion), to study fundamentalism both in American religion and in constitutional law not as separate, though related, topics but as aspects of one problem.

The problem is the continuing power of patriarchy over our conceptions of authority both in religion and in law. By patriarchy, I understand “a hierarchy – a rule of priests – in which the priest, the *hieros*, is a father. It describes an order of living that elevates fathers, separating fathers from sons (the men from the boys) and men from women, and placing both children and women under a father’s authority.”¹⁰ It is important to be clear that patriarchy, thus understood, identifies, as its central case, a hierarchy in a priesthood (operative in religion and in personal life), and that, in placing fathers in this role, it divides not just men from women, but men from men and boys and women from women and girls. Patriarchy, properly understood, is an unjust burden on men as well as on women. It divides both from their common humanity and proscribes a structure of authority that expresses their common humanity – an ethics of equal respect and a democracy of equal human rights, including rights to voice.

Carol Gilligan and I argued in *The Deepening Darkness*, on the basis of Roman history and Latin literature, that patriarchy, thus defined, took a particularly extreme and influential form in the religion and politics of ancient Rome, linking the power of the patriarchal family in Roman private and public life to Rome’s extraordinary psychological capacity to bear the burdens of relentless imperialistic violence in war.¹¹ We trace its later influence in the religion, art, psychology, and politics of Western culture, including its distortion of democratic constitutionalism. Patriarchy, as we study it, is a hierarchical conception requiring that only the father has authority in religion, politics, or law – resting on the

George M. Marsden, *Fundamentalism and American Culture: The Shaping of Twentieth Century Evangelicalism, 1870–1925* (New York: Oxford University Press, 1980); Damon Linker, *The Theocons: Secular America Under Siege* (New York: Doubleday, 2006); Kevin Phillips, *American Theocracy: The Peril and Politics of Radical Religion, Oil, and Borrowed Money in the 21st Century* (New York: Viking, 2006); Cass R. Sunstein, *Radicals in Robes: Why Extreme Right-Wing Courts Are Wrong for America* (New York: Basic Books, 2005).

⁸ Vincent Crapanzano, *Serving the Word: Literalism in America from the Pulpit to the Bench* (New York: New Press, 2000), 297.

⁹ *Id.*, 326.

¹⁰ Carol Gilligan, *The Birth of Pleasure: A New Map of Love* (New York: Vintage Books, 2003), 16.

¹¹ See Carol Gilligan and David A. J. Richards, *The Deepening Darkness: Patriarchy, Resistance, and Democracy’s Future* (Cambridge: Cambridge University Press, 2009).

repression of the free, resisting voice of those unjustly subject to his authority, both women and men. We offer a developmental psychology that explains how such patriarchal authority arises and is sustained, namely by traumatic breaks in personal relationships (including of sons from mothers), leaving a devastating sense of loss and a disjuncture between relationship and identification. The patriarchal voice becomes internalized, along with its gender stereotypes, accepted as in the nature of things or as the price of civilization. Such identification expresses itself through a rigidly binary conception of manhood and womanhood that not only accepts loss in intimate life as in the nature of things (e.g., loveless arranged marriages that serve patriarchal ends) but also is prone to forms of unjust repressive violence, including scapegoating, against any imagined threat to its authority, including resistance to its unjust demands. I call this personal and political psychology the Gilligan-Richards thesis.

Patriarchy expresses its demands in two related ways. First, it rigidly imposes a gender binary (e.g., reason as masculine, emotion as feminine), which tracks not reality but the gender stereotypes that support patriarchy. And second, it always places one pole of the binary in hierarchical order over the other. Our psychology of patriarchy offers an explanation of how these two features of patriarchy come to be culturally entrenched, quashing a moral voice that challenges both the gender binary and its hierarchical ordering. The opposite of patriarchy is, we argue, democracy, in which authority accords everyone a free and equal voice, a voice that both breaks out of the gender binary and contests hierarchy. What patriarchy precludes is love between equals, and thus it also precludes democracy, founded on such love and the freedom of voice it encourages. Because patriarchy is inconsistent with the normative demands of democratic constitutionalism, its persistence is a continuing threat to democracy.

My project in this book is to deepen and extend this analysis by showing how it offers a compelling normative critique as well as an explanatory account of the appeal of fundamentalisms for Americans both historically and, in particular, in contemporary circumstances. How is it possible that in an advanced, well-educated nation like the United States, in which there is such a deep consensus about the enduring values of our democratic constitutionalism, fundamentalisms should flourish both in religion and in law? If such fundamentalisms are in contradiction to our democratic traditions, how is it that this is so little understood and seen? That such views should have gotten so far in American politics shows something troubling about American culture and psychology in a constitutional democracy as developed and enlightened as that of the United States. That so many Americans cannot even see the problem defines, I believe, the problem.

At the heart of the problem is the degree to which patriarchal conceptions and institutions have been uncritically assumed by many American religions in general and fundamentalist religions in particular. Americans live under one of the most robust constitutional traditions protecting religious liberty. Such protections include not only a guarantee of free exercise but also, more radically,

a prohibition on the state's establishment of religion.¹² The consequence has been what leading advocates of these protections anticipated: because religious teachers must draw support directly from the people (not from the state), America would develop and sustain one of the most diverse and pluralistic ranges of religious and philosophical convictions in the world. Americans, for example, are much more religious than Europeans, where established churches still exist.¹³ Precisely because the state in America may not establish religion, religion in America is democratically closely tied to the people and has flourished in independence from state power. Sometimes, its independence has empowered American religions to criticize on the ground of ethics such state-supported evils as slavery as well as racism and sexism, and it has supported movements that questioned and resisted these evils (e.g., the abolitionist movement). But, in other cases, such independence has led American religions and the people who supported them to defend, as God's word, such evils (at one time, only the Quakers among American religions questioned slavery; the others were proslavery). My interest in this book is in these latter religions. Precisely because of the separation of church and state in the United States, my argument is directed not at the state, though it has implications for the interpretation of the religion clauses, as I argue in Chapter 8. I accept, as normatively sound, the general constitutional structure for the protection of religious liberty in the United States.¹⁴ But it is the very democratic freedom of religion in the United States that has rendered it so powerful, and my argument is thus an internal one with my fellow Americans, namely, that they ask themselves whether the interpretation of patriarchal religion in their lives is not, in fact, inconsistent with the democratic values that have supported religious freedom in the United States, values in which, as with Americans generally, they take just pride.

What I am at pains to show (in Part II) is that these religions assume and carry forward patriarchal ideas and practices, which they have uncritically absorbed from the role Roman patriarchy played in the formation of Christianity under the Roman Empire, in particular, after Christianity became the established church of the Roman Empire. Such religions have not only flourished here but have also become important institutions in sustaining and defending patriarchy, a practice that the historical Jesus conspicuously questioned (see Chapter 5). In particular, in the face of any religious or other movement that deeply questions patriarchy, these religions have gravitated to forms of fundamentalism that structure authority in a patriarchal male priesthood, expressing a personal and political psychology of

¹² For a synoptic study of both guarantees, see Kent Greenawalt, *Free Exercise and Fairness*, vol. 1, *Religion and the Constitution* (Princeton, N.J.: Princeton University Press, 2006); *Establishment and Fairness*, vol. 2, *Religion and the Constitution* (Princeton, N.J.: Princeton University Press, 2008).

¹³ On this point, see Andrew J. Cherlin, *The Marriage-Go-Round: The State of Marriage and the Family in America Today* (New York: Alfred A. Knopf, 2009), 72, 103–15.

¹⁴ See David A. J. Richards, *Toleration and the Constitution* (New York: Oxford University Press, 1986).

traumatic loss in intimate life that Christianity absorbed from Roman patriarchal and related practices. It is this structure of authority and its underlying psychology that do not just make the religion insensitive to resisting voices but also silence and demonize the voices and experience of the women and men who would reasonably resist its demands. The consequence is a sense of ethics and politics that fails to take seriously the voices and experiences of more than half the human race and that flouts the central principle of a democratic ethics and politics, equal respect for all. Patriarchy feeds on an echo chamber of its own narcissistic voice, endlessly speaking and hearing only itself. A religious culture, in which patriarchy becomes deeply entrenched, loses the capacity for reasonable doubt about its views, which is shown by the way the polemic of gender scapegoating against dissenters flourishes instead of reasoning with democratic equals. Its views even of its founder, Jesus of Nazareth, ignore what is most distinctive and moving in his antipatriarchal teaching (Chapter 5). Patriarchy thus undermines religion and the role of religion in supporting a democratic ethics and politics.

It is for this reason that it is so important to show, as I try to do in this book, how unreasonable these religions are in terms of their own internal traditions (notably, the antipatriarchal teachings of the Jesus of the Gospels), let alone unreasonable in light of larger developments in American politics and law. It is because of the role of patriarchy in these religions and the culture they shape that they have uncritically and aggressively moved into American politics and have had the appeal and impact they have had on constitutional law. My argument explains precisely what is so puzzling to many abroad: the failure of so many Americans not only not to see the problem but indeed to aggravate the problem by accepting a fundamentalism in law (originalism) that is as unreasonable as fundamentalism in religion, and much more pernicious because, in the name of the founders, it betrays the secular constitutionalism that is perhaps the founders' greatest legacy to us. The contradiction between patriarchy and democracy is not seen – indeed, is so easily dismissed – because our religion has so uncritically structured its authority in terms of a patriarchal priesthood and a supporting patriarchal psychology that we have come to regard patriarchy as nature, indeed as God's law. Both these patriarchal structures and the supporting psychology darken our ethical intelligence in religion and in law. We need, as Americans, to question the psychology of patriarchal manhood and womanhood – its force in our religion and in our politics – that has held us captive for much too long. We cannot deal with the problem until we can see the problem.

Fundamentalism is, in its nature, reactionary and repressive. It arises in reaction to progressive, antipatriarchal developments in religion or in law, which it represses. These contemporary developments have been of two sorts: first, a normative conception of basic human rights, including rights to conscience and voice, owed to all persons – irrespective of religion, race (ethnicity), gender, or sexual orientation; and second, questioning, as illegitimate forms of what I call moral slavery, traditional grounds on which entire groups of persons have been

excluded from the scope of protection of basic human rights. I argue that patriarchy is an important explanatory element of these traditional grounds and, for this reason, questionable as a ground for authority in religion or law in a constitutional democracy. The civil rights movements of the 1960s and later had the impact they had on American constitutional law because they brought an antipatriarchal voice to bear on understanding and criticizing Americans' extreme religious intolerance, racism, sexism, and homophobia (Chapter 1).

Nicholas Bamforth and I elaborated a form of this argument in our critical study of new natural law, which attempts to defend the current views of the papacy on gender and sexuality on ostensibly secular grounds.¹⁵ We argue, both on internal grounds of consistency and on external grounds of moral plausibility, that new natural law is certainly not the secular view it claims to be but, in fact, a highly sectarian religious view. In the course of that critique, we develop a definition of fundamentalism, a view relying on an appeal to the certainty of a specific understanding of authority, rooted in the past, a certainty that is to guide thought and conduct today irrespective of reasonable contemporary argument and experience to the contrary.¹⁶ At the heart of fundamentalism is a form of irrationalism, a sectarian conception of certainty – itself demonstrably unreasonable – that refuses to be open to contemporary argument and experience. It is that refusal to be open to reason or to reasonable arguments that places fundamentalisms, as I shall argue, in such tension with the role of deliberative reason in constitutional democracies.

What I am undertaking in this book, drawing on these earlier works, is an integrated study of fundamentalism in American religion and constitutional law. Patriarchy has been as stable and persistent as it has been in human societies because a developmental psychology of traumatic breaks in intimate life sustained its demands on both men and women. Why and how does this psychology continue to enjoy appeal today even among contemporary Americans? My diagnostic aim in this book is to use the appeal of fundamentalism in America as an illuminating case study of the continuing force of this psychology. What may make my diagnosis of interest is that it offers a not obvious and illuminating explanation of a range of otherwise puzzling symptoms of fundamentalism both in American religion and in law – the need for certainty as opposed to reasonable grounds for belief, its ahistorical appeal to history, the anger and even violence directed at dissent, and of course, its demonization of certain contemporary claims for justice in matters both of sexuality and gender.

My interest in fundamentalism is not only diagnostic but also critical. Indeed, my sense that *diagnosis* is the appropriate term for my project arises from my sense that the appeal of fundamentalism should concern us, both religiously and

¹⁵ See Nicholas C. Bamforth and David A. J. Richards, *Patriarchal Religion, Sexuality, and Gender: A Critique of New Natural Law* (Cambridge: Cambridge University Press, 2008).

¹⁶ See *id.*, 280.

politically, because its doctrines are so critically problematic for two reasons. First, fundamentalist views arise as interpretive claims within a tradition, whether a religious tradition like Christianity or a constitutional tradition like American constitutionalism, and their interpretive claims introduce incoherence and even inconsistency into how the tradition is understood or to be understood. And second, such interpretive claims not only are internally flawed but also so interpret the tradition that it fails any longer to offer an attractive and reasonable view of the world and human life that can or would appeal to someone not already committed to the fundamentalist view. In a secular constitutional democracy, like the United States, such fundamentalist views must, as a basis for political action, let alone constitutional interpretation, be constitutionally problematic. If such fundamentalist views, on critical examination, carry with them such a high price of internal inconsistency and external unreasonableness, we must naturally ask why they enjoy the appeal that they have.

I come to this question, the question of diagnosis, in the same way any student of an irrationalist view, like anti-Semitism or racism, inquires into its continuing appeal. What makes my inquiry into fundamentalism, both in religion and in law, interesting is that it is not obvious that fundamentalism is as flawed by irrationalism, both internally and externally, as the now more widely acknowledged and understood irrationalist evils of anti-Semitism and racism. It is a matter of argument, the argument of this book, that fundamentalism in religion and law is irrational in terms of both internal and external criteria, and thus the further question of diagnosis arises – what psychology sustains such a problematic (because it is irrationalist) interpretive attitude? It is at this point that I turn, by way of deeper explanation, to the psychology that I argue sustains patriarchy, a psychology that clarifies as well the appeal of irrationalist prejudices like anti-Semitism and racism.

I begin in Part 1 with the examination of fundamentalism in American constitutional law, showing its critical defects and then turning to its appeal. The argument examines critically, in terms of both internal and external criteria of reasonableness, the form such fundamentalism takes in the school of constitutional interpretation called originalism (Chapter 2). Originalism, I argue, is a form of source-based fundamentalism, one not only marred by internal incoherence and even contradiction but also deeply unreasonable in the way it walls constitutional interpretation off from the growth in both our moral and our scientific experience over time and in contemporary circumstances. In particular, originalism draws its appeal from the way it forbids constitutional interpretation to take account of reasonable contemporary views of sexuality and gender, in effect, attacking often rather intemperately a range of constitutional decisions that give effect to such views, as I show in Chapter 3 by examining both the tone and the substance of Justice Scalia's dissents in such cases. Why does such an unreasonable view enjoy the psychological support it does? Why the angry, dismissive, even contemptuous tone of such dissents? It is, as a way of answering this question,

that I turn to the diagnosis and critique of fundamentalism in religion. It is the persistence of American fundamentalism in religion that explains, so I argue, not only the psychology that leads originalists in law to take the position they do but also, more generally, why many Americans find originalism the attractive position they suppose, wrongly, it to be.

My argument in Part II examines three forms of fundamentalism in religion: the new natural lawyers as defenders of the normative views on sexuality and gender of the papal hierarchy of the Catholic Church (Chapter 4); Evangelical fundamentalists in Protestant denominations (Chapter 5), and Mormonism (Chapter 6). Catholics and Protestants, as orthodox forms of Christianity, disagree on matters of both theology and religious conviction; and both regard Mormonism as, at best, a highly unorthodox form of Christian belief. Nonetheless, all these divergent religious views, as interpretations of the Christian tradition, adopt fundamentalist views on matters of sexuality and gender, views that condemn and repudiate central claims of the progressive developments discussed in Chapter 1.

Although fundamentalists in religion often define themselves in terms of the certainty of a set of religious beliefs (the inerrancy of the Bible, or the Virgin Birth), the form of fundamentalism that is of contemporary interest – both in religion and in law – is one that ascribes an unquestionable certainty to beliefs about gender (the subordination of women in matters of religious and moral authority) and about sexuality (the intrinsic wrongness, for example, of contraception, abortion, and gay and lesbian sex). These views are fundamentalist because they ascribe a foundational certainty to such beliefs, as beliefs that must be held and acted on irrespective of reasonable argument to the contrary.

I distinguish two grounds for such fundamentalism: norm based and source based. Source-based fundamentalisms rest on an interpretation of the authority of sacred scriptures – for Evangelical Protestants, the Bible; for Mormons, the Bible as well as the *Book of Mormon*, *Doctrine and Covenants*, and *Pearl of Great Price*. Fundamentalists read such texts as the exclusive historical source (*sola scriptura*) of ultimate religious authority and further suppose that they require belief in and action on the certainties of gender and sexuality just mentioned.

Roman Catholicism, in contrast, ascribes ultimate religious authority to interpretive traditions that include but are not limited to the Bible, and that regard Bible interpretation as not limited to the more literal interpretations favored by many Protestants. Such a tradition – historically open to the interpretive relevance of secular philosophical traditions like Aristotelianism and even lessons learned from historical experience – may come to question and repudiate, as Catholicism did in Vatican II, many of the positions once regarded as fundamental to Catholicism, for example, its rejection of religious toleration in particular and political liberalism in general.¹⁷ When Catholic apologists, like the new natural

¹⁷ See John T. Noonan Jr., *A Church That Can and Cannot Change* (Notre Dame, Ind.: University of Notre Dame Press, 2005).