

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY, 1951

GENERAL AND PASTORAL

Stimulating articles on the principle of the double effect are presented by William Conway¹ and J. Ghooos.² Fr. Conway's main purpose is to show that the essential problem in the application of the principle is "simply a precise application of the principle that the end does not justify the means." In other words, the essential problem is on the level of the external act and in the relationship between the good and evil effects. Fr. Ghooos contends, against Joseph T. Mangan, S.J.,³ that St. Thomas' discussion of unjust aggression is not an example of the principle; that the theologians of the sixteenth century, especially the early part, solved cases by intuition and without even implicit use of the principle; and that it was John of St. Thomas, not the Salmanticenses, who first formulated the principle as a general principle.

Of the many intriguing questions provoked by Fr. Ghooos and Fr. Conway, I am selecting only two for further comment. Fr. Ghooos mentions that John of St. Thomas approached the problem of the double effect by asking whether the good effect could be obtained in some other way. In itself, this statement is sufficiently innocent. Nevertheless it might lead some readers to think

¹ "The Act of Two Effects," *Irish Theological Quarterly*, XVIII (April, 1951), 125-37. In January, 1951, the *Quarterly* resumed publication after a lapse of almost thirty years.

² "L'acte à double effet: Etude de théologie positive," *Ephemerides theologicae Lovanienses*, XXVII (Jan.-Jun., 1951), 30-52.

³ "An Historical Analysis of the Principle of Double Effect," *THEOLOGICAL STUDIES*, X (1949), 41-61. Fr. Mangan's claims, as summarized in his own conclusion, are: "Article seven of question 64 of the *Secunda Secundae* of St. Thomas' *Summa Theologica* is the historical beginning of the principle of the double effect as a principle. Although the principle as such was not accepted generally before the sixteenth century, it was accepted generally in its application to particular cases by the moralists of the sixteenth and seventeenth centuries and by all who have succeeded them. In the middle of the seventeenth century the 'Salmanticenses Scholastici' provided the most outstanding link in the further development of the principle in their treatise [*De peccatis*] which amounts to a discussion of the principle as applicable to the whole field of moral theology" (p. 61). Speaking only as a reader of the two views, not as an expert critic, I should say that Fr. Ghooos has not weakened Fr. Mangan's claims. In particular, I would question Fr. Ghooos's explanation that the theologians of the sixteenth century solved cases merely on intuition. There is an intuitive or quasi-intuitive element in many moralists' solutions; but this does not deny the implicit use of a principle.

that John of St. Thomas agrees with those theologians who consider this question (can the good effect be obtained in some other way?) essential to the application of the principle of the double effect, and who say that the action is not permissible when the good effect is obtainable in some other way. As a matter of fact, John of St. Thomas clearly does not hold this.⁴ The point he makes, both in the passage quoted by Fr. Ghooos and especially in the subsequent paragraph, is that the action which produces the evil effect is not licit if the good effect can be *conveniently* obtained in some other way.

As regards Fr. Conway, his main contention is undoubtedly correct, and a clear understanding of it is of great importance. Equally necessary, however, is a proper understanding of the more general principle to which he reduces the principle of the double effect, namely, evil is not to be done that good may come from it. Fr. Conway appears to accept this principle in a universal sense: no evil may be done in order to obtain good; and he rejects the distinction made by Walsh⁵ into evils that may never be intended and evils which may be intended at least as means to an end. Consequently, when confronted with the rather simple cases of breaking a stained-glass window to save a person's life or amputating a limb for the same purpose, Fr. Conway prefers to say that in the circumstances the breaking of the window and the amputation are not evils. It is true that they are not moral evils; but it seems to me that they remain physical evils, even in the circumstances mentioned, and that these very circumstances point to the need of some distinction similar to Walsh's. For my part, I prefer to say that there are some physical evils that are naturally subordinated to higher ends, and we have a right to cause these evils in order to obtain these ends. Thus, the bodily member is subordinated to the good of the whole body, and one has a right to remove this member when this is necessary for the good of the whole. The principle of the double effect is not required to justify this act; but the reason for this is not that the amputation is not an evil, but rather that it is an evil that one has a right to cause.

In summary, let me suggest that the principle, evil is not to be done in order to obtain good, is not an absolutely universal principle. It refers absolutely to moral evil. As for physical evils, it refers only to those which lie outside the scope of the agent's direct rights (e.g., death of an innocent person); it does not refer to evils that one has a right to cause (e.g., self-mutilation to preserve life or health; the death of an enemy soldier or an unjust aggressor).

⁴ Cf. *De bonitate et malitia actuum humanorum*, disp. 11, art. 6, nn. 42-43.

⁵ *Tractatus de actibus humanis* (Dublin, 1891), n. 152.

The principle of the double effect has its difficulties, but they are difficulties, not mysteries. Verging on the mysterious, however, is the concept of *delectatio morosa* as portrayed in most modern textbooks. This sin refers to an act pictured in the imagination, and according to numerous modern manuals it has various characteristics, negative and positive. It is not a sin of the intellect, like heresy or the approval of false doctrine. It is not a merely dangerous thought. It is not consent to a sensitive passion connected with the thought. It is not complacency in a sinful act already performed; nor is it the sin of desire, even inefficacious desire. It is not complacency in the thought itself, or in any knowledge acquired through the thought. It is purely and simply complacency in the object thought of, as delectable in itself, independently of any reference to external execution, past, present, or future, and independently of external effects, even on the lower appetites.

A lengthy, careful analysis of the concept of *delectatio morosa* has led André Snoeck, S.J.,⁶ to conclude that this internal sin consists in the deliberate imaginary execution of a sinful act. Fr. Snoeck's article represents only the published part of a dissertation on the notion of *delectatio morosa*.⁷ From the splendid historical survey in the unpublished section of the dissertation we learn that the definition to which Fr. Snoeck himself subscribes ("consensus in executionem operis mere imaginariam") and which is apparently widely accepted today, does not reflect an unchanging tradition. In former times, he says, the more commonly accepted notion of *delectatio morosa* was "consensus in delectationem sensibilem actualem, ab objecto cogitato procuratam."

These two definitions have significantly different implications. According to the definition favored by Fr. Snoeck, the precise sinfulness of *delectatio morosa* is determined by the act which is perpetrated in the imagination. For example, an angry man who deliberately imagines himself detracting and humiliating his enemy is guilty of detraction and contumely, even though he has excluded all desire, even inefficacious desire, of externally executing these acts. On the other hand, if *delectatio morosa* is taken to mean consent to a sensible passion, the precise sinfulness should be determined by the passion itself. The imagined acts are merely means of stimulating or fostering the passion, and they contribute no specific malice to the act unless they are

⁶ "De delectatione morosa uti est peccatum internum," *Periodica*, XL (June, 1951), 167-209.

⁷ The dissertation, prepared at Woodstock College, Woodstock, Maryland, is entitled *De definitione delectationis morosae ut peccati interni*. The manuscript copy is at Woodstock. I should mention here that in his dissertation Fr. Snoeck gives five different definitions that have been or are used by theologians. The two definitions included in my text are merely what might be called the two extremes of the series.

objects of *gaudium* or *desiderium*. Applied logically to the example of the angry man just mentioned, this would mean that his guilt consists solely in the unjustifiable fostering of the passion of anger. The latter strikes me as both more intelligible and more realistic than any other explanation of *delectatio morosa*.

Is alcoholism a sickness? Richard J. Murphy, S.J.,⁸ and John C. Ford, S.J.,⁹ reply that it is an incurable, but controllable, illness. Explaining the concept further, Fr. Ford says it is a sickness of body, mind, and soul. On the bodily side, there is strong medical testimony for the existence of a physiological component of alcoholism, although there is no agreement as to what this component is, and no one has yet been able to isolate it. That it is a mental illness seems clear from the fact that generally speaking there is a compulsive element in alcoholism.¹⁰ Fr. Ford argues to the existence of a spiritual aspect of the illness from the fact that the rehabilitation program planned and effectively used by Alcoholics Anonymous is almost entirely a spiritual program. Since such good results are produced by a program that is essentially ascetic, it seems logical to infer that one source of the problem is spiritual deterioration.

Is the alcoholic responsible for his excessive drinking? Fr. Ford and Fr. Murphy concur in the general observation that, since there is a compulsive element in the drinking, there ought to be some diminution of culpability. But the degree of diminution can vary from slight to great, hence a confessor or spiritual director must always consider the individual cases. As Fr. Ford puts it in his summary:

The average alcoholic is sick in body, mind, and soul, and usually cannot stop drinking without outside help. *His responsibility for his drinking is generally diminished to a considerable extent, and sometimes eliminated, but each alcoholic, each*

⁸ "A Plea for the Alcoholic," *Australasian Catholic Record*, XXVIII (Jan., 1951), 23-30.

⁹ "Depth Psychology, Morality, and Alcoholism," *Proceedings of the Fifth Annual Meeting* [1950] of the Catholic Theological Society of America, pp. 64-151. (The last three pages contain discussion of the paper.) Fr. Ford's paper was later printed, under the same title, in book form, obtainable from the Weston College Press, Weston 93, Mass.

¹⁰ Regarding alcoholism as a mental illness, see Edward A. Strecker, M.D., "Psychotherapy in Pathological Drinking," *Journal of the American Medical Association*, CXLVII (Oct. 27, 1951), 813-15. Dr. Strecker says that pathological drinking is a psychoneurosis and he advocates psychotherapy as the best cure. Others besides doctors might meditate on this concluding paragraph: "I have indicated that the attitude of the therapist should be mature, nonemotional, and objective, but much understanding and humility are needed. As he deals with alcoholic patients, in all sincerity the therapist should be able to say to himself, 'There but for the grace of God go I.'"

drinking episode, and even each act of drinking must be judged separately. The judgment of each case must be made in the light of the alcoholic's condition of body, mind, and soul; but the honest and enlightened testimony of his own conscience is the best criterion we have of his responsibility. Since his condition and his craving are pathological we should tend to be lenient in assessing the subjective moral responsibility; and in the final analysis the judgment must be left to a merciful God.

On the pastoral side, Fr. Murphy and Fr. Ford both encourage priests to try to gain an understanding of alcoholism and of its difference from mere drunkenness, and to co-operate with Alcoholics Anonymous in bringing about the rehabilitation of alcoholics. It is true theoretically that the alcoholic has the power to control his addiction by avoiding drinking, yet the taking of the necessary steps is not practically possible without help in the form of sympathetic understanding, enlightenment, and encouragement. Priests ought to be prepared to give such help.

Of special importance, in my opinion, are Fr. Ford's remarks about the training of seminarians. They should be given an understanding of the mentality of the alcoholic, methods of dealing with him, methods of co-operating with Alcoholics Anonymous. They must see alcoholism, not as something humorous, but as the terrible social evil that it really is. They must appreciate the true Catholic attitude towards, and the great benefits that flow from, total abstinence; and they must face the fact that this kind of Christian self-denial can hardly be preached effectively by one who does not practice it. Such things, observes Fr. Ford, "are at least as important as learning how to run a Holy Name Society, or a meeting of the Young Ladies' Sodality."

An excellent pastoral article that might well be developed into a book is "Mental Hygiene and the Priest," by Robert P. Odenwald, M.D.¹¹ The author covers various aspects of parish life in which the priest can help individuals to achieve emotional stability. In the birth-control problem, for instance, it is not enough to insist that contraceptionists are doing wrong; they must be helped to see the correct solution and to accept and adjust to it, even though it is difficult. Other problems apt to exist in any parish are the conflicts that arise in married life, juvenile delinquency, alcoholism, sexual aberrations, and so forth. Some of these are minor problems that the priest himself can handle; others are complicated psychological problems that may require referral to a psychiatrist. Doctor Odenwald sketches the problems and concludes by stressing the need of mutual understanding and co-operation between priests and psychiatrists.

¹¹ *Homiletic and Pastoral Review*, LI (Dec., 1950), 235-42.

ATOMIC WARFARE

Asked whether the United States should use the atomic bomb in the Korean conflict, John J. Cavanaugh, C.S.C., wisely prefaces his answer with two observations. First, he limits the question to the permissibility, not the advisability, of using the bomb; he leaves the advisability (granted the licitness) to the careful consideration of the highest military officials. Secondly, though he is willing to express an opinion on the moral issue, he modestly observes that the final answer should be given by "the highest and most competent moral sources, after prayer and fasting."¹²

In his statement on the moral issue, Fr. Cavanaugh definitely rejects the theory of total war, "which would regard the entire enemy population as 'combatants': women and children, the aged and sick, professional men and tradesmen—persons in wartime going about the same tasks they perform in times of peace." Nothing can justify the direct killing of such people; hence nothing can justify the indiscriminate bombing of cities in order to demoralize and terrorize. On the other hand, there is no moral objection to the use of the bomb against the aggressor's troops and ships. Nor can there be any objection against using it on very important military targets, such as "centers of production of coal, oil and uranium, of iron and steel, great dams and centers of electrical power; plants producing weapons and military transport, etc." Bombing of such targets could be justified, even though it resulted in the foreseen but unintended death of many civilians.

Almost simultaneously with the publication of Fr. Cavanaugh's statement, the commission appointed for the study of atomic warfare by the Federal Council of the Churches of Christ in America issued its report.¹³ The majority report allows the limited use of atomic weapons if such weapons are used against us or our friends in Europe. On the question of giving up our atomic weapons, the commission makes this observation: "As long as the existing situation holds, for the United States to abandon its atomic weapons, or to give the impression that they would not be used, would leave the non-Communist world with totally inadequate defense. For Christians to advocate such a policy would be for them to share responsibility for the worldwide tyranny that might result."

May we use the bomb *first*, that is, before the enemy uses it? A great hubbub arose when Edmund A. Walsh, S.J., was reported in the press as giving an affirmative answer to the question. There was no need of the

¹² My information on Fr. Cavanaugh's statement is taken from the *Chicago Herald-American*, Dec. 1, 1950, p. 5.

¹³ "The Christian Conscience and Weapons of Mass Destruction," *Christian Century*, LXVII (Dec. 13, 1950), 1489-91.

hubbub. Fr. Walsh was simply applying sound principles that govern legitimate defense against an unjust aggressor. His thesis, as delineated carefully in his book, *Total Empire*,¹⁴ comes to this: We may launch appropriate defensive measures the moment we are certain that an unjust attack is imminent; we are not obliged to wait for the actual attack. As regards the *de facto* situation, we know that Soviet Russia is intent on world conquest, and we also know that no nation would attack the United States without being armed with atomic weapons. Consequently, if our intelligence department were to obtain certainty of an imminent attack by Soviet Russia, we should be certain not only of the attack itself but also of the fact that it would include atomic weapons; and we should be justified in averting the attack by means of similar weapons.

Does Fr. Walsh subscribe to the theory of total war and thus allow indiscriminate bombing? Some might infer this from the stress he lays on the "total war" mentality of totalitarian aggressors, but I think his own position is made sufficiently clear in these words: "Should large numbers of civilians be harmed by American necessity to use the bomb in self-defense, that regrettable effect, not intended as such, would be attributable to what moralists describe as the *indirect voluntary*." If he subscribed to a theory of total war he would not need to resort to the principle of the indirect voluntary in order to justify the killing of civilians.

Fr. Walsh's position was challenged in a Catholic Hour broadcast in Australia by Mr. D. G. M. Jackson, who said: "In all humility I strongly disagree with the view of Dr. Walsh on the use of atomic weapons, and regard his arguments in their favour as thoroughly unsound—and I am convinced that in this view I am in agreement with the general body of Catholic theological opinion and with the spirit of Papal utterances during the recent war." These words are quoted by Desmond O'Connor, S.J., but not with approval.¹⁵ Fr. O'Connor says we "must distinguish between a theological condemnation of an act as morally wrong and a condemnation arising out of the fact that the very necessity of it revolts any well-ordered mind." Fr. O'Connor finds papal statements that deplore the destruction caused by modern warfare and indeed the necessity of war itself; also statements that condemn total war and indiscriminate destruction. But he finds no condemnation of atomic warfare, directed against military objectives and waged in self-defense. Like Fr. Cavanaugh and Fr. Walsh, he believes

¹⁴ Milwaukee: Bruce, 1951. See Ch. XI, "Atom Bombs and the Christian Conscience" (pp. 243–59).

¹⁵ "Is the Atom Bomb Lawful?", *Australian Messenger of the Sacred Heart*, April 2, 1951, pp. 238–42.

such use of the atomic bomb is permissible, "even though it may also injure non-combatants, so long as this unfortunate effect is not directly intended, and the death or maiming of the non-combatants does not reach such proportions as to outweigh, in the mind of any reasonable Christian man, the military advantages gained."

The first manual in which I have found a statement about atomic warfare is the 1951 edition of Jone-Adelman's *Moral Theology*.¹⁶ Author and translator concur in the view that the use of atomic weapons against a military target of vital importance can be justified, even though it is accompanied by "the death of a vast number of civilians who at most contribute only remotely and indirectly to the war effort."

A few years ago I wrote in these notes: "If one can accept the concept of total war, one can justify the use of atomic and obliteration bombing. Morally, the two notions stand or fall together."¹⁷ My discussion at that time concerned the bombing of cities and civilian populations, and I was thinking of that context when I said that atomic warfare and total war stand or fall together. Not without justification, however, my statement has been taken in a broader sense than I intended;¹⁸ hence I should like to restate my own position. I cannot accept the concept of total war; even in modern war there are some non-combatants, and it is certainly immoral to kill them directly. On the other hand, granted the necessity of using atomic weapons in a war for the survival of our civilization, I think their use on military targets can be justified, even with vast concomitant destruction of civilian lives. I admit that it is difficult to distinguish precisely between military and non-military targets, between combatants and non-combatants, but I certainly agree with Fr. Cavanaugh's remarks on these points. I agree also with Fr. Walsh that, once the United States were certain of imminent attack by an aggressor armed with the atomic bomb, our government would have no obligation to await the attack before using atomic bombs on the military targets of the aggressor nation. In fact, I should think there would be an obligation not to await such an attack. I advance these views with the hope that they will never need to be reduced to practice. But, as I wrote last year, I realize that the horrible necessity may have arisen even before my words are printed.

SOCIAL ORDER

The 1951 Labor Day Statement of the Social Action Department, NCWC, singles out for special commendation "profit-sharing in which the profit

¹⁶ Cf. n. 219; also the prefatory Translator's Note.

¹⁷ THEOLOGICAL STUDIES, X (1949), 79.

¹⁸ See Joseph G. Scully, "The Ethical Implications of Atomic Energy," in *The Implications of Atomic Energy* (Brooklyn: St. John's University, 1950), p. 131.

shares buy stock so that the people working in the company participate in ownership."¹⁹ Speaking of profit-sharing in general, and not merely of the acquisition of shares in the company, Bernard W. Dempsey, S.J.,²⁰ says that it offers the following advantages: (1) it is a good practical combination of sound economics and Christian principles; (2) it gives a man dignity in his job and a better income; (3) it eliminates waste and improves the product; (4) it gets co-operation at plant level, where the goods are produced; and (5) it would solve most of our economic, labor-management problems if adopted universally in the right form. To confer these advantages, however, the profit-sharing plan must have these characteristics: (1) everyone, management and labor, must be in on it; (2) it must make provision for listening to the ideas of employees; (3) it must presuppose a fair base-wage and must not be used as a substitute for such a wage; (4) it must be fitted to each individual industry; and (5) the employees must freely adopt it—it will not work if foisted upon them.²¹

Of at least equal importance with the problems of industrial relations (and sometimes intimately connected with them) are the problems of race relations. In a statement about discrimination against Indians by South Africa,²² Senator Henry Cabot Lodge, Jr., asserted that in the United States, both our Constitution and our legal decisions reject the theory of racial discrimination. He admitted—as everyone must admit—that *de facto* we still have much discrimination, but he added: "Our American system contains a principle of correction. In our country racial discrimination has no future."

¹⁹ Quoted from the leaflet edition of the statement. It should be noted that, on this subject of profit-sharing, the Labor Day Statement adds this significant proposal: "Since small stockholders are individually helpless, it may be mutually advantageous for an employees' stockholders' association to represent the rank-and-file of the worker-owners. This is an unusual proposal, but we ask the unions and all interested parties to give it thoughtful consideration."

²⁰ Fr. Dempsey's points are quoted by Walter B. Dimond, S.J., "Profit Sharers Meet," *Social Order*, I (Jan., 1951), 7-10. *Social Order*, which has just completed its first year of general circulation, has proved a valuable publication, not only for the social scientists themselves, but for others who wish to keep informed on social problems but cannot spare the time for wide reading in that field. It is published by the Institute of Social Order, 3655 West Pine Blvd., St. Louis 8, Mo. According to the *Clergy Monthly*, XV (March, 1951), 59, Jesuits in India are also organizing an Institute of Social Order, which will publish a periodical. Information can be obtained from: The Manager, *Social Action*, Indian Institute of Social Order, St. Vincent Street, Poona 1, India.

²¹ For another aspect of profits, see George F. Bardes, *Distribution of Profits in the Modern Corporation* (Washington, D.C.: Catholic University, 1951). This very carefully executed dissertation estimates the just shares of profits that should go to labor, bondholders, stockholders, entrepreneurial management, etc.

²² *Catholic Mind*, XLIX (Feb., 1951), 81-84.

The legal decisions to which Senator Lodge refers are no doubt those of the "Roosevelt Court." According to an excellent article by Morroe Berger,²³ this Court reversed the pattern of previous courts, which tended to enforce segregation, and by progressive steps it has weakened the caste system and protected the rights of minorities, particularly the Negroes. The Court insisted that the constant exclusion of Negroes from juries in districts where large numbers of qualified Negro jurors live is obviously exclusion by reason of color. It ended Federal toleration of the white primary. It made it unlawful for courts to enforce racial restrictive covenants.²⁴ It outlawed segregation in interstate travel. It moved on towards educational equality by a progressively stricter interpretation of what constitutes equal facilities. It practically ended segregation itself, at least on the graduate level of education, by the decisions of June 5, 1950, which ruled that a Negro law student has the right, during his period of training, to associate as an equal with those who will be his conferees at the bar in later life.²⁵ It is true that these decisions did not absolutely overrule the "separate but equal" doctrine but, as Robert F. Drinan, S.J., observes, they "cut the heart out of the principle."²⁶

Can segregation itself be tolerated, not only in education, but in all its aspects? I presume that all moralists are interested in this problem which so profoundly touches the social order of our country. Discrimination, which—as distinct from segregation—implies unequal treatment, is obviously unjust. Also unjust is compulsory segregation: first, because it implies a stigma imposed on one race by the other; and secondly, because it inevitably leads to unequal treatment. The only form of segregation that might conceivably be morally justifiable is segregation by mutual agreement and with equal rights. Even this, it seems to me, is per se contrary to the bond of union that should exist between people of the same nation and contrary to the common good of the nation itself. It might be tolerated as the lesser of two evils, e.g., because the two races could not live peacefully together; but this situation would be a tragedy. It is a tragedy, however, that might naturally develop among us if Negroes and other minorities can attain to full equality only by constant strife which engenders bitterness and aversion.

²³ "The Supreme Court on Group Discrimination since 1937," *Columbia Law Review*, XLIX (1949), 201-30.

²⁴ For a very instructive treatment of this subject, see William R. Ming, Jr., "Racial Restrictions and the Fourteenth Amendment: The Restrictive Covenant Cases," *University of Chicago Law Review*, XVI (1949), 203-38.

²⁵ *Sweatt v. Painter*, 94 U. S. Supreme Court (Law. ed.), 783-87; and *McLaurin v. Oklahoma State Regents*, *ibid.*, 787-90.

²⁶ "The Courts Crumble the Walls," *Interracial Review*, XIII (Nov., 1950), 166-68.

I recently noticed a report based upon the study of twenty-two boys, ranging in age from fourteen to seventeen years, who were hospitalized for heroin addiction.²⁷ All but one of these boys were either Negroes or of Puerto Rican descent. The report says: "Among pertinent social factors in the addiction is the feeling in these groups that they live in an alien, hostile culture that considers their racial characteristics as stamps of inferiority. They suffer almost continuous injuries to their self-esteem." Only God knows the full extent of these terrible psychological injuries; but every moralist knows that they are a reality and he must consider them carefully when solving cases pertinent to co-operation in discriminatory practices.

The reason most often and most vehemently alleged for preserving segregation is the prevention of interracial marriage. Thus we have the vicious circle that segregation is maintained to prevent intermarriage, while the only argument that can be advanced against such marriage is the *de facto* argument that, *because of segregation*, intermarriage is exposed to the dangers of disastrous consequences. The argument is clearly presented by Louis J. Twomey, S.J., who, after having indicated that no intrinsic argument against intermarriage can be drawn from theology, philosophy, or biology, adds the following extrinsic consideration:

The social censure, in modern American society, visited upon the parties to such a marriage and their children, is so severe that relatively few racially mixed couples can, under its impact, maintain happiness in family life. However unreasonable and unjust may be this ostracism, it is a present reality and promises to remain one for several generations.

Nonetheless, the choice of a life partner is one of the most important decisions that a man or woman can make on earth. It is a deeply personal decision that will affect intimately the whole of life. If, then, a Negro and a white, having reviewed and understood the hardships involved, still wish to be married, there is no valid reason against it—provided, of course, that no canonical impediment exists.²⁸

A dissertation by Joseph F. Doherty subjects the whole problem of interracial marriage to a lengthy examination.²⁹ Fr. Doherty also deals with the argument of imprudence, as outlined by Fr. Twomey, but he apparently

²⁷ See the *Journal of the American Medical Association*, CXLVII (Oct. 20, 1951), 784. This is a brief digest of an article by P. Zimmering, J. Toolan, R. Safrin, and S. B. Wortis, "Heroin Addiction in Adolescent Boys," *Journal of Nervous and Mental Disease*, CXIV (July, 1951), 19-34.

²⁸ *How to Think about Race* (St. Louis: Queen's Work, 1951), p. 40. The argument was much more fully developed by Francis J. Gilligan, *The Morality of the Color Line* (Washington, D. C.: Catholic University, 1928), pp. 82-96. This dissertation, a pioneering work of great value, is now out of print.

²⁹ *Moral Problems of Interracial Marriage* (Washington, D.C.: Catholic University, 1950).

believes that exceptions to the argument would not be rare.³⁰ He also discusses the legal prohibitions against interracial marriages and concludes that these laws are unjust. Fr. Twomey concurs in this conclusion.

Some years ago I mentioned the suggestion of Mr. Godfrey Schmitt that we attempt to get authoritative, up-to-date solutions to our social problems by having periodic meetings of experts.³¹ A recent article by Hugo Bren, O.F.M., revives this consideration.³² Fr. Bren rejects Mr. Schmitt's solution, not only as impracticable, but also as lacking universality. A forum represented only by the United States would not have complete scientific authority, says Fr. Bren. Accordingly he suggests a "forum internationale pro morali sociali et professionali." This forum would pursue its purpose, not only through meetings, but also and especially through the medium of a multilingual periodical. Thus, through the writings and discussions of various experts, we should arrive at mature opinions that would be truly probable and safe, and these could be transferred to the manuals as solid food for students.

MEDICINE

A highlight of the recent convention of the American College of Surgeons was a symposium on therapeutic abortion. The members of the panel were: Samuel A. Cosgrove, M.D., of the Margaret Hague Maternity Hospital; Roy J. Heffernan, M.D., of Tufts College; Bernard J. Hanley, M.D., of the Los Angeles County Hospital; and John H. Morton, M.D., also of the Los Angeles County Hospital. All the doctors except Dr. Morton unequivocally condemned therapeutic abortion.³³

Dr. Heffernan asserted that there are no complications of pregnancy that cannot be met by good medical care. "Anyone who performs a therapeutic abortion," he said, "is either ignorant of modern medical methods or is unwilling to take the time and effort to apply them."

Dr. Cosgrove, not a Catholic but always profoundly conscious of the sanctity of fetal life, declared: "I believe the negation of abortion on the strict grounds of moral law is good medicine." He will be remembered for the survey of 67,000 deliveries, with four therapeutic abortions, published in 1944.³⁴ He is now quoted as saying that at the Margaret Hague Maternity

³⁰ For an interesting and instructive example of counseling concerning a prospective interracial marriage, see Maurice J. Karpf, "Marriage Counseling and Psychotherapy," *Marriage and Family Living*, XIII (Fall, 1951), 169-78.

³¹ THEOLOGICAL STUDIES, IX (1948), 85-86.

³² "De morali professionali," *Antonianum*, XXVI (Jan.-Apr., 1951), 49-60.

³³ My information on the panel is derived from two San Francisco papers of Nov. 9, 1951: the *San Francisco News*, p. 10, and the *Call-Bulletin*, p. 21.

³⁴ Cf. THEOLOGICAL STUDIES, V (1944), 521-23.

Hospital there have been 136,467 deliveries, with only four therapeutic abortions. Apparently this means that in the last 70,000 deliveries there have been no therapeutic abortions—a fine practical demonstration of the dictum that good morality is good medicine.

A confirmation of the absolute stand taken by the majority of the panel members is offered by Frederick L. Good, M.D. After citing Dr. Cosgrove's first report, Dr. Good says that in their hospital (Boston City Hospital) they have had many more than 66,000 deliveries, without any therapeutic abortions and *with a mortality rate of zero from those conditions supposedly benefited by therapeutic abortion.*³⁵ A confirmation on a more limited scale is the report covering eleven years of practice at Cook County Hospital, which shows conclusively that, granted adequate antepartum care, there is little reason to fear that mothers with organic heart disease cannot carry a pregnancy to term.³⁶

Even Dr. Morton, though dissenting from the absolute stand of the other panel members, admitted that there are far too many therapeutic abortions. He was especially critical of therapeutic abortions for reasons adding up to nervous and mental diseases. This observation is worthy of note because, according to an article recently summarized in *GP*, there is a general trend towards a decrease in abortion but a decidedly increasing use of abortion in cases of mental disease.³⁷ Illustrative of this is a survey of 566 legal abortions in Denmark during the years 1942–48. The indications for 52.7 percent of these abortions were psychotic depressive states; and of the 20.3 percent for “general medical indications,” many were for psychoses other than the depressive states.³⁸

The summary in *GP* to which I have just referred includes two articles on the indications for therapeutic abortion. The general tone of the summary is as depressing as the symposium I reported a few years ago which drew from Dr. Samuel Cosgrove the strong plea that doctors respect the ethical sanctity of fetal life.³⁹ These advocates of therapeutic abortion seem utterly unconscious of the fact that a fetus is a human being. Witness, for example, this statement in the *GP* summary: “The authors say that when a girl or young woman has been brutally raped and has become pregnant, most

³⁵ Frederick L. Good, M.D., and Rev. Otis F. Kelly, M.D., *Marriage, Morals, and Medical Ethics* (New York: Kenedy, 1951), p. 149.

³⁶ J. E. Fitzgerald, M.D., Augusta Weber, M.D., Bruce P. Zummo, M.D., and P. C. Williams, M.D., “The Evaluation of Adequate Antepartum Care for the Cardiac Patient,” *Journal of the American Medical Association*, CXLVI (July 7, 1951), 910–14.

³⁷ *GP*, June, 1951, p. 84.

³⁸ Cf. *Catholic Medical Quarterly*, IV (Apr., 1951), 85–86.

³⁹ *THEOLOGICAL STUDIES*, X (1949), 81.

physicians would like to curet just as under similar circumstances they would insist on cureting the uterus of their own daughter, but their hands are tied because the law still does not permit this act of mercy."

GP is obviously devoted to "mercy." Last year I referred to a particularly obnoxious defense of mercy killing by its editor, Walter C. Alvarez, M.D.⁴⁰ That article drew a splendid reply from John H. Golden, M.D., of San Francisco.⁴¹ Dr. Golden speaks of the "vicious implications of condoning euthanasia in any form for any reason. Morally, it is wrong; scientifically, disease should be considered a challenge to fight, not 'liquidate.'" He points to the absurdity of printing Dr. Alvarez' article under the title of ethics, which is a science of moral duty and which affirms an unchanging moral code. Regarding Dr. Alvarez' observation that religious might think differently if they had to smell the corrupting bodies, Dr. Golden remarks: "What about the hundreds upon hundreds of religious who have taken care of the lepers at Molokai, Carverville, India? Maybe they don't smell badly, or maybe Doctor Alvarez is so busy writing he hasn't had time to read." Dr. Golden concludes:

Our times are perilous enough, our materialism already too great, to publish for the consumption of thousands of young doctors such doctrine as expressed by Doctor Alvarez. He is widely known and widely read; the more his responsibility to strengthen the moral fibre of his profession, rather than to raise doubts in young minds, preach expediency, and attempt to weaken the moral structure whose foundation is based on a moral code which can be found complete in the Ten Commandments. Let us continue to be "old-fashioned" enough to maintain our lofty position as healers, never self-appointed executioners.

It is hardly likely that this letter made any impression on the editor of *GP*. He printed it under the significant caption, "Open Forum," and appended to it an invitation to other doctors to take part in the "controversial issue." Of course, outside the Catholic Church it does seem to be a controversial issue. An illustration of this is a recent issue of *Theology Today*, in which two articles by Protestant ministers present their views on euthanasia: one condemns it as contrary to Christian principles and to the welfare of the medical profession itself; the other vigorously defends it as an act of mercy.⁴² These articles are summarized by Francis P. Furlong, S.J., in the *Linacre Quarterly*.⁴³ Other articles on euthanasia that merit reading are: "A Matter

⁴⁰ *Ibid.*, XII (1951), 66.

⁴¹ *GP*, Jan., 1951, pp. 23-25.

⁴² VIII (July, 1951): John Sutherland Bonnell, "The Sanctity of Human Life," pp. 194-201; Joseph Fletcher, "Our Right to Die," pp. 202-12.

⁴³ XVIII (Nov., 1951), 91-98.

of Life and Death," by Dr. K. F. M. Pole,⁴⁴ and "Euthanasia," by Dr. I. M. Rabinowitch, O.B.E.⁴⁵

A reviewer of the second edition of *Psychosurgery in the Treatment of Mental Disorders and Intractable Pain*, by Drs. Freeman and Watts, has these concluding remarks:

Psychosurgery is still a controversial subject. Ardent advocates and antagonists are still debating the subject. The final role of psychosurgery in the treatment of mental illnesses and in the relief of intractable pain has not been definitely settled. This edition of this monograph by the two physicians who have pioneered this work in this country and who have had the greatest experience in this field will always be a milestone and will serve as a guide to others who are seeking an ultimate solution to the problem.⁴⁶

I quote this paragraph because it states rather well the impressions I have gleaned from a careful following of many articles and reports on the use of psychosurgery. There is much controversy, not only about psychosurgery in general, but also and even especially over the various techniques used and the various types of subjects that might benefit by it. There is ardor pro and con. But there is also, it seems to me, a wholesomely conservative and open-minded spirit, even among the doctors who are in favor of psychosurgery. I believe this is the prevailing spirit of the medical profession, though there may be some who would or do abuse these operations; and I think that as moralists we are safe in judging these various operations according to the dictum, "good medicine is good morality." In other words, we can safely approve the decision of competent physicians who judge one of these operations to be called for.

Of many references relative to the use of psychosurgery, I am selecting only three for special attention. The first of these is "Lobotomy in the Management of Intractable Pain and Narcotic Addiction," by Edmund A. Smolik, M.D.⁴⁷ Dr. Smolik reports on twenty cases in which prefrontal lobotomy was performed as a remedy for intractable pain. In seven of the cases the disease was non-malignant; results were good in four, poor in two, and doubtful in one case. Of the thirteen cases in which the disease was

⁴⁴ *Catholic Medical Quarterly*, IV (Jan., 1951), 46-50.

⁴⁵ *Catholic Mind*, XLIX (June, 1951), 351-59. I might add here that Alfredo Boschi, S.J., began a series of articles entitled "L'Eutanasia" in *Perfice munus*, Mar. 15, 1951. Three further articles have thus far appeared (May 15, July 15, Sept. 15). At the time of writing I have not yet received the issue containing the concluding article.

⁴⁶ *Journal of the American Medical Association*, CXLVI (July 7, 1951), 974.

⁴⁷ *Diseases of the Nervous System*, XI (Nov., 1950); my citations are from a reprint. Dr. Smolik is on the faculty of the St. Louis University School of Medicine.

malignant, results were good in ten cases, poor in two, and doubtful in one. Dr. Smolik concludes:

(1) Prefrontal lobotomy is a useful and effective procedure in affording relief to a selected group of cases suffering from intractable pain, particularly those associated with carcinoma.

(2) In all instances when successful in affording relief from pain, associated narcotic addiction is abolished.

(3) Prefrontal lobotomy should be reserved for patients suffering from intractable pain associated with an anxiety state.

(4) In this group of patients this technique is superior to the more exacting procedures such as cordotomy, tractotomy, etc.

The conservatism of Dr. Smolik's report is sufficiently manifested in his conclusions, but even more so in preceding comments regarding the selection of cases. "It is our opinion," says Dr. Smolik, "that the procedure should be offered only as a last resort. Patients suffering from intractable pain of a non-malignant etiology should exhaust all other forms of therapy, and lobotomy should be entered into only with consultation and concern." He also refers to an article by other physicians which apparently reports much less encouraging results than his.

To the average priest discussions like this may seem somewhat intangible. It might help towards an appreciation of the problem if I quote Dr. Smolik's own description of a case which he considers a typical subject for the operation:

A fastidious woman, in the prime of life, develops either a carcinoma of the rectum, followed by colostomy; or carcinoma of the cervix, upon which is superimposed a vesico-vaginal or recto-vaginal fistula. The shock of this situation is enough to shake even the most stoic of personalities. Superimpose upon this either the explicit or implicit knowledge, by the patient, of the presence of cancer. Complicate this situation with a sense of progressive deterioration of well being, as the disease process advances, and add to this a gradually developing narcotic addiction, and a patient complex develops which taxes the ingenuity of all in attendance. It is in this type of patient, and in this sphere in which the mental state can be modified, that prefrontal lobotomy may serve as a most useful method.

I mentioned previously that one of the subjects of controversy among physicians concerns the relative merits of various techniques of psychosurgery. Perhaps the technique most strongly debated is transorbital lobotomy. I listened to the discussion on this topic at a meeting of the Mid-Continent Section of the American Psychiatric Association, and I have read several articles about it. As I understand the situation, the controversy is mainly between the neurosurgeons and psychiatrists, and it seems to

come to the following points. The neurosurgeons who oppose it do so on the grounds that only they should perform brain operations; in the hands of others there is too much danger. Moreover, the very simplicity of the operation renders it open to abuse if not limited to specialists. Psychiatrists who favor it do so because it is simple enough for them to perform, because it often dispenses with the necessity of a more extensive operation, because it does not necessitate elaborate preparation or prolonged nursing care, and because it does not do so much damage to the personality as the more extensive operations. In particular, it seems, psychiatrists in state institutions where there are too few doctors, too many patients, and inadequate personnel, see a possibility of great relief for both their patients and themselves through the judicious use of transorbital lobotomy.

An interesting exposition of the case for transorbital lobotomy in a state hospital is published by Matthew T. Moore, M.D., Ralph L. Hill, M.D., and Wilbur M. Lutz, M.D.⁴⁸ They used the operation on 102 patients, 97 of whom were schizophrenic, and practically all of whom had already received the various forms of accepted treatment without benefit. Their over-all improvement rate was very high, and the morbidity and mortality rates compared very favorably with results obtained from other kinds of psychosurgery. It was brought out in the discussion that the main defect in their report is inadequate preoperative clinical data and postoperative follow-up—a defect common enough in psychosurgical reports up to the present time. This article, though it might be called enthusiastic, is not excessively so, as will appear from the paragraph that precedes the summary:

Transorbital leucotomy and other psychosurgical procedures undoubtedly have proved a boon in many cases of intractable mental disorders, but it must not be concluded, nor do we wish to create the impression, that psychosurgery represents the ultimate answer to the difficult questions now confronting the psychiatrist. Psychosurgery is merely a useful tool, which, in the light of our meagre knowledge yields satisfying results today, but which in future may be considered a crude transition to the biochemical cerebral scalpel to come.

From the preceding paragraphs it might appear that I have decided to write medical, not moral, notes. It seems to me, however, that we cannot make proper moral appraisals without having such data at our disposal. As a good example of a careful moral appraisal of one operation, I would highly recommend "Pre-frontal Leucotomy," by J. Diamond, S.J.⁴⁹ Speaking of this operation, Fr. Diamond says:

⁴⁸ "Transorbital Leucotomy in a State Hospital Program," *Journal of the American Medical Association*, CXLVI (May 26, 1951), 324-30.

⁴⁹ *Clergy Review*, XXXVI (Oct., 1951), 231-40.

From the moral point of view it is a form of mutilation, both anatomical and psychic, and therefore a procedure of last resort; it may not be used so long as any milder remedy is feasible, nor where there is no reasonable likelihood that it will be efficacious, nor where the malady is not sufficiently serious to justify so drastic a remedy. There is no doubt that in suitable cases leucotomy can be a means of great good, but the temptation to extend its use beyond what is justified is very great. The special nature of the operation places an added responsibility on the medical profession and a heavier burden in conscience. On the technical side the decision rests wholly with them, but in the case of a procedure which interferes so profoundly with personality, the decision cannot be a purely technical one. Respect must be had for the freedom and personality of the individual. To its honour be it said that the medical profession is not unappreciative of its responsibility, and that it is from the profession that have come the most outspoken condemnations of abuses.

Something rather new in the medical world is what is called a bone bank.⁶⁰ This consists in preserving, by refrigeration, all useful bone removed at operations. The bone can be used as needed, even by other hospitals; and thus many patients are saved a secondary operation which would ordinarily be necessary when bone grafting is done. Reports from reliable authorities say that the use of the bone bank is safe and practical and that it produces no untoward results. Such being the case, there can be no moral objection to the procedure, for it simply consists in putting to advantageous use bone that would otherwise have been discarded.

SEX AND MARRIAGE

Vermeersch had a penchant for raising intriguing speculative questions in the midst of otherwise commonplace treatises. For instance, there is his suggestion that a religious who, without any personal sexual excitation, persuades another party to sin against chastity, would violate the virtue of chastity (by reason of the direct scandal) but not the vow.⁶¹ He considered this an exception to the general rule that sins against the virtue are also against the vow. F. Timmermans, S.J., objects to this opinion.⁶² He argues that the mere absence of venereal stimulation would not exclude sin against the vow. In this he is correct, for a religious can certainly commit an internal sin against both the virtue and the vow without being sexually stimulated.

⁶⁰ Cf. *Journal of the American Medical Association*, CXLVI (July 21, 1951), 1159; *GP*, June, 1951, p. 49.

⁶¹ *Theologia moralis*, III (ed. 3), n. 126: "Et qui, ipse libidinis expers, quempiam ad peccatum cum altera persona inducat, peccarit contra virtutem non autem contra votum." The text is unchanged in the fourth edition, edited by Creusen.

⁶² "The Matter of the Vow of Chastity," *Clergy Monthly*, XIV (Nov., 1950), 390-91.

Vermersch would not deny this. But his thought in the present instance is apparently based on the supposition that the religious vow is really a vow to preserve *personal* chastity; hence, in the rare case visualized by the example, the vow would not apply. There is much to be said for Vermersch's position; certainly it is thought-provoking.

How should the virtue of chastity be defined? Very commonly it is said to be the virtue which inclines one to moderate the appetite for venereal pleasure. V. Vangheluwe believes that it should rather be defined as the virtue which inclines one to moderate the use, or actuation of, the generative faculty.⁵³ His principal reason for this recommendation is that the first definition throws emphasis on something which is purely secondary (namely, pleasure); whereas his definition emphasizes what is of primary importance, the act itself. He would apply this same notion to temperance itself and all its subjective parts. According to this scheme, temperance is the virtue which inclines one to the moderate use of those things by which the individual is preserved and the species is propagated. As for the subjective parts (besides chastity), abstinence moderates the use of food and drink; sobriety moderates the use of narcotics and stimulants; and *pudicitia* (a word for which I know no perfectly clear English equivalent) moderates the use of acts, indifferent in themselves, but apt to stimulate the generative faculty. In all cases the norms of moderation are reason and faith.

New and old questions pertinent to impotence are discussed. First, there is the problem of paraplegia (paralysis of the lower half of the body on both sides), which was brought into prominence as a result of the war. Having consulted medical testimony, Francis J. Connell, C.S.S.R., concludes that we cannot follow any general rule that paraplegics are or are not impotent.⁵⁴ Some are capable of having sexual intercourse; others apparently are not. Each case must be settled on its own merits.

John McCarthy argues that impotence, as an impediment of natural law, ought to "admit of simple definition and diagnosis."⁵⁵ This means, of course, that *copula conjugal*s—which is the determining factor of impotence—ought also to be easily defined. Fr. McCarthy suggests that *copula* is "simply and solely the satisfactory or satiative performance of the external act of sexual intercourse." From such considerations it follows that occlusion of the *vasa deferentia* within the spermatic cord should not be considered impotence; for

⁵³ "De temperantia stricte dicta eiusque partibus subjectivis," *Collationes Brugenses*, XLVII (Jan.-Feb., 1951), 38-48.

⁵⁴ "The Marriage of a Paraplegic," *American Ecclesiastical Review*, CXXIV (Feb., 1951), 144-45.

⁵⁵ "Towards a Definition of Impotence," *Irish Theological Quarterly*, XVIII (Jan., 1951), 72-76.

this defect is not easily discernible and, despite the defect, a man can perform the external act of sexual intercourse. The same should be said of the defect induced by double vasectomy. I have previously referred to similar views of Fr. McCarthy and expressed my personal opinion that they seem reasonable.⁵⁶

Despite the negative tendency of certain Rota decisions, it is still possible to defend the potency of the doubly-vasectomized man. But there is no room for uncertainty regarding the marriageable status of a "male" without testicles; he is unequivocally impotent. This point must be given primary consideration in judging a suggestion recently made by Frank Hinman, Jr., M.D., relative to what is surely a difficult problem.⁵⁷ Dr. Hinman writes about persons who have female gonads, intersex external genitalia, and progressively masculinizing psychological tendencies resulting from androgenic overactivity of the adrenal gland. Dr. Hinman does not question the general thesis that it is best to accommodate the external genitalia to the genetic sex, but he says that in some of these cases it would be impossible to reverse the masculinizing tendencies, and the subjects would thus find it extremely difficult to live as females. Their secondary sex characteristics are masculine; their sex impulse is masculine; they are socially at home only when living as males.

For extreme cases such as these, Dr. Hinman proposes that appropriate surgical measures be taken for converting the intersex external genitalia into male genitalia. The theory behind this suggestion is that the persons can live comfortably accordingly to their psychological tendencies and even contract a happy marriage. This theory, of course, is morally unacceptable, because marriage cannot be the solution of a problem involving a "male" without testicles.

In the course of his article Dr. Hinman mentions that the Catholic Church would oppose his suggestion, whereas other religious bodies would not. "One of the Society of Jesus," he writes,

would formulate the Church's position with regard to the reversal of sex in the female pseudohermaphrodite as follows: 1. The actual or genetic sex is never changed. Notwithstanding her education as a male, etc., she could never be "converted" into a male. 2. There is an essential difference in the education of a male

⁵⁶ THEOLOGICAL STUDIES, XI (1950), 71.

⁵⁷ "Advisability of Surgical Reversal of Sex in Female Pseudohermaphroditism," *Journal of the American Medical Association*, CXLVI (June 2, 1951), 423-29. In the patients referred to, who are female by reason of the possession of ovaries, the external genitalia are not distinctively and completely those of either sex. Competent surgery, done at a favorable time, can fairly satisfactorily make the external genitalia either male or female.

and that of a female. 3. Male education tends directly to make a person sexually attracted to females. 4. It is morally objectionable to raise a female to be sexually attracted to females. Such an education results directly in homosexual tendencies. The conclusion is that it is morally objectionable to raise a female pseudohermaphrodite as a male.

Whether Dr. Hinman is quoting an actual or a hypothetical Jesuit is not clear. At any rate, putting aside the temptation to analyze the statement, I would simply observe that a Catholic moralist, Jesuit or otherwise, might offer the more obvious objection that Dr. Hinman's procedure would defeat its own purpose by producing an impotent "male." We can sympathize with both the doctor and his patients. We might even admit that we have no satisfactory solution to offer. But we certainly cannot approve a procedure designed to prepare the subject for a marriage that would be invalid by reason of the natural law itself.

Is there *copula perfecta*, as required for the consummation of marriage, when the wife practices contraception by using an occlusive pessary? A Rota decision cited previously in this annual survey stated that the act is more probably *copula perfecta*.⁵⁸ More recently D. G. Oesterle, O.S.B., answers the question with an unqualified affirmative.⁵⁹

The question leads naturally to a more delicate one, namely: May a husband have intercourse when the wife insists on using an occlusive pessary and he is unable to persuade her to change her mind? Fr. Connell⁶⁰ and Fr. Donovan⁶¹ believe that, in the given circumstances, the husband may exercise his marital right. The intercourse itself, they say, fulfills the definition of *copula*, even though the wife sins by using the contraceptive device.

Merkelbach, whose opinion is cited and followed by Fr. Connell, wisely makes explicit allowance for a possible contrary ruling by the Holy See.⁶² That is all any moralist can do. In the absence of such a ruling one can hardly deny probability to the view expressed by Fr. Connell and Fr. Donovan. The diaphragm pessary differs from a condom and from what moralists call a pseudovagina. As regards the conjugal act, the diaphragm induces temporarily the same condition that is permanently induced by total hysterectomy; it leaves the vagina intact for penetration and insemination—and according to a very strong opinion this is sufficient for *copula perfecta*. When a condom

⁵⁸ See Rota decision reported in *Ephemerides juris canonici*, IV (1948), 155–58; THEOLOGICAL STUDIES, XII (1951), 86.

⁵⁹ *Perfice munus*, XXVI (Aug. 1, 1951), 377.

⁶⁰ "A Husband's Rights," *American Ecclesiastical Review*, CXXIII (Dec., 1950), 460.

⁶¹ *Homiletic and Pastoral Review*, LI (Feb. and July, 1951), 464, 947–48.

⁶² *Quaestiones de castitate et luxuria* (Liège, 1936), p. 115.

or a pseudovagina is used, there is no semination in the vagina; hence no *copula*.

It would have been well, it seems to me, if Fr. Donovan and Fr. Connell had stressed reasons for using their opinion with great circumspection. The husband's co-operation, though not formal in the circumstances outlined above, is certainly a most intimate kind of material co-operation. Moreover the dangers of misunderstanding and abuse are very great. The distinction between a condom and a diaphragm is so subtle that even some very good theologians do not recognize it; it might be utterly unintelligible to the untrained lay mind. For the layman a mechanical device is apt to be a mechanical device, and he might well wonder why a wife is permitted (at most) only a negative co-operation when her husband uses the instrument, whereas he is permitted to co-operate positively when she uses a diaphragm. Finally, besides the danger of abuse by the individual easy-going husband, there is the more common danger resulting from the increasing use of the diaphragm, due to the efforts of the Planned Parenthood Association. These reasons ought to prompt a confessor to be most cautious in dealing with this case. He should be sure that the man is sincerely opposed to the wife's practice, that he is genuinely unable to stop it, that he has a very serious reason for co-operating (e.g., grave danger of incontinence, a prolonged privation of marriage rights), and that he will say nothing to others that would cause scandal through misunderstanding. Granted these cautions, the opinion of Fr. Donovan and Fr. Connell could be safely followed as long as there is no contrary decision by the Holy See.

Another difficult and delicate case concerns invalidly married persons who wish to live as brother and sister. P. J. Lydon neatly presents the points to be considered in this case: (1) no other remedy possible; (2) no scandal will result; (3) no proximate danger of incontinence; and (4) the requisite approval.⁶³ On the last point Fr. Lydon writes:

The *Bishop* is to be consulted whenever the confessor or pastor *doubts* about the lawfulness of permitting cohabitation. If the nullity is *public*, the Bishop is to be consulted. He has the right and duty to guard against abuses and scandals in his diocese (can. 343, n. 1). If the nullity is *secret*, the confessor "per se" may deal with the case himself according to the above principles of moral theology—unless the Chancery requires that all such cases be referred to the Ordinary (cf. Titius and Bertha cases). This is demanded in some dioceses.

This passage presents some difficulties. The bishop certainly has the right to judge public cases; and one can hardly question the ruling that doubts

⁶³ *Priest*, VII (Jan., 1951), 37-38.

about publicity or scandal should be referred to him. But it seems too broad to say that all doubts about the lawfulness of a brother-sister arrangement should be referred to him. Granted that the secrecy of the case is certain, I see no reason why consultation cannot follow the usual approved rules. As for the provision that all brother-sister cases, even those that are secret, be referred to the chancery, this seems rather unusual. There is question here of a basic right of parties to keep their sin hidden, and sometimes question of confessional secrecy. The Titius-Bertha petition would not always sufficiently protect the secrecy. Even if the parties had committed a reserved sin (of which there is no mention in Fr. Lydon's statement), the reservation would cease if secrecy were endangered, and the confessor could handle the case according to accepted principles.

I am not inferring that a confessor should readily solve brother-sister cases. They are extraordinarily difficult cases. Often they present a seemingly insoluble dilemma. On the one hand, the very weakness that prompted the parties to contract an invalid marriage makes it unlikely that they will live together in continence. On the other hand, the presence of small children may make it practically impossible for them to separate. Such people need expert help, which not every confessor is prepared to give. Moreover, as Msgr. John Król points out, it is not easy to get all the necessary data for judging these cases in the confessional.

Msgr. Król's article,⁶⁴ by the way, should be read by everyone who may be called upon to judge the advisability and feasibility of the brother-sister arrangement. Of special value is the third part of the article, which gives, in an eminently useful way, the principles to be followed in these cases, as well as detailed suggestions concerning the application of the principles. The author limits this part of his discussion to the external forum, but much of what he says would also be valuable in handling cases in the internal forum.

The fourth national convention of the Association of Italian Catholic Physicians discussed the practice of rhythm and went on record for the following conclusions. Periodic continence according to the Ogina-Knaus method can be a correct solution in cases in which, for reasons of recognized gravity, it is desirable to avoid childbirth. There is, however, some difficulty in applying the method, and one must be prepared for a measure of insecurity. The method should not be indiscriminately propagated. Each individual case must be evaluated under both clinical and moral aspects.⁶⁵

⁶⁴ "Permission to Parties Invalidly Married to Live as Brother and Sister," *Jurist*, XI (Jan., 1951), 7-32.

⁶⁵ Cf. "L'Opinione dell'Associazione Medici Cattolici Italiani su la continenza periodica," *Perfice munus*, XXVI (Jan. 15, 1951), 8-14. A brief report of this discussion is given in the *Journal of the American Medical Association*, CXLVI (May 12, 1951), 212.

A year later, in the allocution to midwives that has been widely publicized, Pope Pius XII brought out these points concerning the practice of rhythm. The very nature of their state imposes upon married people who choose to exercise the marital act the duty of making some contribution to the preservation of the race. This duty is not sufficiently fulfilled merely by placing the act in a natural manner, with the willingness to accept children if they are conceived. On the other hand, as an affirmative duty it admits of excuse for proportionately serious reasons, which might be of a medical, eugenic, economic, or social nature. Granted such reasons, the practice of rhythm even for a long time or even during the entire period of married life, is licit. But the habitual use of rhythm without the aforesaid proportionately grave reasons is a sin against this duty to contribute to the preservation of the race.

Having stated the principles concerning rhythm, the Pope referred to extreme cases in which sound medical reasons absolutely contraindicate pregnancy and the use of rhythm is not feasible. In these cases the parties are not to be advised, much less commanded, to run the risk of pregnancy, nor are they to be aided in the practice of contraception, which is always immoral. The Pope insisted on the doctrine, so clearly enunciated by the Council of Trent, that the observance of the divine law is always possible. Hence the proper, and possible, solution to these extreme cases is continuous abstinence from complete sexual activity.⁶⁶

In general, this papal statement is certainly not a rigorous stand regarding the use of periodic continence. And it was obviously not intended to be so, for in a later address the Holy Father added: "In our last allocution on conjugal morality we affirmed the legitimacy and, at the same time, the limits—in truth very wide—of a regulation of offspring which, unlike so-called 'birth control,' is compatible with the law of God"; and he expressed the hope that science would soon make this licit method perfectly secure.⁶⁷

The allocution will no doubt stimulate animated discussion among theologians. For instance, many eminent theologians have held that married people have no positive obligation to try to have children; and some have held that the practice of rhythm for insufficient motives is not in itself, and independently of injustice or danger of some serious evil, a mortal sin. Did the Holy Father explicitly set aside the first view by his insistence on the positive duty to contribute to the preservation of the race? And did he at least implicitly set aside the second view by his insistence on the fundamental

⁶⁶ The allocution was given Oct. 29, 1951. My remarks are based on the text as given in *L'Osservatore Romano*, Oct. 29–30, 1951, pp. 3–4.

⁶⁷ Cf. *Register*, Dec. 9, 1951, p. 5.

and primary nature of the positive obligation and on the necessity of having serious reasons for excuse from the obligation? My personal inclination is to give an affirmative answer to both these questions, but I think I would be acting with imprudent haste if I were to propose such answers as more than an "inclination."

In *Humani generis* we are told that "if the Supreme Pontiffs in their official documents purposely (*data opera*) pass judgment on a matter debated until then, it is obvious to all that the matter, according to the mind and will of the same Pontiffs, cannot be considered any longer a question open for discussion among theologians."⁶⁸ This passage suggests two questions that must be answered regarding the allocution to midwives. (1) Is it an "official document"?⁶⁹ (2) Does the Pope, in the parts concerning heretofore legitimately debated points on the morality of using rhythm, "purposely pass judgment" on these matters? I leave it to others to venture answers to the questions. For myself, despite the fact that one of the papal statements is substantially the same as an opinion I have defended,⁷⁰ I will not claim that the controversy has been definitively settled in favor of this or of any similar opinion.

How can one argue with the Neo-Malthusians who admit no moral principles and who point to the decreasing resources of the world and the increasing population as evidence for the need of some sort of universal birth control? Seamus McLaughlin says that we must refute such people on their own grounds, and he shows that there are many scientific facts to brighten the picture of the world's failing resources: e.g., the possibility of rebuilding soil through fertilizer and of growing food in chemically-charged water; the population potentialities of some countries, like Australia, Alaska, the Amazon territory, that are now greatly underpopulated.⁷¹

DIVINE LAWS

May a Catholic doctor examine a semen specimen without inquiring whence or how it was obtained? Msgr. James Madden answers the question

⁶⁸ Cf. A. C. Cotter, S. J., *The Encyclical "Humani Generis" with a Commentary* (Weston, Mass.: Weston College, 1951), p. 21.

⁶⁹ The phrase which Fr. Cotter translates "in their official documents," is *in actis suis*. Does this perhaps indicate that one criterion of the official character of a papal address would be its inclusion in the *Acta apostolicae sedis*?

⁷⁰ In THEOLOGICAL STUDIES, XI (1950), 76, I wrote: "Although I hold personally that married people are obliged to do what they reasonably can to have children, and although I think that this view needs further consideration by theologians, yet I realize that this opinion is not certain and may not be urged in practice."

⁷¹ "The New Malthusianism," *Irish Theological Quarterly*, XVIII (July, 1951), 281-88.

in the affirmative, with the provision that the doctor's action "is not likely to be accepted as approval of what is sinful."⁷² Fr. Donovan likewise gives an affirmative answer for the laboratory technician; in fact, he adds that, even when she knows that the semen was obtained unlawfully, her act is justifiable on the basis of material co-operation.⁷³ He apparently supposes the same proviso made by Msgr. Madden, namely, that there is no sign of approval of illicit procurement.

Fr. Lydon presents two brief questions on the co-operation of nurses in illicit operations.⁷⁴ The first concerns the nurse who hands the instruments to the surgeon; the second refers to the nurse who prepares the patient in the room or who sterilizes the instruments. He allows co-operation in the first case for "a very grave reason such as loss of her profession. Mere suspension for a week or two would not be very grave." In the second case he requires a "grave reason—such as the serious loss of salary." The solutions are based on McFadden's *Medical Ethics for Nurses*,⁷⁵ and the concluding observation is also taken from this book: "The best solution to these difficult problems is to avoid working in an environment which creates them."

I presume this is not a suggestion that all Catholic nurses should avoid working in non-sectarian or state institutions. A good Catholic nurse can carry on a fruitful apostolate in such institutions; and I think that, when we are judging proportionate reasons for occasional assistance at illicit operations, we should think, not merely in terms of loss of position or salary, but also of the loss to the patients if the Catholic nurses were to resign or be dismissed. I am not saying that Catholic nurses should easily co-operate in illicit operations. On the contrary, they can usually avoid these things by telling the hospital authorities that they do not approve of such operations and do not wish to have any part in them. But if they are actually pressed and cannot refuse assistance without losing their positions, then I believe that the danger of spiritual loss to the patients would be ample reason for permitting merely material co-operation. I would hold this, moreover, even though the nurses could easily get an equally good position in a Catholic institution, where they could avoid the atmosphere that creates problems. There are souls to be saved in these non-sectarian and state institutions, and nurses can play a great part in their salvation.⁷⁶

⁷² Cf. "Sterility Tests," *Australasian Catholic Record*, XXVIII (Apr., 1951), 137-41.

⁷³ *Homiletic and Pastoral Review*, LI (June, 1951), 854-55.

⁷⁴ *Priest*, VII (Feb. and Apr., 1951), 129, 288.

⁷⁵ See pp. 254-72; also *Medical Ethics* (1949), pp. 304-22.

⁷⁶ Cf. "Co-operation in Illicit Operations," *Medico-Moral Problems*, III (St. Louis: Catholic Hospital Association, 1951), 33-35.

Fr. McCarthy discusses a familiar problem of *cooperatio in divinis*: the Catholic who acts as "best man" at a Protestant wedding in a Protestant church.⁷⁷ The solution, he observes, must be sought by applying the principles enunciated in canon 1258, which states that active participation is never permitted, but passive assistance may be allowed for a proportionate reason and with due precautions to remove the dangers of perversion and scandal. Doubtful cases are to be referred to the bishop. After citing decrees and representative opinions that give an over-all picture of the theological status of this question, Fr. McCarthy writes:

From all this it seems to follow that to act as best man at a Protestant marriage is not certainly, in every case, active participation in an heretical religious service. We personally would maintain that there is such active participation when the ceremony is held in a Protestant church before a Protestant minister and when the best man is a necessary official witness. Doubt would, indeed, arise if the ceremony is not regarded as religious, or if it is divorced from religious surroundings or if the best man stands merely in the category of an unnecessary witness. One or other of these hypotheses may frequently be verified.

Suppose it is doubtful, or even certain, that the participation is not active? In this case the criteria for passive assistance given in c. 1258, n. 2, must be applied; and to these must be added a consideration of local legislation. These factors are all relative; hence generalizations applicable to all countries are impossible. Fr. McCarthy believes that, generally speaking, the condition of grave scandal would prevail in Ireland.

Fr. McCarthy also treats an interesting problem on superstition.⁷⁸ Some Holy Year pilgrims made a novena which consisted in swallowing on each of the nine days a small picture (about one inch square and on very thin paper) of Our Lady of Perpetual Help. They attributed wonderful effects to this pious practice. Fr. McCarthy condemns it on several counts. The fact that wonderful effects were attributed to, and no doubt expected from, the practice, makes it suspect of superstition. Secondly, it is a use of sacred images in a manner alien to ecclesiastical tradition, and there is no evidence of approval of the Church. Moreover, the "practice is one which is liable to create in the minds of many, especially of the less well instructed, a false notion of religious worship and it could be taken, by the enemies of the Church, as an occasion for the disparagement and ridicule of Catholic

⁷⁷ "Assistance of Catholics as Witnesses in Non-Catholic Marriages," *Irish Ecclesiastical Record*, LXXIV (Dec., 1950), 532-36. See also J. Bancroft, *Communication in Religious Worship with Non-Catholics* (Washington, D.C.: Catholic University, 1943), pp. 129-33.

⁷⁸ "A Superstitious Form of Devotion," *Irish Ecclesiastical Record*, LXXV (Apr., 1951), 350-51; cf. also *ibid.* (June, 1951), 512-15.

devotions." In a word, it seems to fall directly into the category of devotions censured by the Holy Office in 1937, namely, "new forms of worship and devotion, often enough ridiculous, . . . giving occasion for great astonishment and for bitter aspersion on the part of non-Catholics."

This answer was hardly published when a correspondent referred Fr. McCarthy to the reply of the Holy Office which had permitted the swallowing of sacred images "ad impetrandam sanitatem," provided danger of vain observance could be avoided.⁷⁹ It was up to Fr. McCarthy to find a distinction between the practice permitted by the Holy See and the practice he himself had condemned. He finds it in a difference of purpose: the picture-swallowing permitted by the Holy Office was *ad impetrandam sanitatem*; the picture-swallowing practiced by the Holy Year pilgrims bears no evidence of being a form of impetration. In the first case, therefore, the effects were attributed to prayer; in the second case, to the inept practice itself.

The distinction may be valid, but it seems rather finely drawn. I should prefer to admit that I have never found a perfectly satisfactory explanation of the decree permitting the picture-swallowing. It is certainly an unusual way of treating sacred images and it seems to offer an occasion "for great astonishment and for bitter aspersion on the part of non-Catholics." E. J. Mahoney guardedly says that the Holy Office's approval is indicative of the wide liberty the Church is accustomed to allow the pious faithful in following their bent.⁸⁰ Augustine, less guardedly, calls it a silly practice, even while referring to the official response.⁸¹ Perhaps the real reasons for the Holy Office's limited approbation were special circumstances of place and time.

Last year's notes included a limited survey of opinions on the morality of prize fighting.⁸² The opinion expressed at the conclusion of the survey was that prize fighting as we have it today is not morally justified. This opinion refers to professional fighting, and to amateur fighting insofar as it involves the same evils. Eugene Hillman, C.S.Sp., reached the same conclusion after a much more thorough study of the problem.⁸³ On the other side of the question is an article by Thomas A. Gonzales, M.D.,⁸⁴ who discusses the comparative number of fatal injuries in competitive sports in New York City during the period embracing 1918-50, and concludes:

⁷⁹ *Fontes CIC*, IV, n. 1269; also, *Coll. SCPP*, II, n. 2173.

⁸⁰ *Clergy Review*, XXXIV (1950), 267-68.

⁸¹ *A Commentary on Canon Law*, VI (1921), 203.

⁸² *THEOLOGICAL STUDIES*, XII (1951), 75-78.

⁸³ "The Morality of Boxing," *ibid.* (Sept., 1951), 301-19.

⁸⁴ "Fatal Injuries in Competitive Sports," *Journal of the American Medical Association*, CXLVI (Aug. 18, 1951), 1506-11.

Thirty-two years of boxing competitions, however, have produced fewer deaths, in proportion to the number of participants, than occur in baseball or football and far fewer deaths than result from daily accidents. It seems that the moral and physical benefits derived from boxing far outweigh the dangers inherent in it or any of the other competitive sports.

Dr. Gonzales touches only lightly on the subject of nonfatal injuries and gives no statistics. Whether his comparative statistics on fatal injuries in New York City are typical of those that might be compiled for other places, I do not know; but even if they are, they would not undermine the case against boxing. It seems to me that the strongest case against boxing is drawn, not from the fatalities, but from the brutality of the sport, as manifested by the injuries—not necessarily fatal—inflicted on and by the participants, and by the crude emotionalism of the spectators.

In terms of present-day money values, what is the absolutely grave sum for sins of injustice? Jone-Adelman estimate \$100 for the United States.⁸⁵ Speaking for Italy, Fr. Leone Babbini, O.F.M., approves an estimate of 30,000 lire made some time ago by Gennaro.⁸⁶ At the time I write, this would be slightly less than fifty dollars in our money. The Jone-Adelman estimate would square rather well with the norm suggested by Arendt and often mentioned in these notes (the weekly wage of the more favored general workers without professional or highly technical training, or the weekly income of small business men, store owners, etc.);⁸⁷ but I think that for a country like ours some latitude should be allowed for differences of wages and costs of living in rural and industrial regions. On this basis I would suggest 75–100 dollars as the proper estimate. I am not conversant with wage scales in Italy; hence I cannot compare Fr. Babbini's suggestion with Arendt's norm.

According to a news item in *Pastoral Psychology*,⁸⁸ a special report issued by the Social and Industrial Commission of the Church Assembly of the Church of England declares that gambling is not necessarily a sin. "Gambling," says the report, "is permissible as an amusement. Whenever it ceases to be an amusement, it becomes indefensible, and indeed dangerous. The principal condition of innocent gambling, therefore, is that it be kept strictly within the province of entertainment." This is much milder than other statements I have noticed from time to time in Protestant journals. And, indeed, the commission apparently recognizes that other churchmen view

⁸⁵ *Moral Theology* (1951), n. 324.

⁸⁶ *Palestra del clero*, XXX (Jan. 1, 1951), 42.

⁸⁷ Cf. *THEOLOGICAL STUDIES*, VIII (1947), 114–15; X (1949), 92; XI (1950), 51.

⁸⁸ Jan., 1951, p. 53.

gambling with a sterner eye, for the report continues: "It would be presumptuous and impertinent to lay down detailed rules for a Christian's use of his leisure. Something may rightly be done in individual direction; but to try to do it for Christians in general, to try to impose upon them a nicely calculated less or more, would be a piece of tyrannical, and indeed ludicrous, legalism."

Does one who sells the return half of a round-trip ticket do an injustice to the railroad company? Canon Mahoney says "yes";⁸⁹ Fr. McCarthy says "no."⁹⁰ The essential part of Canon Mahoney's statement is as follows:

There is decidedly loss to the railways, not indeed in the cost of running the actual train on which a person makes the return journey, but in the breach of contract caused by that action. The railway allows a reduction, quite fairly and reasonably, only in favour of the person who is proposing to make the double journey himself; it is one of the express conditions of the contract that the ticket is "not transferable." An unjust loss is inflicted by not observing this condition, and restitution is due.

Fr. McCarthy denies that the non-transferable clause represents a contractual condition. This clause, he says, is on all tickets; hence its basic meaning must be something which applies to all tickets, not merely to round-trip tickets. He suggests that the primary purpose of the clause is the prevention of fraud and profiteering: the company wishes to guarantee only tickets bought at an authentic source. And another reason is that the company wishes to limit the extent of its liability.

Explaining his contention that the clause cannot reasonably be called a part of the contract, binding in conscience, that the buyer of the ticket makes with the company, Fr. McCarthy says that many buyers are unaware of this clause and others do not understand it. Moreover, the company never calls attention to the clause when tickets are bought. Finally, conscientious men do not consider that they are under contractual obligation not to transfer their tickets to others. If these arguments are valid—and it seems to me that they are—it follows that an individual who buys a railway ticket, either one-way or round-trip, then transfers it to another by sale or gift, does not violate a contract. And it seems to follow with equal logic that the transfer of an unused portion of a ticket does not violate a contract.

The foregoing concerns only the non-transferable clause. But is there perhaps a special contract made with the company when a round-trip ticket is bought at a special price? Much would depend, it seems, on the

⁸⁹ *Questions and Answers*, II, n. 429.

⁹⁰ "The Meaning of the Non-Transferability of Railway Tickets," *Irish Ecclesiastical Record*, LXXV (Jan., 1951), 57-61.

understanding of conscientious men who buy tickets and on the purpose for which the railroad grants the reduction. Fr. McCarthy says he has sampled the reactions of many good and honest men, and they would not feel they are doing the company any injustice in passing on to others the unused part of a ticket. Canon Mahoney believes that the railroad gives the reduction only because the individual proposes to make the double journey himself. I think that one might say with equal truth that the reduction is offered as an incentive to buy the double ticket. In this way the railroad encourages travel and obtains an assurance that the return ticket will be used. I offer this suggestion merely as a view that merits consideration, and not necessarily as the final solution to a difficult problem.

Two items on the Eighth Commandment are taken from *L'Ami du clergé*. The first is a lengthy discussion of lying, which explains the older view that the *falsiloquium* is absolutely evil and the more recent view that it is only relatively evil, and which concludes that the recent view is solidly probable.⁹¹ All this has been adequately covered in previous surveys.⁹² I might observe, however, that the question itself, as printed in *L'Ami* (Is lying *intrinsically* evil?) is poorly phrased. No Catholic theologian would hold that lying is merely extrinsically evil, i.e., *malum quia prohibitum*. All admit that it is against the natural law; and the sole point of dispute is whether it is absolutely evil, like blasphemy, or only relatively evil, like theft.

The other item from *L'Ami* concerns a special aspect of professional secrecy.⁹³ May a nursing Sister who has received from a patient the confidential information that a certain doctor has performed an abortion reveal this secret? J. Géraud replies that, though the civil law would permit her to do so, yet she should not do it. He uses the analogy of the director of a seminary who has learned outside the confessional, but through a confidential communication, that a third party has done something wrong. The director should not reveal this secret because in doing so he would run the risk of losing the confidence of the seminarians. He should content himself with urging his informant to bring the matter into the judicial forum. The Sister's position, says Fr. Géraud, is much the same. The good that she can do for her patients largely depends on preserving their confidence; but she cannot retain their confidence without respecting their confidences.

ECCLESIASTICAL LAWS

I am not indulging a yen for flippancy when I observe that theologians are still wrestling with the problem of knitting on holydays. Though a small

⁹¹ Mar. 29, 1951, pp. 198-202.

⁹² THEOLOGICAL STUDIES, IX (1948), 101-4; XI (1950), 51-52.

⁹³ Jan. 18, 1951, pp. 39-40.

matter in itself, knitting is a symbol of the large problem of accommodating the concept of servile work to our modern, industrialized civilization. Msgr. James Carroll outlines the present state of the question when he says there are two possible solutions to the problem of doing recreational knitting on holydays.⁹⁴ One solution is to follow the more traditional view that knitting is servile work, but to make ready allowance for excuse or dispensation from the law. The second solution, advanced today by very good moralists, is to distinguish between commercial and recreational knitting. According to this distinction (which is not limited to knitting) an occupation which is generally accepted in a given region as a pastime or hobby is not to be considered servile work. Msgr. Carroll apparently believes that knitting, "as a feminine accomplishment and a recreation," is not to be considered as servile work in Australia and New Zealand. I am convinced that in the United States this is the case regarding knitting, amateur gardening, and many other hobbies.

Another example of the accommodation of ancient laws to modern conditions is the adoption of the relative norm of fasting. The adoption of the norm, however, often brings up this problem: how much should one take at the breakfast and lunch? Strictly speaking, the relative norm can be followed as long as these two meals do not equal another full meal. Obviously the very purpose of this norm would be defeated if everyone concluded: "I am going to take as much as may be taken, short of a second full meal." The very notion of *relative* means that each one may take what he needs; since needs vary, the amounts taken should also vary. But the question remains: how is one to determine what he needs? Fr. Vangheluwe suggests that the faithful in Belgium determine this for themselves by experimenting: for example, by beginning the Lenten fast with about one-half one's usual breakfast and about two-thirds of one's usual lunch.⁹⁵ By doing this no one will hurt himself and gradually each will discover just what degree of sacrifice he can safely practice. The suggestion seems very appropriate for those who are accustomed to take a somewhat hearty breakfast and lunch.

The decree of the Holy Office which declared it illicit for clerics to belong

⁹⁴ "Knitting on Sundays," *Australasian Catholic Record*, XXVIII (Jan., 1951), 58-61.
See also THEOLOGICAL STUDIES, IX (1948), 105-8. In that survey, incidentally, I quoted Vincent J. Kelly, C.S.S.R., for a statement which is just the opposite of what he actually said. I trust it is not too late to make restitution. Fr. Kelly wrote: "It has become necessary . . . to break away from the traditional definition based on *the nature of the work and form one based on something extrinsic to the work.*" Through faulty proofreading I omitted the words here italicized.

⁹⁵ "De relativa jejunandi norma," *Collationes Brugenses*, XLVII (Mar.-Apr., 1951), 100-107.

to or attend the official meetings of the Rotary Club and which exhorted the faithful to observe the provisions of canon 684,⁹⁶ is so well known that it scarcely needs more than a reference here. Also well known is the commentary published in *L'Osservatore Romano*.⁹⁷ According to this commentary, clerics are forbidden to join Rotary because its nature and objects "are foreign to the ends of the priestly mission." Regarding the provision against attending official meetings, the commentary says:

Naturally, it is to be taken as applying only to those meetings where only Rotarians gather and in so far as they treat of their economic and professional affairs. Hence, it does not apply to meetings which, though convened by the Rotary, are open also to outsiders for purposes in keeping with priestly activities, such as the promotion of charitable initiatives.

There was no justification, says the commentary, for newspapers to infer that the Holy Office wished to apply to the Rotary all the notes enumerated in canon 684—secret, condemned, seditious, suspect, or trying to evade the legitimate vigilance of the Church. It is enough that, from a Catholic point of view, an organization be considered "suspect." Speaking generally, the Rotary might be considered suspect by reason of its secularist and "areligious" spirit; nevertheless, it is admitted that conditions vary considerably in different countries, and it is for the bishops of each country to evaluate their own situation and issue uniform directives.

For the average American priest, of much greater interest than Rotary membership is the problem of promoting dances among the faithful. The Second Plenary Council of Baltimore,⁹⁸ without mentioning dances in particular, insisted that there could be no good reason for raising money for the Church by anything that is an occasion of sin, a source of scandal, and

⁹⁶ AAS, XLIII (Jan. 30, 1951), 91.

⁹⁷ Jan. 27, 1951. The Italian text is reprinted in *Perfice munus*, XXVI (Mar. 1, 1951), 111-12. The *Clergy Monthly*, XV (Mar., 1951), 60-61, has an English translation. For other commentaries and opinions, see *Irish Ecclesiastical Record*, LXXV (Apr., 1951), 355-57; *ibid.* (June, 1951), 506-11; *ibid.*, LXXVI (Oct., 1951), 331-32; *Ephemerides theologicæ Lovanienses*, XXVII (Jan.-Jun., 1951), 128-35; *Periodica*, XL (Mar. 15, 1951), 111-20; *Clergy Review*, XXXV (Mar., 1951), 200-202; *Homiletic and Pastoral Review*, LI (June, 1951), 835-36; *Nouvelle revue théologique*, LXXIII (May, 1951), 528-30; *Collationes Brugenses*, XLVII (Mar.-Apr., 1951), 152-54.

⁹⁸ *Acta et decreta*, n. 396. Although dancing is not mentioned in this decree, the attitude of the bishops is clearly manifested in the Pastoral Letter, where they warn the people "against those amusements which may easily become to them an occasion of sin, and especially against those fashionable dances, which, as at present carried on, are revolting to every feeling of delicacy and propriety, and are fraught with the greatest danger to morals" (p. cxxi).

a basis for holding the Catholic name up to ridicule. In this category it listed picnics, excursions, and the like, that were held near large cities. These things should either be absolutely forbidden or be so regulated as not to become seedbeds of sin.

The Third Plenary Council of Baltimore,⁹⁹ in the chapter "De modis prohibitis pecunias ad pias causas colligendi," repeated the warning of its predecessor; laid down certain rules to correct abuses connected with picnics, excursions, and fairs, conducted to raise money; and then briefly absolved the matter of dancing with this strong precept: "Mandamus quoque ut sacerdotes illum abusum, quo convivium parantur cum choreis (*Balls*) ad opera pia promovenda, omnino tollendum curent."

A decree of the Sacred Consistorial Congregation, March 31, 1916,¹⁰⁰ tells how dances "for pious purposes" began in the United States, how it gradually came about that pastors themselves organized them, how the Council of Baltimore, noting the abuses likely to be connected with dances that go far into the night, had forbidden such dances to be given for Church purposes. The Congregation notes that the abuses condemned by Baltimore have again crept into the United States and have even spread to Canada; it is therefore the purpose of the present decree to insist that the prohibition of the Council of Baltimore be upheld. For this reason, with the approval of Benedict XV, it is decreed that all priests, whether secular or regular, and other clerics are absolutely forbidden to promote and favor the above-mentioned dances, even though they be held to aid pious works or for some other holy purpose. Moreover, all clerics are forbidden to attend such dances, should they be given by lay people.

To clear up a doubt created by this decree, the Congregation was asked: "Are dances given in the daytime, or at night but not protracted to a late hour, or not accompanied by a dinner, but conducted in the manner commonly called a picnic, included in the condemnation of March 31, 1916?" The reply, dated December 10, 1917,¹⁰¹ and again approved by the Pope, states that such dances are included in the condemnation. Clerics, therefore, are forbidden to promote or sponsor them, even in the circumstances mentioned, and they are forbidden to attend them if they are promoted by others.

⁹⁹ *Acta et decreta*, n. 290.

¹⁰⁰ *AAS*, VIII (1916), 147-48. The text of the mandatory section is as follows: "... sacerdotes quoslibet sive saeculares sive regulares aliosque clericos prorsus prohiberi, quominus memoratas choreas promoveant et foveant, etiamsi in piorum operum levamen et subsidium, vel ad alium quemlibet pium finem; et insuper clericos omnes vetari, quominus hisce choreis intersint, si forte a laicis viris promoveantur."

¹⁰¹ *AAS*, X (1918), 17; cf. *Canon Law Digest*, I, 137-38.

John Rogg Schmidt reviews the foregoing documents,¹⁰² as well as various comments and interpretations, and reaches the following conclusions: (1) the prohibitions refer only to dances given for some pious cause; (2) they forbid both priests and laity to promote dances for the purpose of raising money for the Church; (3) they do not forbid the holding or promoting of dances for recreational and social purposes; (4) they do not forbid priests to be present at dances held for recreational and social purposes; (5) the reasons for the prohibition of dances in the interest of pious causes were the morally questionable features which were formerly considered as generally associated with dancing; and (6) in a properly supervised parish dance these features are now lacking; hence it seems that the legislation has now ceased as law "because its subject matter has changed, . . . and because, as consequent to such change, its purpose, namely, to obviate at least a probable suspicion of moral danger common to the participants and the obloquy of prudent and upright men, has likewise ceased."

Not being a canonist, I would not venture an expert opinion on the juridical aspect of Fr. Schmidt's article. I can but say that, in so far as I am capable of passing a judgment, his analysis and argumentation seem reasonable.

Prominent in this discussion, however, is a matter of distinct concern to the moralist. I mean the problem of dancing, as regards moral dangers, particularly occasions of sin. Fr. Schmidt gives an account of one of the private sessions of the Third Council of Baltimore, in which the bishops frankly discussed the feasibility and advisability of absolutely forbidding dancing, especially the so-called round dances. Their judgment seems to have been less severe than that of their predecessors, and they were clearly not unanimous in thinking that dancing, even the round dances, was always an occasion of sin. Nevertheless, it does seem that their final pronouncement against using dances to promote a pious cause was based on the supposition of what Fr. Schmidt calls the morally questionable features often associated with dancing.

Whatever be the judgment concerning the attitude on dancing and its dangers that prevailed in the nineteenth century, I would certainly agree with Fr. Schmidt that in our country today dancing as such is not an occasion of sin. Nor is it looked upon as a questionable pastime by good and prudent men. Any occasion of sin connected with dancing will usually be traced to some entirely extrinsic circumstance such as drinking, the place where the dance is held, and so forth. This seems to argue, not for a prohibition of dancing, but for providing youth with the opportunity of dancing in surroundings conducive to good morals.

¹⁰² "Attendance of Priests at Dances," *Jurist*, XI (Jan. and Apr., 1951), 77-99, 251-85.

Without wishing to be unduly critical, I confess that moral manuals often impress me as being entirely unrealistic on the question of dancing, particularly with reference to the round dances. The authors apparently think that any dancing involving physical contact is bound to cause temptation in a majority of cases. Perhaps this is true in some countries; I sincerely doubt its truth for our country. Some years ago a moral professor in Rome made the statement in class that the modern dances are occasions of sin. His North American students immediately objected to this assertion; they told him plainly that, before entering the seminary, they had danced these modern dances and had not found them occasions of sin. I believe that these seminarians expressed the typical attitude of what we might call the flower of our Catholic manhood and womanhood. Good Catholics can dance without qualms of conscience on the day they receive Holy Communion; and with an equally good conscience they can receive Holy Communion, without the need of confession, on the day after they dance. They would not do this if they found dancing an occasion of sin.

SACRAMENTS

The young priest who finds himself in the presence of an unconscious dying person must make a momentous decision concerning the administration of the sacraments. This decision is easily made when he knows the person has been a good Catholic. But in other cases he is apt to experience much confusion in making the decision and great trepidation in carrying it out. His difficulty is to be attributed at least partly to the confused state of the theological literature itself. An example of this confusion is had in some recent articles and responses.

Asked whether it is permissible in a Catholic hospital to baptize conditionally all unconscious dying non-Catholics, and whether, in these circumstances, a priest might confer extreme unction, Fr. Connell answers:

It seems sufficiently probable that the Sacrament of Baptism can be conferred conditionally on every non-Catholic dying unconscious, unless there is positive evidence that an individual is definitely opposed to the reception of the sacrament. . . . When conditional baptism is permissible for a person dying unconscious, Extreme Unction may also be given conditionally.¹⁰³

From the general context of his answer, Fr. Connell apparently uses "non-Catholic" in the broad sense of everyone who is not known to be a Catholic.

M. D. Forrest, M.S.C., defends the practice of giving dying Protestants

¹⁰³ "Sacraments for the Dying," *American Ecclesiastical Review*, CXXV (Aug., 1951), 146-47.

conditional baptism, absolution, and extreme unction. He is "at a loss to understand why any priest, who is willing to give conditional absolution to a dying Protestant, can shrink from conferring conditional Baptism and Extreme Unction, for Penance is surely just as much a sacrament as these two. The logical course to follow is to give *no sacrament whatever* to a dying non-Catholic or to administer *all three*."¹⁰⁴

With reference to a Catholic who had become a Mason and is now unconscious and dying without having given any external sign of repentance, *L'Ami du clergé* says the priest may confer conditional absolution, but not extreme unction, because this sacrament pertains to the external forum.¹⁰⁵ Canon Mahoney, asked about the opinion of Genicot which allows the conditional anointing of an unconscious person even though he refused the sacraments up to the time of losing consciousness, replies with a distinction:

In the case of a lapsed Catholic we may indulgently allow for the possibility of an adequate intention, owing to the resurgence of convictions formerly held, even though priestly ministration was refused whilst he was able to speak; each case must be dealt with on its own merits and the danger of scandal effectively removed. To this extent we agree with the writers mentioned [Genicot, Vermeersch, and Davis], who all, it appears, have in mind a lapsed Catholic . . .

In the case, however, of a dying non-Catholic, who up to the moment of losing consciousness has refused the priest's ministration, there seems no basis whatever for supposing an adequate minimum intention; positive refusal destroys the general intention he may have of doing whatever God requires, and there is no reason for supposing that this refusal is later modified.¹⁰⁶

Taken together, these various opinions would offer the young priest (and others too) good reason for confusion. For instance, how is one to explain *L'Ami's* refusal of extreme unction on the score that it belongs to the external forum? Perhaps the meaning is that the administration would involve scandal. If that is so, *L'Ami* surely chose a novel way of expressing it; moreover, the sacrament can usually be conferred secretly and without scandal. And how is one to explain Canon Mahoney's opinion that we might suppose a change of intention in the unconscious Catholic, but not in the non-Catholic? What is the mysterious force that will revive the Catholic's former convictions but will not revive the non-Catholic's intention of doing whatever God requires?

Personally, I agree with Fr. Connell's statement that, whenever there is

¹⁰⁴ *Emmanuel*, LVII (Sept., 1951), 235.

¹⁰⁵ *L'Ami*, Jan. 25, 1951, p. 62.

¹⁰⁶ "Dispositions for Receiving Extreme Unction," *Clergy Review*, XXXV (Feb., 1951), 104-6.

sufficient reason for conferring conditional baptism on an unconscious dying adult, there is also reason for conferring extreme unction. I agree, also, with Fr. Forrest that conditional absolution may be given. The supposition is that the sacraments can be conferred with sufficient secrecy to avoid scandal. The only solid reason that can be offered against the secret conferring of these sacraments—any one of which might be a necessary means of salvation for the dying person—is the *certainty* that the sacrament would be invalid. As regards baptism, this would mean certainty that the person is already baptized; and as regards each of the three sacraments, it would mean certainty that the requisite intention is lacking.

When do we have certainty that the requisite intention is lacking? Before answering this question, one ought to determine what is meant by certainty. In normal circumstances we follow normal rules, and we say that certainty is undermined only by *solid* probability of the opposite. We administer sacraments without condition when there is no solid reason for suspecting their validity; we do not administer them at all when there is a solid reason for questioning the validity. These two rules govern normal circumstances. In some special circumstances, even outside the danger of death, we might confer a sacrament (e.g., penance) conditionally when there are solid reasons pro and con. But the danger of death is an entirely special circumstance. We do not need a *solid* reason, a *solid* probability, on which to base a judgment that a dying unconscious person is not certainly incapable of receiving a sacrament. In this extreme case, even tenuous reasons favoring the dying man may be followed—and, to my mind, they should be followed.

Let me cut through this discussion by becoming somewhat personal. No priest can easily make the decision to refuse the sacraments to a dying person. I would not counsel any priest to make this decision unless I myself would refuse the sacraments in the same circumstances. As a matter of fact, I would not refuse them, and I consider my position justifiable. For instance, consider the most extreme case of all—the person who has refused priestly ministrations up to the moment of losing consciousness. Good authors can be found who allow the conditional administration of the various sacraments in this case.¹⁰⁷ Perhaps these authors do not constitute a solid extrinsically probable opinion, but I think they constitute a sufficiently probable opinion to be used *in extremis*. And I would say the same about their intrinsic arguments: their reasons may not be—indeed, they are hardly advanced as—

¹⁰⁷ Cf., as regards baptism, *Medico-Moral Problems*, III (1951), 36–45; for absolution of heretics and of a Catholic who has refused to see the priest, Iorio, III (1939), nn. 441–47; for anointing of non-Catholics, Kilker, *Extreme Unction* (1927), pp. 124–35. Concluding a careful discussion of this question, Kilker says that “a priest who gives Extreme Unction to dying heretics has enough of extrinsic probability on his side to save him from any scruples of conscience or criticism of his superiors.”

solidly probable, but they are not so weak as to be destitute of even the slight probability that would justify their use in favor of the dying unconscious.

These reasons are various, some particular, others general. For instance, some who refuse priestly administrations do so through misunderstanding; they implicitly want what they explicitly refuse. Others act through irrational emotion. In such cases, the reason for conferring the sacraments is the probability that the refusal is not genuine. Then there is the more general argument that the salvific will follows the sinner to the very moment of death—an argument that offers us hope that, through the abundance of God's grace, the disposition has changed. Someone might say, of course, that God can as easily stir the dying person to perfect as to imperfect contrition; but the practical moralist, like Genicot, would wisely suggest that the very presence of the priest (or of someone else who could at least confer baptism) might well be taken as a sign that God wants the man saved through sacramental graces.

It is difficult to conceive a case in which some reason—a reason more than a mere possibility, though less than a solid probability—cannot be found for favoring the unconscious dying with the conditional administration of the sacraments. Canon Mahoney's rule that each case must be solved on its own merits is sound enough in theory, but its practical value may be questioned. There are intangible factors that no examination may reveal; and the only satisfying solution to the problem is to confer the sacraments conditionally with the hope that they will benefit the dying person.

As I have intimated, my discussion presupposes that necessary precautions are taken to avoid the spiritual harm of scandal. This is especially necessary when bystanders are not Catholic. There seems to be very little danger of such harm when the bystanders are good Catholics. They know, for instance, that when a priest anoints a great sinner who had lapsed into unconsciousness without any sign of penitence (the case visualized by *L'Ami*), he is simply acting on a slight hope that this soul is still savable through the sacrament. They are not shocked or disedified; but they might be if the priest, who has always preached to them of the boundless mercy of God that follows sinners to the moment of death, would turn away without even an attempt to confer a sacrament.

The remaining points on the sacraments can be given very briefly. First, there is the provision of canon 747: "Curandum ut omnes fetus abortivi, quovis tempore editi, si certo vivant, baptizentur absolute; si dubie, sub conditione." This canon has been interpreted as destroying all probability of the theory of retarded animation. H.-M. Hering, O.P., rejects this interpretation and very capably argues that, far from being abandoned or erron-

eous or even a less probable opinion, the theory of retarded animation is still held by prominent authors and is more in conformity with metaphysical principles and empirical facts than the theory of immediate animation.¹⁰⁸ C. G. Josia, in the course of a lengthy discussion of the same topic,¹⁰⁹ says there is no evidence that by this canon the Church wished to end the controversy over the time of rational animation. Eminent canonists, he says, who hold the retarded animation theory would simply interpret "si certo vivant" as referring to rational life.

The recent extension of the power to confirm has brought the inevitable question: Has the extraordinary minister a grave obligation to administer the sacrament on each occasion that it is requested? Canon Mahoney replies: "It is not certain that the obligation to confirm each individual applicant is grave, and we agree with those writers who think it is only binding *sub levi*."¹¹⁰ His reasons are (1) that even the ordinary minister is not certainly obliged *sub gravi* to confirm individual dying persons, and (2) that the dying person cannot be said to have a strict right to this sacerdotal ministry. In corroboration of his view he adds: "In those parts of the world where priests have long enjoyed the faculty under Propaganda, the accepted opinion is that the obligation to use the faculty is not grave."

This opinion refers merely to the obligation in individual cases; Canon Mahoney does not deny grave negligence in the case of a priest who habitually refuses to use his power. Moreover, even thus limited, the solution suggested "is tentative and lacking that modest degree of assurance which one would like to have in solving a doubt."

One of Fr. Connell's correspondents speaks of a remedy for headaches known as theryl, which "consists of a tablet that is placed under the tongue and is directly absorbed . . . into the bloodstream. There is a small amount of residue, which can be expectorated." Very likely all moralists would agree with Fr. Connell that, like the nitroglycerine tablets for heart attack, theryl would not break the eucharistic fast.¹¹¹

Tito Morandi reviews the pertinent section of *Mediator Dei*, as well as the more recent Instruction of the Sacred Congregation of the Sacraments, and

¹⁰⁸ "De tempore animationis foetus humani," *Angelicum*, XXVIII (Jan.-Mar., 1951), 18-29. See also Messenger, *Two in One Flesh*, II, 94: ". . . it is the considered opinion of the present writer that the facts as we now know them are interpreted best by the older Mediate Animation theory."

¹⁰⁹ "Infusione dell'anima umana nel feto," *Perfice munus*, XXVI (Jan. 15, 1951), 15-30.

¹¹⁰ "Obligation of Confirming the Dying," *Clergy Review*, XXXV (May, 1951), 326-29.

¹¹¹ "A Remedy for Headaches," *American Ecclesiastical Review*, CXXIV (Feb., 1951), 144. Regarding nitroglycerine pills, cf. *ibid.*, CXIV (1946), 228.

concludes that neither of them made any change in the status of solidly probable opinions on the question of saying Mass without a server.¹¹² In particular, he holds with Cappello that the list of four exceptions given in the Instruction is not a complete enumeration of the circumstances deemed serious enough to warrant celebration without a server. Fr. Oesterle thinks Fr. Morandi treats the Instruction much too lightly.¹¹³ Fr. Oesterle admits that the Congregation added the pestilence case to the three commonly admitted exceptions to the law; and he argues that if the Congregation had wanted to add more cases it would have done so. The list, he concludes, must be considered complete.

Fr. Oesterle's argument would be impressive if it did not contradict the very words of the Instruction. The Instruction says the exceptions can be *reduced* to these four—a statement which clearly implies that there are other legitimate excuses. Moreover, it says the four cases represent common opinion—a statement which can be reasonably explained only if the pestilence case is taken as an example of personal *grave incommodum* which would excuse from the precept of having a server. Fr. Morandi seems to have the better part of this debate.

It will be remembered that in the Instruction just mentioned it is said that future indulgences will be conditioned by the clause, "dummodo aliquis fidelis Sacro assistat." In my own article on Mass without a server,¹¹⁴ I inferred that this provision might pertain only to indulgences granted through the Congregation of the Sacraments. I did this because it seemed possible that other Congregations, particularly Propaganda, might follow a different policy. That such is the case is indicated by the following letter addressed to the *Australasian Catholic Record* by the Apostolic Delegate to Australia:

In the April [1950] issue of the *Australasian Catholic Record* there was a note written by Rev. Dr. Madden (page 157 et seq.) about the Instruction of the Sacred Congregation of the Sacraments of 1st Oct., 1949, regarding Mass without a server.

His Eminence Cardinal Fumasoni Biondi, Prefect of the Sacred Congregation of Propaganda Fide, has written to inform me that the faculties given for ten years by Propaganda (e.g. Formula Maior) represent particular indulgences given for missionary lands, which have altogether special needs, and must therefore be interpreted according to the sense of the words with which they are expressed. Such, for example, would be the case with Faculty No. 4 of the Formula Maior, which would not then have a restrictive interpretation, such as one might conclude from the Instruction of the Sacred Congregation of the Sacraments.¹¹⁵

¹¹² "Messa senza ministro," *Perfice munus*, XXVI (Mar. 1, 1951), 118–21.

¹¹³ *Ibid.* (July 1, 1951), 315–23.

¹¹⁴ *THEOLOGICAL STUDIES*, XI (1950), 577–83.

¹¹⁵ *Australasian Catholic Record*, XXVII (1950), 199.

The reference here is no doubt to the *Facultates decennales* given by Propaganda for the years 1951–60. J. Sanders, S.J., observes that Faculty 4 of the *formula maior* permits the celebration of Mass without a server in case of necessity, and without the restriction that someone must be present. Regarding this faculty he writes:

Missionaries will be grateful for this special favour; for, when on tour, they can at times find nobody to assist at their Mass. However, it is evidently the mind of the Church that, notwithstanding the faculty they receive, they should not say Mass without a server when it is not necessary, and, when they cannot have a server, they should try to have at least some Catholic assisting at their Mass. But if they cannot find anyone, they may say Mass alone.¹¹⁶

L'Ami du clergé discusses a most difficult kind of *recidivus*—the penitent who year after year confesses at the paschal time, goes to Mass and Communion at this time, but abstains from Mass the remainder of the year.¹¹⁷ *L'Ami* insists on the confessor's duty to try to bring the penitent to a good disposition and suggests the use of a "test"—e.g., the deferring of absolution for a short time until the penitent has showed his change of heart by going to Mass on two or three successive Sundays. Suppose the penitent refuses this test? *L'Ami* says the priest is then often faced with a terrible dilemma: the refusal of absolution may drive such a penitent away from the Church, even make him an enemy of the Church; yet the granting of absolution might be a profanation of the sacrament.

Is there a *datur tertium* to break this dilemma? *L'Ami* proposes that conditional absolution might be given on the score that this is an extreme case and there may be some reason for thinking that the penitent is not certainly indisposed. His very coming to confession is some sign in his favor. Furthermore, penitents like this may have a sort of special mentality which amounts to good faith; it may be that they are not really convinced that the precept of hearing Mass binds *sub gravi*. These suggestions may have a certain value; surely the analysis of "good faith by reason of special mentality" merits consideration. Yet even if this analysis of "good faith" were correct, would it solve this problem? There is a limit to the allowance that can be made for good faith when the penitent's conduct affects others. And I sincerely doubt that it is possible to absolve such a penitent year after year, and especially to permit him to receive the paschal Communion, without scandal to others.

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¹¹⁶ *Clergy Monthly*, XV (Jan.–Feb., 1951), 34; cf. *ibid.*, XIV (Nov., 1950), 392–93.

¹¹⁷ *L'Ami*, Apr. 19, 1951, pp. 248–51.