

Intermarriage, Conflict and Social Control in Ireland: The Decree “*Ne temere*”

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Abstract: The decree *Ne temere* of 1908 by which the Roman Catholic Church has, until recently, governed the marriage of one of its members to someone who is not a Roman Catholic has had attributed to it a number of deleterious consequences. The origins of the decree, as it has applied to Ireland, are described, as are the events following its promulgation which came to be referred to as the “McCann case”. It is argued that the McCann case can be thought of as a “moral panic”.

While the numerical extent of marriages between Roman Catholics and Protestants in Ireland is not great (Lee, 1981), a not inconsiderable social significance attaches to the rules by which the Roman Catholic Church governs the marriage of one of its members to someone who is not a Roman Catholic. In particular, the papal decree of 1908 known as “*Ne temere*” which, until quite recently, specified the criteria for recognition by the Roman Catholic Church of the validity of a “mixed marriage”, has had attributed to it by a number of commentators a variety of deleterious consequences.

It has been argued, for instance, that the attempted extension of Roman Catholic control over Catholic-Protestant marriages which *Ne temere* represented was largely responsible for driving a wedge between Protestant and Roman Catholic in Ireland in the early part of the century (de Paor, 1971, p. 144) and for eroding support for Irish Home Rule among Presbyterians (Barkley, 1972). More recently, the Catholic attitude to mixed marriages, as embodied in the decree, has been taken to represent a continuing stumbling block to better community relations in Northern Ireland (Barritt and Carter, 1972, p. 26; Edwards, 1970, pp. 190-196; Rose, 1971, p. 336), as well as being, it is suggested, a major factor which has contributed to the numerical decline of the Protestant minority in the Republic of Ireland (Walsh, 1970).

In the present paper an attempt is made, briefly, to outline the development of Roman Catholic rules relating to mixed marriages as they have affected

Ireland¹, paying particular attention to the relationship between *Ne temere* and earlier canonical legislation. The events which followed the introduction of *Ne temere* in Ireland are then examined in some detail, with particular reference to what became known as the "McCann case", a *cause célèbre* said to have arisen from the application of the decree. It is argued that the reaction engendered among Protestants by this case came to take on the character of what Cohen has called a "moral panic" (1972).

The Decree "Tametsi"

One minor confusion concerning *Ne temere* has arisen because a number of commentators (for instance, Barritt and Carter, 1972; de Paor, 1971) have suggested that the decree was promulgated at the Council of Trent. In fact, the Tridentine decree to which they refer was called "*Tametsi*" and, initially at any rate, it had very little to do with "mixed" marriages.² *Tametsi* was designed to regulate the contracting of clandestine marriages (Cunningham, 1964; de Bháldraithe, 1971), that is, marriages where a couple lived together after having secretly exchanged the marriage vows with one another. These marriages, although regarded as sinful by the Church, were still valid (i.e., indissoluble) but they often led to abuses where, for instance, to cite the example supplied by the Council fathers, a man could leave his first wife by a valid but secret marriage and then contract a second, public, and in the eyes of the Church, adulterous marriage with another woman. After *Tametsi*, marriages were required to be subject to the "canonical form"; that is, a marriage to be valid had to be contracted in the presence of the parish priest of the place (or his authorised deputy) and two or three witnesses. There was, however, the difficulty that promulgation of the decree in Protestant countries would bring the Church into conflict with a hostile civil power. Fortunately, however, to facilitate its reception by the faithful, the decree was designed to be promulgated parish by parish. In the event, while *Tametsi* was speedily implemented in countries like Spain and Portugal, in Protestant countries or in "mixed" regions it was either not promulgated at all or came into force only in particular Catholic enclaves (Haring, 1965; de Bháldraithe, 1971).

In Ireland, *Tametsi* was promulgated soon after Trent in the two northernmost ecclesiastical provinces of Armagh and Tuam. Its provisions were extended

¹The concern here is primarily with marriages between Roman Catholics and members of other faiths. Protestant inter-denominational marriages will not be considered. As will be seen, however, a significant chapter in the history of Irish Presbyterianism involved the controversy over the question of whether a Presbyterian minister could legally marry a Dissenter and a member of the Established Church.

²Since the intention here is to correct a misinterpretation and to set the scene for a discussion of *Ne temere*, no attempt is made to discuss in wider terms the historical development of ecclesiastical control over marriage. (For relevant material see, for example, Duby, 1984; Anderson, 1979).

to the third province, Cashel, in 1775 and to the remaining province, Dublin, in 1778. Meanwhile, Pope Benedict XIV, in 1741, had decreed that *Tametsi* was to be taken as not affecting mixed marriages in Belgium and Holland, and this declaration, the effect of which was to recognise as valid mixed marriages not celebrated before a Catholic priest, was extended to Ireland in a Papal rescript of Pius VI dated 19 March 1785 (Barritt and Carter, 1972, p. 26, Parliamentary Papers 1854-1855, p. 386).

The exclusion of mixed marriages from the requirement of being celebrated according to the canonical form, had a particular advantage for the Catholic Church in Ireland, in that it provided a way of avoiding a point of conflict with the civil law. Although a marriage of two Catholics performed by a Catholic priest was considered to be civilly valid, this was not the case if the marriage was a mixed one. "By the Act 12 Geo. 1, c. 3, marriages between two Protestants, or a Protestant and a Roman Catholic, by a priest or degraded clergyman were declared null and void" (P.P. 1902). Nevertheless, there is some evidence to suggest that mixed marriages celebrated before a Catholic priest were quite common. Giving evidence before a House of Lords Select Committee on the State of Ireland in 1825, the Reverend Thomas Costello, a Catholic priest from Co. Limerick, observed that mixed marriages "were very frequent even among the lower orders". Furthermore, he maintained that many of his flock did not care to contract a mixed marriage before a Protestant clergyman; the people, he says,

are attached to their own religion and are quite unwilling to legalise their marriages with Protestants, by having the rite performed in the Protestant church (P.P., 1825, 425).

Similarly, the Anglican Archbishop of Dublin stated in evidence that he believed that such civilly invalid marriages were frequently performed. He argued, though, that Catholic clergy were particularly eager to assist in the celebration of mixed marriages because of the possibilities they offered for proselytism.

The accuracy of such a charge is, of course, difficult to gauge; nevertheless, the illegality of mixed marriages performed by a Roman Catholic clergyman had its own particular advantage as far as the Roman Catholic hierarchy was concerned. In 1866, Bishop Moriarty told the Royal Commission on the Laws of Marriage that although he would prefer the law to be repealed so that Catholic priests might be on the same legal footing as their Protestant counterparts,

... if I were to consult my own feelings and convenience I should not wish for any change in the law because it is very convenient for me, wishing as I do to prevent such marriages to be able to say to parties seeking our ministrations, 'No, the marriage will not be valid in law and I shall be subjected to a severe penalty ...' (P.P., 1867-8, 104).

In any event, the Commission recommended that the law should be changed in this respect, which it was in 1870. The Church law, with respect to validity, remained unchanged however until the promulgation of *Ne temere* in 1908.

It is important to make use of the phrase "with respect of validity" in this context because, as we shall see, apart from a brief ruling on the proper form for contracting *sponsalia* (espousals), *Ne temere* did not directly concern itself with any aspect of the Church law other than validity. Thus, *Ne temere* did not, as some writers (especially Edwards)³ have claimed, constitute an innovation whereby a couple about to enter a mixed marriage were required to promise to baptise and educate any children of the marriage as Roman Catholics. This requirement, in fact, dates from the eighteenth century (Connick, 1960; de Bháldraithe, 1971; Esmein, 1891), though there are reasons to believe that the promises were not always sought in Ireland.

Bishop Doyle, Roman Catholic bishop of Kildare and Leighlin, when asked by the Select Committee on the State of Ireland mentioned earlier whether there were any prohibitions deriving from the Council of Trent on Catholics marrying Protestants, replied, correctly for the reasons we have seen, that there had been no legislation on the matter at that Council. He then went on to say that mixed marriages were still regarded as valid in the eyes of the Church even if celebrated before a Protestant minister, and that no censure was incurred by the Catholic party if the children of a mixed marriage were brought up as Protestants. Boyle was quite emphatic on this point; Catholic clergymen, he maintained, only advised, rather than insisted, that the children be brought up as Catholics. Archbishop Murray, Catholic Archbishop of Dublin, on the other hand, conceded that not only did the Catholic Church dislike mixed marriages taking place, but

whenever we allow them it is always as far as I know with the condition that the children of the marriage are to be educated in the Catholic religion (P.P., 1825, 265).

Weight is added to this by the evidence of the Reverend Mortimer O'Sullivan, an Anglican clergyman, who testified that he had known cases where the rites of the Catholic Church had been withheld from a Catholic involved in a mixed marriage who had allowed the children of the marriage to be brought up as Protestants (P.P., 1825, 459). Certainly, Bishop Murray's statement quoted above is hardly unequivocal in contrast to the evidence of his Anglican counterpart who claimed the practice to be widespread,

... and in that way very materially, and perhaps principally the number of Roman Catholics has of late years increased, for it hardly ever fails even among the lower orders that the Protestant yields, especially in the case

³Edwards' somewhat tendentious account of what he calls the "Marriage Law of 1908" seems to have been derived from a reading of the Code of Canon Law issued in 1917, rather than from the text of *Ne temere*.

where the Roman Catholic is the female, and the children are with very few exceptions brought up as Roman Catholics (P.P., 1825, 421).

Clearly, though, the promises were not extracted if the marriage was performed by a Protestant clergyman, while Edwards (1970) has suggested that the custom in Ireland in the nineteenth century was rather for the male children of a mixed marriage to be brought up in the father's religion while girls were brought up to follow the mother's faith. Mortimer O'Sullivan, when asked about this particular practice by the Select Committee, replied that he was not familiar with it, adding that he thought it unlikely that the priests would condone it. However, there is evidence to suggest that the practice was known throughout Europe, and that it was even defended by some Catholic theologians, presumably bowing to local custom. Ultimately, though, the practice and its apologists were condemned by Benedict XIV (Connick, 1960). Edwards (1970, p. 190) argues that the custom of raising boys to follow the father and girls to follow the mother was related in some way to a pattern of hypergamous marriage. As one cannot assume that the social relations between Protestants and Roman Catholics were duplicated elsewhere in Europe, this seems not altogether plausible. One can note, however, that such a custom would be consistent with the division of labour in peasant families and would have the advantage of ensuring the continuity of land inheritance within the religious group.

Whatever the reasons lying behind the custom Edwards describes, O'Sullivan's remark on the likely opposition of the priesthood to the practice seems to be borne out by the statement of the Synod of Thurles in 1850 reminding priests of the necessity of obtaining the promises (de Bháldraithe, 1971). With the promulgation of *Ne temere*, further weight was added to this requirement but in an indirect fashion. *Ne temere* made the presence of a priest and two witnesses a necessary condition of the validity of any marriage involving a Catholic:

Only those marriages are valid which are contracted before the parish priest or Ordinary (bishop) of the place or a priest delegated by either of these, and at least two witnesses ...

Further, and here is the only mention of mixed marriages:

The same laws are binding on the same Catholics as above, if they contract *sponsalia* or marriage with non-Catholics baptized or unbaptized, even after a dispensation has been obtained from the impediment *mixtis religionis* or *disparitus cultus*; unless the Holy See decree otherwise for some particular place or region.⁴ (P.P., 1912-13, app. XIV).

⁴*Mixtis religionis* is the marital impediment involved in a proposed marriage between a Catholic and a baptised non-Catholic. Where the non-Catholic has not been baptised, the impediment is one of *disparitus cultus*. (It is possible to give a number of sources for the text of *Ne temere* but today the XIVth Appendix to the Report of the Royal Commission on Divorce, 1912-13 is likely to be the most convenient place to find the official English translation. The decree itself is dated 2 August, 1907 but did not come into general effect until Easter Sunday, 19 April, 1908.)

The effect of this, however, was to make obligatory the promises regarding children because, as de Bháldraithe points out, mixed religion, although an impediment, could not of itself render a marriage invalid. However, a priest would not perform such a marriage until a dispensation from the impediment had been granted, and this a bishop would not do until the promises had been given, "So, *in practice*, the promises became necessary for validity." (de Bháldraithe, 1971 — emphasis added).

The Aftermath of "Ne temere" in Ireland: The McCann Case

The provisions of *Ne temere* had been criticised by the Synod of Bishops of the Church of Ireland soon after its promulgation. The decree made little public impact until 1910, however, when it attained a good deal of notoriety as a result of what became known as the "McCann case". The public first became aware of the McCann case in November 1910 when a letter from the Rev. William Corkey, Minister of Townsend Street Presbyterian Church in Belfast, was published in the local press. [The text of this letter can be found in Corkey's autobiography (Corkey, 1961, p. 151).] Mr Corkey's letter concerned the plight of Mrs Agnes McCann, a member of his congregation. Agnes McCann, the letter stated, had married her husband Alexander, a Roman Catholic, in a Presbyterian ceremony some years before *Ne temere* came into effect. The couple agreed at the time of their wedding that they should attend their respective churches, and the marriage itself was a happy one. Eventually, however, the letter went on, Mr. McCann's priest came to the house and told the couple that the marriage was invalid as a result of the change in canon law brought about by *Ne temere*. Mr. McCann asked his wife to remarry in a Catholic ceremony and when she refused, began to ill-treat her. Some time later, he deserted her, taking with him the couple's two children and, later, all of their furniture. The priest, who regarded Mrs McCann as having been living in sin, would do nothing to help her, leaving her destitute and without her children.

Much of what followed is usefully summarised by Corkey himself in two published accounts of his role in the affair: the one in a pamphlet (Corkey, 1911) produced by the Edinburgh Knox Club at the height of the controversy, in which is reproduced his address to a protest meeting in Edinburgh,⁵ and the other in a chapter of his autobiography written many years later (Corkey, 1961). Despite the gap of fifty years, the latter is especially valuable since it lists those who spoke at the major protest meetings and records their contributions, apparently on the basis of minutes taken at the time.

As he records, Protestant opinion in Ireland was incensed by the revelations contained in Mr Corkey's letter. Soon after it appeared, a special meeting of the

⁵Corkey had many ties to Edinburgh. His mother had been born in the city and he had studied Divinity at Edinburgh University.

Belfast Presbytery was held at which a committee was established to support Mrs McCann, to publicise her case and to help her obtain redress. In a short time the committee had organised a large-scale protest meeting in Belfast at which were represented all the major Protestant denominations in Ireland. Similar protest meetings were soon held in Dublin, Edinburgh, at three venues in London and in a number of other towns and cities. At the same time, Mrs McCann was advised to appeal to the Lord Lieutenant of Ireland to initiate a police search for her children. When the Lord Lieutenant refused to intervene in what he regarded as a civil matter, the affair was raised in the House of Commons by a Unionist member for Dublin University, J. H. Campbell (later Lord Glenavy) and in the Lords by Lord Donoughmore. What had begun as a domestic *imbroglio* very quickly became what Stanley Cohen has termed a "moral panic".

*The McCann Case as a Moral Panic*⁶

Moral panics can be thought of as collective expressions of moral indignation which arise when a "condition, episode, person or group of persons emerge to become defined as a threat to societal values and interests" (Cohen, 1972, p. 9). Cohen originally used the term "moral panic" in a study which traced societal reactions to the Mods and Rockers phenomenon of the 1960s. In the present context it may seem somewhat anomalous to introduce a parallel with the societal condemnation of riotous young people. In what follows, however, what is important is the suggestion in Cohen's work that the arousal of public indignation may take on a characteristic temporal dynamic while at the same time generating a set of negative stereotypical conceptions which become attached to particular events, persons or groups.

Cohen notes that the expressions of indignation typical of moral panics become generated on the basis of an account or "inventory" of what has happened whose source in the media or in the "moral enterprise" (Becker, 1963) of particular individuals is not usually a disinterested one. The novel or previously unnoticed social phenomenon comes to widespread public attention in circumstances where pressures to ensure newsworthiness or to gain a sympathetic public hearing produce a tendency for matters to be presented in a stylised and dramatic way. Typically, when this happens, particular aspects or elements of the situation, like the clothing styles of the Mods and Rockers, are singled out for negative symbolisation. This in turn serves as a basis for labelling those to whom the symbols may be attached as deviant and in need of sanction.

The bringing into being of an inventory which highlights an apparently serious and problematic new development gives rise, Cohen suggests, to a public concern both for interpretation and for control. At this stage, therefore, the

⁶It should be emphasised that the word "panic" is used here in a technical sense and carries *no* derogatory connotation whatsoever.

attention focussed on the inventory begins to lessen. The concern now is, on the one hand, to assimilate the object of the moral panic into a pre-existing interpretative scheme which makes sense of what has happened, and, on the other, to do something about it. Explanations and prognostications concerning the nature, causes and likely effects of the new phenomenon, and which allow its evaluation in terms of dominant values, are now developed to add to the stock of negative imagery and stereotype already in existence.

Normally, it is at this juncture, too, that the apparent ineffectiveness of existing social controls to deal with the emergent phenomenon is revealed. Further and more effective social control is sought through calls for the strengthening of existing control measures and through the increased intervention of control agencies targeted on those social types already marked out by negative symbolisation.

The final outcome of the moral panic depends, in Cohen's view, on what results from this enhanced control effort. In the case of the Mods and Rockers, for example, intensive social control was actually effective in extinguishing the behaviour which led initially to the moral panic. An alternative possibility, however, is that the original deviance becomes "amplified" as those marked out by the moral panic develop subcultural forms organised around the contingencies produced through the application of social control (cf. Young, 1971). The legacy of the moral panic in this case is the permanent inclusion of a new social type in society's catalogue of folk-devils.

One difficulty with Cohen's model, which he himself was later to acknowledge (1980), is that it deals primarily with *reactions* to particular events while saying relatively little about the context out of which a moral panic arises. In the context of the McCann case, one important backdrop to the whole affair which should be borne in mind is that the issue of marital invalidity was a particularly emotive one for Presbyterians in Ireland.

It had only been just over sixty years earlier, in 1845, that Presbyterian ministers had become able in civil law to conduct a marriage ceremony between a Presbyterian and a member of another denomination. Indeed, the legal right to join together two Presbyterians in marriage had only been granted to Presbyterian clergy towards the end of the eighteenth century. Although they had been granted indemnity from prosecution in 1737, before this time Presbyterians who had not had their marriages solemnised before a minister of the Established Church could face proceedings in ecclesiastical courts, a procedure which carried with it an implication that those who regarded themselves as properly and respectably married were merely living in a state of cohabitation⁷

A further difficulty with Cohen's model is that it depends for its effectiveness on an ironic comparison in which the exaggerated and stylised reaction to an

⁷I am extremely grateful to an anonymous referee for the information contained in this paragraph.

event can be checked against "what acutally happened". That Cohen was able to do precisely this in his study of the Mods and Rockers adds considerably to the persuasiveness of his argument. Such a comparison is, of course, much more difficult to accomplish with non-contemporary material and in situations such as the McCann case where, as described later, one of the groups had — unlike the Mods and Rockers — the power and the interest to develop and propagate a counter-inventory of what had happened.

On the facts available, it is not possible to say whether or not Mr Corkey's account of Mrs McCann's tribulations was distorted or exaggerated. One, of course, cannot doubt Mr Corkey's sincerity, though it is likely that even if there was no conscious exaggeration, he would undoubtedly have wanted to put the situation in which Mrs McCann found herself in the best possible light. What is clear is that the alleged source of Mrs McCann's plight — the decree *Ne temere* — and its perpetrator, the Roman Catholic Church, were soon seen in a negative, stereotypical and even lurid way.

What had happened to Mrs McCann was almost invariably interpreted on the basis of an assertion that the Catholic Church was an aggressively domineering institution. This view, for example, was forcefully put by one of Corkey's presbytery colleagues, who in proposing a motion of support for Mrs McCann, declared "the claim of that church always has been to control the individual, the home, the school, the nation" (Corkey, 1961, p. 154). In this light, the decree *Ne temere* was seen to represent an attempt by the Catholic Church to extend its domination. The McCanns were legally married in British law. By declaring the marriage null and void as a result of the decree, the Catholic Church, the argument went, was trying to undermine that law. As Corkey (1911, p. 15) put it in Edinburgh,

This decree challenges the supremacy of British law. I hold in my hand a marriage certificate bearing the seal of the British Empire, and recording the marriage of Alexander McCann and Agnes Jane Barclay. This certificate declares that, according to the law of Britain, these two are husband and wife. This Papal decree says their marriage is "no marriage at all". Which law is going to be supreme in Great Britain?

From the Protestant point of view, there was in this challenge an additional and sinister significance. The Pope was both head of the Roman Catholic Church and the ruler of a sovereign state, making the Catholic Church both a religious body and a foreign power. In consequence, the operation of *Ne temere* could be seen as advancing the interests of that foreign power to the detriment of the rights and privileges due to the population of Ireland as subjects of the British Crown.

An argument of this kind gave the opponents of the decree an opportunity they were not slow to exploit to appeal to xenophobia and to Empire loyalism.

Speaking in Dublin, J. H. Campbell called the promulgation of the *Ne temere* “an act of intolerable aggression by a foreign power” (Corkey, 1961, p. 164). The audience at the protest meeting in Belfast was asked by Dr Crozier, the Church of Ireland Bishop of Down, Connor and Dromore, whether the sacred vows of marriage “are to be repudiated at the bidding of a foreign Pontiff” and heard the Moderator of the General Assembly of Ireland, Rev. Dr J. H. Murphy, tell them to “demand that the benefits and securities which we enjoy as British subjects under British law shall not be stolen from us by any self-constituted ecclesiastical tyranny” (Corkey, 1961, p. 157).

Along with the challenge it was said to pose to the civil liberties of British subjects, *Ne temere* was also regarded as a threat to the home. The motion condemning the decree at the protest meeting held in Belfast, for example, described *Ne temere* as “a direct incentive to the breach of the marriage vow” (Corkey, 1961, p. 158). Corkey, too, skilfully combined the threat to the family with the themes of Empire and foreign domination in his address to the Edinburgh meeting. *Ne temere*, he claimed (1911, p. 14), was a danger to the Commonwealth “because it strikes at the home”, and he went on,

It will affect the peace and harmony of thousands of homes. We believe with Lord Rosebery that “the roots of empire are in the home”, and if the decree of a foreign power can come into a free British home and break it up, that decree becomes a menace to the State.

Having developed an account of what had happened and an interpretation of its origins and implications based on ideas about the domineering intent of the Catholic Church and the machinations of the Pope as the leader of a foreign power, Protestants were still faced with the task of taking effective action against the decree. In accounting for the transition from interpretation to remedy in the case of the Mods and Rockers, Cohen (1972, Ch. 4) points to the importance of two elements: “sensitisation” and the character of what he calls the “official control culture”. Sensitisation refers to the development of a perception that the novel social phenomenon causing concern is not an isolated instance but is in reality all around, while the “official control culture” may be thought of as the norms, values and working practices of the official agents of social control. Cohen notes that such agents were quickly and decisively mobilised against the Mods and Rockers because of the congruence between the official control culture and the conventional stereotypes which the Mods and Rockers evoked.

Protestant opinion in Ireland very quickly became sensitised to the operation of *Ne temere*. Commentators hostile to the decree indeed took pains to stress that the McCann case was not a single, isolated incident. Many of those who spoke at public meetings, including Corkey himself, indicated that they had at least indirect knowledge of other cases. Dr Irwin, for example, told the Presbytery meeting that he “could add to Mr Corkey’s story one from his own experience”.

One of the speakers at the Belfast protest meeting had received a communication earlier in the day from "a well-informed observer in Co. Down that two cases of practically the same procedure had taken place in a well-known locality there" (Corkey, 1961, p. 160), while the Archbishop of Dublin was able to tell the audience at the protest meeting in the city that he too had had a further case brought to his attention. His colleague, the Archdeacon of Ferns, managed neatly to stress the impact of the decree while mitigating any possible charge that additional cases were few in number. In his view many people were suffering because of *Ne temere* but these cases did not come to light because those involved were afraid to come forward.

A rash of cases similar to the McCanns' was, in fact, reported at the time, including a number in England, and a year later cases on the McCann model, such as that involving the alleged abduction of the daughters of a mixed marriage in Kilmurray, Co. Cork, were still to be seen in the press. One suspects that an element of exaggeration was at work here since many of the reports were at second hand. Further, it is not, of course, impossible that what was being produced was a self-fulfilling prophecy. The publicity surrounding the McCann case may have encouraged Catholic clergy to seek out those affected retrospectively by the decree with more diligence than they might otherwise have done on a simple reading of the original promulgation with its emphasis on *sponsalia*.

The result of a self-fulfilling prophecy or not, the threat posed by *Ne temere* was clearly apparent, at least in Protestant eyes. Moves to deal with that threat, however, were much less readily forthcoming than the campaigners could have wished, in the first instance because conditions existed which permitted a challenge to the whole basis upon which the moral panic had been developed.

The ability of a group to resist attempts at stigmatisation and the application of punitive sanctions lies in its size, level of organisation and relative power (Lofland, 1969, pp. 13-15). If one takes the Mods and Rockers, for example, it is clear that they were, in relative terms, small in number and almost completely lacking in any real organisational structure. In common with other young people, they had little in the way of economic or political power with which to exercise any countervailing influence over the control apparatus, nor did they possess means to propagate information which might have modified or falsified the negative and largely exaggerated stereotypes of them which were being propounded. Indeed, to the contrary, where Mods and Rockers did have direct access to the media, it was in contrived situations which could be exploited to justify the worst fears upon which the moral panic had been based (Cohen, 1972, pp. 140-141).

Catholics in Ireland in the period of the McCann case, on the other hand, formed, as they still do, a sizable and well-organised group with their own representatives and with access to the media. It was thus possible for Catholic opinion leaders to offer a counter-inventory of what had happened and a counter-inter-

pretation of why the McCann case had come to the public view. In this situation, the universality of condemnation of the kind which greeted the Mods and Rockers and the inter-penetration of conventional stereotypes and the official control culture was much less likely to emerge. Instead, the expression of moral indignation became co-extensive with pre-existing lines of social and political differentiation. The decree *Ne temere* and its alleged consequences became no longer the object solely of a crusade but of a controversy.

The Catholic counter-inventory with its attendant counter-interpretation is most concisely found in the replies made by Nationalist MPs when the McCann case was raised in the House of Commons. Joseph Devlin, MP for West Belfast, produced a letter in the House which he claimed was from Alaxander McCann. As read later in the debate by John Dillon, this described the McCanns' marriage as having been unhappy. It had been beset by difficulties produced, it was said, by Mrs. McCann's aggressiveness and her interference with the practice of Mr McCann's religion. As the letter put it (House of Commons, col. 193):

... there was never a day passed without a dispute. For instance, she would have meat ready for me on Fridays. She would put back the clock and make me late for Mass. She ridiculed the priest and religion, cursed the Pope and sang hymns all day.

Mr McCann had left, the letter said, because he had found the situation intolerable. He specifically denied, however, that his priest had ever urged him to desert his wife.

Devlin further claimed to know the real significance behind the McCann case. During his campaign, he alleged, posters had gone up in his constituency which said, "Will you vote for Devlin and have your Protestant children kidnapped by the Priest?" In his view, the whole affair had been manipulated quite simply and cynically for political ends.

Added weight was given to this position in Nationalist eyes by an important weakness in Mrs McCann's story. She consistently refused to name the priest who had visited the home with news of the retrospective effect of *Ne temere*. Devlin produced statements from the priests in McCann's parish denying all of Mrs McCann's charges and threatening legal action against anyone who named any of them publicly as being the priest in the case. Protestant reluctance to take up this challenge was taken as evidence of the unsoundness of their case.

Given the existence of inventory and counter-inventory, interpretation and counter-interpretation, the response of the official control apparatus to a moral panic becomes problematic. In this situation the obtaining of an authoritative resolution to a controversy lies, it is probably not too cynical to suggest, in the relative power of each faction to align the official control structure to its version of the affair. The juncture at which the McCann case took place put Protestants at a disadvantage in this regard. Since 1908 (ironically the year in which *Ne*

temere had been promulgated) the support of the Irish Nationalists at Westminster had allowed the Liberal Government to remain in office, an advantageous parliamentary position for the Nationalists which had been enhanced by the General Election of December 1910 (Lyons, 1973, p. 269). The government of the day was, therefore, relatively unsusceptible to pressure identified with the Unionist cause.

Even despite the large-scale protest campaign which had been waged against *Ne temere* and the evident feeling which the issue had aroused among Protestants, the government did not retreat from the position originally taken by the Lord Lieutenant. Birrell, the Chief Secretary for Ireland, reiterated in the House of Commons that the matter was a civil one over which the authorities had no direct jurisdiction and affirmed that, although the police had been permitted to try to establish Mr McCann's whereabouts, the Crown authorities were refusing to become any more deeply involved in the case.

Birrell's speech to the House of Commons actually supplies an example of the way in which the official control culture can be used to thwart attempts to mobilise the official control agencies in support of a moral panic. In it he identifies the issue as being largely concerned with the specific plight of Mrs McCann. Not only did this avoid the wider issues which the decree undoubtedly raised, but it was an attempt to encourage the view that a strict adherence to existing legal norms was sufficient to deal with the problem which had arisen. Birrell argued that Mrs McCann could have obtained speedy and effective redress by an application to the Court of Chancery. Since Mrs McCann's advisers had not recommended to her this simple remedy but had preferred instead the more public and politically more useful device of an appeal to the Lord Lieutenant, they stood condemned, Birrell contended, of putting political expedience before Mrs McCann's best interests (House of Commons, cols. 161-163). The campaign against *Ne temere* was, therefore, merely a manoeuvre by Unionists to whip up feeling against Home Rule and in this light was not to be taken as a genuine basis for concern about the decree.

Consequences of the McCann Case

In the short term, it appears then as if those who opposed *Ne temere* were, on the whole, unsuccessful in dealing with the effects of the decree. In the case of Mrs McCann herself this was noticeably so, for although donations from well-wishers and the proceeds of collections at protest meetings saved her from destitution, she remained unable to recover her children.⁸ Moreover, there seems never to have been any prospect that the furore over the McCann case would lead to the

⁸It seems that in later years Mrs McCann divorced her husband and remarried. An attempt was made to trace her in order to interview her about the case, but she proved to have died a few years earlier.

withdrawal or modification of the decree or that it was damaging to British relations with the Holy See. Because it did not result in an alignment of the authorities with those who opposed *Ne temere*, the wave of moral indignation aroused by the McCann case must be thought of as a failed moral panic.

By other criteria, however, the moral panic induced by the McCann case might be judged a success. As Becker (1963), Cohen (1972, pp. 139-143) and others point out, those engaged in moral enterprise have often, in fact, a vested interest in the continued existence of that which they decry. Certainly, had the McCanns' domestic difficulties been successfully resolved or the impact of the decree been lessened by government action or a change of heart at the Vatican, the case would not have served the Unionist cause nearly so well as it in fact did.

This was so for two reasons. The first was that the promulgation and enforcement of *Ne temere* were seen as actions which decisively marked off the Catholic Church from other Christian bodies. The judgement of the Presbyterian minister who seconded the resolutions put forward at the protest meeting in Belfast was emphatic, for example: "Between all forms of Protestantism represented on this platform tonight and Romanism there is a dark gulf fixed" (Corkey, 1961, p. 160). Now, this was partly based on the recognition that the decree put into question the validity of all marriage rites performed by non-Roman Catholic clergy. If a marriage performed before a Protestant minister was null and void because one of the partners was a Roman Catholic, was not a marriage between two Protestants, which used exactly the same form, also invalid? Partly, however, the distinction between Catholics and Protestants was also tacitly drawn on the basis of Protestant moral superiority. Only the Roman Catholic Church, it was implied, was capable of the kind of action *Ne temere* had produced, the dismemberment of a family and robbing a mother of her children. "The spirit that could break up a happy home", said Dr. Murphy, "... is capable of any enormity" (Corkey, 1961, p. 157), while Corkey rather dramatically announced, "the men that would defend this cruel deed would burn (Protestants) if they had the power". *Ne temere* was, as J. M. Barkley (1972) points out, the first occasion on which all of the Protestant churches in Ireland took joint and concerted action to preserve their interests. It is likely that the sense of moral superiority which the campaign engendered was also an important element in the forging of a supra-denominational identity among non-Roman Catholics in Ulster.

Secondly, Protestants became convinced that *Ne temere* was a foretaste of what might be expected if Home Rule were to be granted to an Ireland in which control would be in the hands of a Catholic Nationalist party. (For reviews of the period, see Stewart (1967) and Lyons (1973)). Never expressed openly at the protest meetings which were proclaimed to be non-political (see, e.g., Corkey's opening remarks at Edinburgh (1911, p. 3)), the point was, nevertheless, made explicit by Unionist politicians and the Press. Said Campbell in the House,

At least this case of Mrs McCann is a solemn warning to those of us in Ireland who feared such results (of Nationalist control in Ireland) and I can assure this house that it has strengthened the unalterable determination of Loyalists and Protestants in the country . . . to retain what they believe to be the only guarantee for the continued enjoyment of their civil rights . . . (House of Commons, col. 158).

while the *Northern Whig* put the argument in a somewhat blunter fashion:

The case sheds a flood of light upon what would happen if the Church of Rome were to be established in Ireland, as under Home Rule it would be (6 January, 1911).

To quote Barkley again:

The prominence of the *Ne temere* decree and the McCann case in the speeches of the period and in Presbytery discussions points to this being the reason for the switch to almost total opposition to Home Rule. The vote (at the General Assembly) being 921 against and 43 for — a very different situation from that twenty years earlier.

Apart from its political impact, the McCann case had consequences for those in subsequent years who contemplated a Protestant-Catholic marriage. In the first place, although there is no direct evidence with which to support the proposition, it is likely that in the wake of the publicity surrounding the McCann case social control of religious intermarriage was intensified. Protestant parents seeking to dissuade a son or daughter from marriage with a Roman Catholic now had, in the McCann case, a powerful cautionary tale, while Catholic priests, to echo a point made earlier, were not alerted to the necessity for ensuring that "mixed" marriage took place in a Catholic ceremony. Secondly, a Catholic-Protestant couple wishing to marry could no longer leave the site of the ceremony to custom or to personal preference. Instead, they faced decisions about the formal validation of their relationship as a major contingency in courtship and with the prospect, whatever their decision, of displeasing one side or the other. As is shown elsewhere (Lee, 1981), in this respect at least the impact of the *Ne temere* decree and the Protestant reaction generated by the McCann case⁹ retains a contemporary significance.

⁹I hope in the near future to undertake a more detailed and extensive study of the McCann case.

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