

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

GENERAL PRINCIPLES

That love is the basis of Christian morality, no true Christian has ever denied, in spite of some complaints about moral theologians. That this is the clear teaching of the Synoptic Gospels is the subject of a recent article by Ceslaus Spicq, O.P.¹ Yet it is also clear from the words of our Lord that love must be shown by doing His will. Finding out just what His will is, is the immediate work of moral theology and ethics.

The former has the advantage over ethics in the additional sources of divine revelation as well as the divinely constituted teaching authority of the Church. Pius XII, in an allocution to a large gathering of bishops on the occasion of the Marian-year crowning of the painting of Mary, *Salus populi Romani*,² stressed again that the scope of this teaching authority extends to all phases of life which can affect the efforts of man to attain his last end, including therefore the social, political, and economic fields.

Common sense, and truth as well, are contradicted by whoever asserts that these and like problems are outside the field of morals and hence are, or at least can be, beyond the influence of that authority established by God to see to a just order and to direct the consciences and actions of men along the path to their true and final destiny.³

Among those who object against the authority of the Church in many fields of life are the situational ethicists, who believe that the application of general principles to concrete situations is a matter to be left strictly to the individual conscience; that for the Church to try to direct consciences is to treat adults as children.

Not a few moderns . . . think that the leadership and vigilance of the Church is not to be suffered by one who is grown up. . . . They wish . . . to decide for themselves what they must or must not do in any given situation. Let the Church—they do not hesitate to say—propose her doctrine, pass her laws as norms of our actions. Still, when there is question of practical application to each individual's

EDITOR'S NOTE.—The present survey covers the period from June to December, 1954.

¹ "Die Liebe als Gestaltungsprinzip der Moral in den synoptischen Evangelien," *Freiburger Zeitschrift für Philosophie und Theologie* 1 (Fourth Quarter, 1954) 394-410.

² Nov. 2, 1954; *AAS* 46 (Nov. 15-18, 1954) 666-77; English translation, *The Pope Speaks* 1 (Fourth Quarter, 1954) 375-85.

³ *Ibid.*; *AAS*, p. 673; *TPS*, p. 381.

life, the Church must not interfere, she should let each one of the faithful follow his own conscience and judgment. They declare this is all the more necessary because the Church and her ministers are unaware of certain sets of circumstances either personal or extrinsic to individuals; in them each person has been placed, and must take his own counsel and decide what he must do. Such people, moreover, are unwilling in their final personal decisions to have any intermediary or intercessor placed between themselves and God, no matter what his rank or title.⁴

The Pope calls these views reprehensible and refers to his two previous condemnations of such errors in allocutions of 1952.⁵

As in most false systems, there are elements of truth mixed with error in situational ethics. In a paper read at a convention of moralists in Luxembourg last June and revised as an article in the December number of the *Nouvelle revue théologique*, Joseph Fuchs, S.J., makes this clear.⁶ The situationists do not deny all moral law; they rather deny the existence of any absolute law which would admit of no exceptions. They place the emphasis on the direct personal relation of the subject to God in a unique situation. They hold that only God is absolute and that therefore no law can be absolute, forgetting that the law in question is, in a very real sense, a participation in God.

Of course, it is true, as Fr. Fuchs points out, that most positive obligations admit of excusing causes. And even in some of what are rightly considered universal negative laws, God can make exceptions because of His dominion over the matter in question, as in the taking of human life or the property of another; or because of His power of preventing the usual effects and dispensing from His own positive law, as in divorce. But such exceptions would have to be known clearly and with certainty, for presumption always favors His own clear commandments and the teaching authority which He Himself established.

It is also true that in a concrete situation there are many details to be considered; simply obeying one negative precept does not mean that one has sufficiently fulfilled God's law. For example, a doctor faced with a difficult pregnancy knows that he must not kill; but obeying that precept does not exhaust his obligations. He must do what he can to save both lives; and often he must exercise charity and mercy towards his patient and her family.

Fr. Fuchs does not know of any Catholic writers who would profess belief

⁴ *Ibid.*; AAS, pp. 673-74; TPS, p. 382.

⁵ Cf. Ford-Kelly, S.J., "Notes on Moral Theology, 1953," THEOLOGICAL STUDIES 15 (March, 1954) 58-59.

⁶ "Morale théologique et morale de situation," NRT 76 (Dec., 1954) 1073-85.

in situational ethics as a complete system. He feels that the Pope in his previous discourses referred rather to authors who have been influenced by the system without adopting its principles explicitly. He names no names other than that of Ernst Michel, whose book on marriage has been placed on the Index.⁷

Other recent articles have mentioned examples of what they consider influences of situational ethics on Catholic writers. J. McCarthy does not see how M. Van Vyve's article on suicide⁸ can be reconciled with the Pope's condemnation of the system. And "M. C." in *Sal terrae*⁹ notes "a familiar echo" of the system in an article in *La vie intellectuelle*.¹⁰ The same might also be said of Fr. Vann's unfortunate article on the muddled-marriage dilemma, in which the language is certainly similar to that of the situationalists and where, among other errors, he makes a slip common to them, of failing to distinguish a middle ground between two extremes: remaining in a sinful situation and simply "shuffling out" of all responsibility.¹¹

Considering the differences of opinion that occur even in print among Catholic authors, and knowing the difficulty of accurately applying moral principles to complex concrete situations, we should not be surprised that lay people sometimes complain of differences of views among priests. So explains F. J. Connell, C.S.S.R., adding that what often appears to be a difference of principle is really a difference of circumstances presented to priests.¹² But he notes that the cause may also be a failure of some priests to fulfil their grave obligation of keeping up on their theology. He especially criticizes the practice of some priests of giving a penitent the benefit of any opinion ever heard from a fellow priest or seen anywhere in print.

PSYCHIATRY AND MEDICINE

Much is being written in the field of psychiatry from a Catholic viewpoint. Well known and certainly of value, but probably too technical to be of much help to most priests, are the works of Thomas Verner Moore, O.S.B., Van der Veldt-Odenwald, Cavanagh-McGoldrick, and many others. Of more immediate interest to priests are some English translations of European works, which have recently been published, such as the four short books by a German Catholic psychiatrist, Baron Frederick von Gagern: *Difficulties in Life*,

⁷ *Ehe: Eine Anthropologie der Geschlechtsgemeinschaft*. Cf. AAS 44 (1952) 879.

⁸ Cf. *infra*, FIFTH COMMANDMENT.

⁹ "Moral de situación," *Sal terrae* 42 (Oct., 1954) 500-502, an approving summary of Fr. Conway's excellent outline, "Situation Ethics," *Irish Theological Quarterly* 21 (Jan., 1954) 60-63.

¹⁰ March, 1954, pp. 14-15.

¹¹ Cf. *infra*, MARRIAGE.

¹² *American Ecclesiastical Review* 131 (Nov., 1954) 349-50.

Difficulties in Married Life, *Difficulties in Sex Education*, and *The Problem of Onanism*.¹³ Even more specifically for priests are *Mental Hygiene and Christian Principles*, by the Louvain moralist, André Snoeck, S.J.; *The Priest and the Unconscious*, by Erwin Ringel, a Viennese psychiatrist, and Wenzel Van Lun, a theologian; and the better known *Psychiatry for Priests*, by Dr. Herman Dobbelstein.

All of these are certainly helpful, but one hopes that even more clearly pastoral works will be translated, like Albert Niedermeyer's six-volume work on pastoral medicine and H. Bless's *Traité de psychiatrie pastorale*. In the meantime, there are occasional articles of pastoral value on particular problems, such as the more or less regular contributions of Dr. Robert Odenwald to *The Priest*.¹⁴

On the point of imputability, Pope Pius XII, in a talk to the twenty-third Convention of the International Commission of Criminal Police,¹⁵ warned against those forms of psychology which tend to deny all responsibility in criminal acts, reminding them that

... the agent is a man endowed with liberty, not a thing, not an automaton whose functioning would depend on some inanimate mechanism; nor even a mere combination of feelings and impulses, which would pass over into act only under the effect of instinct and appetite. Objective truth means also that man, in virtue of his natural faculties, enjoys the capacity of self-determination and must consequently be considered responsible for his self-determined acts, at least until the contrary is proved or until there is a well-founded doubt.¹⁶

His Holiness does not deny the influence of both external and internal causes, nor does he deny that mental disorders can deprive a man of freedom, but he insists that a normal man is responsible for his actions, because he freely chooses to follow such drives and temptations. And a person should be considered normal, unless there is good reason for thinking the contrary. It is well to remember this, especially when reading psychiatrists, even good Catholic ones; for, since their work is primarily with the abnormal, they often tend to overstate the lack of responsibility.

¹³ These four and the following three books are published by Mercier Press, Cork, Ireland. *Psychiatry for Priests* has also been published in this country.

¹⁴ E.g., "The Psychoneuroses," *Priest* 9 (May, 1953) 341-46; "Counseling the Homosexual," *ibid.* (Dec., 1953) 940-44; "The Problem of Masturbation," *ibid.* 11 (Jan., 1955) 28-32, and *ibid.* (Feb., 1955) 126-32.

¹⁵ Oct. 15, 1954; *AAS* 46 (Nov. 15-18, 1954) 598-605; *The Pope Speaks* 1 (Fourth Quarter, 1954) 361-67.

¹⁶ *Ibid.*; *AAS*, p. 602; *TPS*, p. 365.

¹⁷ E.g., Dr. Hans March, "Der Psychotherapeut," *Stimmen der Zeit* 155 (Oct., 1954) 11-22.

All who write on priests and psychiatry stress the point that priests should not attempt psychotherapy, but should send disturbed persons to a psychiatrist.¹⁷ But Pedro Meseguer, S.J., himself a student of Jungian psychology and a collaborator at the Jungian Institute in Zurich, points out that pastoral work has always included a certain amount of natural psychotherapy.¹⁸ Perhaps the happy medium is for priests to have enough elementary knowledge of psychiatry to treat milder cases of such things as scruples,¹⁹ homosexuality, and certain anxiety or compulsion neuroses, and to recognize the need of professional psychiatric treatment, much as an infirmarian does in somatic medicine.

As a minimum, every priest should know of one or more reputable Catholic psychiatrists to whom he can refer penitents. However, Fr. Meseguer advises great caution in such selection, since unfortunately not all Catholic psychiatrists are worthy of confidence. Evident as this is even in somatic medicine, where cases are frequent enough of so-called Catholic doctors who advise contraception and sterilization, there is even more danger in psychiatry, where doctors even differ as to what constitutes the health or normality at which they are aiming, and not only the proper means of arriving at their end. As we must at times be willing to sacrifice even life itself for spiritual goods, so also it may sometimes be necessary to sacrifice what would seem to be a chance for greater mental health rather than achieve it by immoral means. Obviously, too, technical competence is necessary along with the moral integrity.

Among forbidden means, as Fernando Azcárate, S.J., recalls,²⁰ the Holy Father has included the counseling of material sin. Although, according to the ordinary teaching of moral theology, material sin can sometimes be tolerated as a lesser evil than formal sin, it may never be counseled, nor may priest or psychiatrist (or anyone) allow it in answer to a question about a sinful action; for material sin is still objectively contrary to the order willed by God, and so should be avoided when possible.

Of general interest in the field of medical morals is "A Topical Index to Moral Problems of Medicine," by John J. Lynch, S.J.²¹ It is intended primarily for doctor subscribers of the *Linacre Quarterly* but will be of value

¹⁸ "Aspectos sociales y legales de la psicoterapia," *Razón y fe* 150 (Dec., 1954) 446-62. As an example of a sort of elementary pastoral psychotherapy, cf. Narciso Irala, S.J., *Achieving Peace of Heart* (New York: Wagner, 1954).

¹⁹ Cf. H. Martindale, "Diagnosis and Treatment of Scruples," *Homiletic and Pastoral Review* 55 (Oct., 1954) 16-22.

²⁰ "Pio XII y la psiquiatría," *Razón y fe* 150 (Jul.-Aug., 1954) 43-58, and *ibid.* (Sept.-Oct., 1954) 219-34.

²¹ *Linacre Quarterly* 21 (Aug., 1954) 87-104; the index, 91-104.

to anyone interested in the field. It has three main sources of reference: the *Quarterly* itself, these "Notes on Moral Theology," and the excellent set of booklets by Gerald Kelly, S.J., *Medico-Moral Problems*.²² Fr. Lynch feels that further references will generally be included in these "Notes." However, he does refer occasionally to modern books which treat specialized problems.

Fr. Kelly's *Medico-Moral Problems* series cannot be too highly recommended for doctors. The fifth booklet has just appeared, and treats of such topics as abdominal pregnancy, electro-shock therapy, experimentation, and fertility tests. The lead article lists these "Basic Principles" of medical ethics: (1) the patient's consent; (2) the inviolability of innocent human life; (3) the principle of "totality" (i.e., that in the human body the part exists for the sake of the whole, and so may be sacrificed when necessary to preserve the health of the body); (4) the intrinsic finality of the sex faculties; (5) the end never justifies an evil means; (6) the basic distinction between "avoiding evil" and "doing good" (i.e., that one is never allowed to do what is sinful, but one may, for a sufficient reason, omit doing a positive good act); (7) the principle of the "double effect"; and (8) the principle of "liberty" (probabilism).

Even more fundamental are the Pope's suggestions to the eighth Congress of the World Medical Association²³ for the basis of an international code of medical ethics:

1) Medical ethics (*La morale médicale*) should be based upon being and nature. . . .

2) Medical ethics should . . . conform to reason and finality and should be based on positive values. . . .

3) . . . The absolute character of the moral order . . . compels us to acknowledge that medical ethics are, in their last analysis, rooted in the transcendental and subject to higher authority.²⁴

In this allocution and in several other recent ones His Holiness has had sections of previous addresses included in footnotes, thus emphasizing what moralists have acknowledged from their very inclusion in the *Acta*, that they are to be considered official Catholic teaching, and not merely private talks to private individuals. This particular note seems worth repeating:

The ultimate authority is the Creator Himself: God. We would not do justice to the fundamental principles of your program, and to the consequences which they

²² Catholic Hospital Association, 1438 S. Grand, St. Louis 4, Mo.

²³ Sept. 30, 1954; *AAS* 46 (Nov. 15-18, 1954) 587-98; *The Pope Speaks* 1 (Fourth Quarter, 1954) 347-54.

²⁴ *Ibid.*, *AAS*, pp. 596-97; *TPS*, p. 353.

imply, were we to consider them solely as human demands, as humanitarian ends. This they most definitely are; but they are essentially something more. The ultimate source from which they derive their power and their dignity is the Creator of human nature. If it were a question of principles formulated by the will of man alone, one would be under no greater obligation to honor them than to honor man. They could be applied today, and discarded tomorrow; one country might accept them, and another reject them. When they are considered in the light of the Creator's authority, however, the whole complexion of the program changes. And the basic principles of medical ethics are a part of the divine law. It is for this reason that the doctor may place unlimited confidence in these fundamentals of medical ethics.²⁵

Lacking such fundamentals, and seemingly interested only in humanitarian ends, is what is heralded as the first Protestant attempt at a book on medical ethics, *Morals and Medicine*, by Joseph F. Fletcher, professor of pastoral theology and Christian ethics at the Episcopal seminary in Cambridge, Mass.²⁶ After a brief introduction on principles, he treats five problems: warning the patient of impending death, contraception, artificial insemination, sterilization, and euthanasia. Only on the first point does he agree with Catholic moral theology. Throughout the other four he opposes Catholic teaching, and hence his book clearly comes under the prohibition of canon 1399. As Fr. Connell points out, the work is to be condemned not only for its false conclusions, but for its very unscientific method and often confused and illogical arguments.²⁷ Of the basic principles cited above from Fr. Kelly, Dr. Fletcher explicitly or implicitly rejects all except the patient's consent, the principle of totality, and the principle of liberty, which last, of course, he applies to excess. He does not seem to have much of a grasp of the Catholic meaning of the other principles, or of the reasons behind them, although he speaks of most of them at one time or another. He calls his system "personalist ethics," which is very similar to, if not identical with, situational ethics: seeking always the greatest natural good of the individual, even though it may mean taking exception to the universal negative laws of God.

Seattle University psychologist James E. Royce, S.J., calls the book "a real and somewhat subtle challenge to the Catholic position on the above four points";²⁸ not that there is any doubt about the correctness of the

²⁵ *Ibid.*, AAS, p. 597; TPS, p. 359; from Allocution to the sixteenth International Congress of Military Medicine, Oct. 19, 1953.

²⁶ Princeton, N.J.: Princeton University Press, 1954.

²⁷ "A New Work on Morals and Medicine," *American Ecclesiastical Review* 132 (Jan., 1955) 38-44.

²⁸ *America* 92 (Feb. 19, 1955) 538.

Catholic position, thanks to the advantage of the infallible teaching authority of the Church; but it can be considered, perhaps, a challenge to state more clearly and forcefully the reasons behind the Catholic position.

Miguel Fábregas, S.J., of the Gregorian University in Rome, has taken up the challenge on one point, that of euthanasia.²⁹ He states the Catholic position well enough, but his defense of it does not seem quite as strong, philosophically or theologically, as either Joseph V. Sullivan's *Catholic Teaching on the Morality of Euthanasia*,³⁰ or Fr. Kelly's briefer treatment in Part III of *Medico-Moral Problems*. For example, Fr. Fabregas omits what seems to be the strongest scriptural argument against euthanasia, Ex 23:7, in which the fifth commandment is further explained: "The innocent and just person thou shalt not put to death." The strongest argument, of course, is from apostolic tradition and the infallible authority of the Church in declaring the natural law and explaining Sacred Scripture, that this prohibition includes voluntary as well as involuntary euthanasia.

The Catholic position on two more of the points attacked by this book is very well presented and defended by Fr. Kelly in "Catholic Teaching on Contraception and Sterilization,"³¹ in which he has recourse to the basic principle of the intrinsic finality of the sex faculties. Again the clinching argument that excludes all possible exceptions is the teaching authority of the Church. In spite of the fact that this stems from apostolic tradition, Dr. Fletcher seems to think that scientific progress has changed morality by discovering easy and sure ways to control conception and parenthood. It is an argument to which he recurs throughout his book: the fact that scientific discoveries have offered new means of accomplishing more easily and safely what had been formerly forbidden, now gives men the right to choose such means.

At the sixth International Congress of Catholic Doctors, held last summer in Dublin,³² two papers added to the medical evidence against any justification for therapeutic abortion. Dr. José Martínez of Mexico "declared that therapeutic abortion is rapidly disappearing from medical practice and that sound obstetrical practices agree with rigid rules of morality. . . . He cited

²⁹ "De euthanasiae licitate," *Periodica* 43 (Sept. 15-Dec. 15, 1954) 252-75.

³⁰ Washington, D.C.: Catholic University Press, 1949.

³¹ *Linacre Quarterly* 21 (Aug., 1954) 72-79, and *ibid.* (Nov., 1954) 110-18; included also in *Medico-Moral Problems*, Part 5, pp. 23-36.

³² June 30-July 4, 1954. Msgr. Donald A. McGowan, moderator of the Federation of Catholic Physicians' Guilds, gives a report on all the sessions in *Linacre Quarterly* 21 (Nov., 1954) 132-41. The complete *Acts* are to be published by the Irish and Overseas Publishing Co., Ltd., 9-11 Nassau Street, Dublin.

statistics to show that by conservative management there are today fewer maternal and infant deaths in normal childbirth than there are from therapeutic abortions."³³ Dr. M. I. Drury gave a study of rheumatic heart disease and pregnancy, showing that abortion in such cases is not only unnecessary but positively harmful.³⁴

Has a pregnant woman an obligation to avoid any work or exercise that may cause a miscarriage? John J. Danagher, C.M., answers rightly that it would always be a sin to do anything with the intention of causing a miscarriage.³⁵ But if there is no such intention, then the principle of double effect applies. He notes that, generally speaking, exercise has little effect on the matter, but that if a penitent asked about doing some extraordinary exercising, one might well inquire into her motives.

In the "Medico-Moral Notes" of the *Linacre Quarterly* John J. Lynch, S.J., treats of two matters connected with surgery.³⁶ First he examines the practice of "ghost surgery," in which, unknown to the patient, a stand-in performs an operation in place of the patient's own physician. He finds it objectionable for four reasons: (1) The patient may be exposed to serious and unnecessary surgical risk. (2) The referring physician is paid a surgical fee to which he has no right in justice. (3) The practice breeds unnecessary surgery and leads to profiteering in the form of excessive fees. (4) It brings dishonor to an indispensable profession which cannot function properly without the public's esteem and confidence.³⁷ If the "ghost" spontaneously offers a "kick-back" for doing an operation, he suffers no injustice, but the practice is still morally objectionable for the other reasons listed.

Fr. Lynch's second item is on the liceity of incidental surgery in removing a healthy appendix on the occasion of a cesarean section. He feels that all moralists would agree that the practice is licit, because "the possible benefit to be achieved far outweighs the discernible disadvantages."³⁸ He warns that the patient must consent to the appendectomy and he suggests that the surgeon should not charge much more than for the cesarean, since the added labor and risk are relatively slight.

In the discourse to the World Medical Association mentioned above, Pope Pius XII treats again the question of experimentation in medicine.

³³ From Msgr. McGowan's report, p. 137; cf. also synopsis of the paper, *Catholic Medical Quarterly* 7 (1954) 135.

³⁴ "Therapeutic Abortion," *Irish Ecclesiastical Record* 82 (Nov., 1954) 330-37; reported also by Msgr. McGowan and the *Catholic Medical Quarterly*, *loc. cit.*

³⁵ "Obligation of Avoiding Miscarriage," *Homiletic and Pastoral Review* 55 (Oct., 1954) 72-73.

³⁶ 21 (Nov., 1954) 123-26.

³⁷ *Ibid.*, pp. 123-24.

³⁸ *Ibid.*, p. 125.

Recalling the principles which he had enunciated two years before,³⁹ he states the basic principle clearly: "Man is only the custodian, not the independent possessor and owner of his body, his life and of all that the Creator has given to him to make use of in accordance with the ends of nature."⁴⁰ From this it follows that even a volunteer doctor or nurse

. . . has no right, consequently, to permit scientific or practical experiments which entail serious injury, or which threaten to impair his health, to be performed on his person; and to an even lesser extent is he authorized to attempt an operation of experimental nature, which, according to authoritative opinion, could conceivably result in mutilation or suicide.⁴¹

On a person who has no other hope of recovery a new drug or treatment may be tried, but even this should be only after extensive experimentation on animals. The Holy Father goes on to add a warning about undue freedom in experimenting with human corpses.

With respect to the question of removing a dead man's bodily parts to further therapeutic objectives, no doctor should be given the right to do with a corpse as he pleases. . . . A norm such as that which would permit a doctor in a sanatorium to remove parts of a body for therapeutic purposes—all thought of personal profit being duly forsworn—cannot be honored because of the existent possibility that it might be interpreted too freely. . . . The demands of natural morality which forbid us to consider and treat the body of a human being merely as a thing, or as that of an animal, must at all times be dutifully respected.⁴²

An editorial in the *Catholic Medical Quarterly* recalls that most Christians, non-Catholics included, agree that a dying patient should be warned of approaching death.⁴³ But Christian principles demand that the inevitably unwelcome news be broken discreetly and charitably, and while spiritual direction is not properly the work of a doctor, he might well find an opportunity of adding a word of comfort and reassurance.

FIRST AND FOURTH COMMANDMENTS

That the Moral Rearmament Movement, although it may be praised for its good aims, is not to be joined by Catholics because of "its Protestant origin and dogmatic system and even more because its exaggerated reliance

³⁹ Allocution to the first International Congress on the Histopathology of the Nervous System, Sept. 14, 1952; *AAS* 44 (Oct. 16, 1952) 779-89; English translation, *Catholic Mind* 51 (May, 1953) 305-13.

⁴⁰ *AAS* 46 (Nov. 15-18, 1954) 594; *The Pope Speaks* 1 (Fourth Quarter, 1954) 351.

⁴¹ *Loc. cit.* ⁴² *Ibid.*; *AAS*, p. 594; *TPS*, p. 352. ⁴³ 8 (Oct., 1954) 3-5.

upon personal, divine guidance can lead to serious error and absurdity," is the conclusion of an article in *Social Survey*.⁴⁴ On the other hand, J. J. Danagher, C.M., points out that the "International Association of Lions" Clubs are open to Catholics and do not even fall under the same suspicion as the Rotary Clubs.⁴⁵

Among the duties of parents towards their children, one of the most important is providing for their proper religious education. Canon law stresses the obligation (canon 1113) and specifies that children are not to attend non-Catholic schools (canon 1374). However, the latter canon allows exceptions, but leaves it to the judgment of the local ordinary to decide under what conditions and with what precautions such exceptions are to be tolerated. Natural law, moreover, forbids unnecessary risks to one's faith or to the faith of those committed to one's care. Just what that means in the concrete is often hard to determine.

Msgr. James Madden, Australian moralist, insists strongly that the parents' obligation to send their children to Catholic schools on all levels is a grave one.⁴⁶ The law of the Code may be limited specifically to primary and secondary schools, but the natural law includes undergraduate university schooling as well. In answer to the specific question on secondary schools, he thinks that "only what amounts to moral impossibility would . . . justify the loss sustained and the risks involved in sending an adolescent to any but a Catholic school."⁴⁷

Financial difficulties can be an excusing cause, but the Monsignor thinks that "such a reason will be not often verified," because of the arrangements that can be made at Catholic schools. Furthermore, embarrassment about making such arrangements hardly excuses either, especially if the school officials recognize their obligation of not treating non-paying students any differently than the paying ones, or publicizing the matter in any way.

Warning of the dangers on the collegiate level is an article by a New York parish priest of a college town, under the pseudonym of "Ralph Strode."⁴⁸ He gives striking examples of both direct and indirect attacks on Catholic faith typical of those which regularly take place in most secular universities.

In answer to his article, J. J. Maguire, C.S.P., a Newman chaplain,

⁴⁴ 3 (Sept., 1954), 6-10, according to a note in the "Worth Reading" section, *Social Order* 4 (Nov., 1954).

⁴⁵ *Homiletic and Pastoral Review* 55 (Oct., 1954) 70-71.

⁴⁶ "Obligation of Attending Catholic Secondary Schools," *Australasian Catholic Record* 31 (July, 1954) 239-44.

⁴⁷ *Ibid.*, p. 243.

⁴⁸ "Subversion of Faith by Intellectuals," *America* 92 (Oct. 9, 1954) 39-41.

though accusing Fr. Strode of painting too black a picture, actually confirms his judgment that there are manifest dangers to the faith in secular colleges, especially in the fields of education and sociology, but also in literature, history, psychology, and most courses outside the natural sciences.⁴⁹ An editorial⁵⁰ and a "Feature X"⁵¹ consisting mainly of letters from Newman chaplains and Catholic students from secular universities, further confirm Fr. Strode's position. From the incidents related in these articles and letters, one is reminded of Dan Gilbert's *Crucifying Christ in Our Colleges*.⁵² Although many of the texts cited in Gilbert's book are now out of date, it is easy to find just as strong examples in textbooks currently in use. I have personal knowledge of this from an examination of texts from three universities in northern California. If the Church sees fit to forbid the reading of dangerous books under pain of grave sin, how much more serious is the danger in attending classes based on such books and taught by their authors? As Fr. Strode says:

The casualties among Catholic students at some of these secular institutions are far more numerous than is generally believed. Yet Catholic parents continue to send their children to them. Why? Sometimes because they have only the vaguest notions of the alleged dangers to faith. Sometimes—perhaps all too often—because the outlook of the parents themselves has gradually become secularized in estimating life's values. . . . Sometimes, perhaps, simply because they do not think very seriously about the religious side of college at all.

Might it also be true that some priests have fallen prey to the same snares, and so do not sufficiently warn parents of their obligation in the matter? Perhaps they are influenced by the undoubtedly fine work of the Newman Clubs. But often the Newman chaplains paint the darkest pictures, especially seeing that they rarely contact much more than ten per cent of the Catholic students on their respective campuses. Or maybe they know some fine Catholic graduates of state universities. It is certainly true that many get through without harm to their faith. But would they not oblige parents to keep their children away from a form of amusement where one in ten or even one in a hundred lost their lives? The obligation is certainly graver to keep them away from universities where an even higher percentage lose the far more precious gift of their faith.

One may object, too, that there are frequent conversions to the faith in secular universities. However, usually these either are intellectuals when

⁴⁹ "Another Look at Subversion of Faith," *America* 92 (Dec. 4, 1954) 269-71.

⁵⁰ "Religious Estimate of Secular Colleges," *ibid.*, p. 268.

⁵¹ *America* 92 (Jan. 22, 1955) 422-24.

⁵² 3rd ed.; San Diego: Danielle, 1935.

they start college, or have accidentally been closely associated with some good Catholic fellow students. Others will point out that some Catholic college graduates have lost their faith, too. But rarely as a result of their attending a Catholic college. Still others can name fine Catholic and other good Christian professors on the faculty of their local state college. True enough, and some of them have great influence for the faith on their students. But one must remember that on most campuses the current American idea of separation of Church and state is usually interpreted as forbidding positive teaching of any religion, but allowing attacks on religious beliefs, putting the good professors at a definite disadvantage.

Many think that graduates of Catholic high schools should know their religion well enough to withstand attack. They may know well the statement of Catholic beliefs, but normally it is only at collegiate level that they begin to seek and acquire an intellectual grasp of the reasons behind their beliefs. Anyone who has compared knowledge acquired in similar courses in high school and college will recognize this as obvious. College is the time for discarding myths of childhood and inquiring deeper into the causes of things. Hence it is an especially susceptible time for attacks on faith. In non-Catholic grammar and high schools, on the other hand, the main evil is simply the lack of the positive, favorable atmosphere and religious instruction.

Because of these risks to faith in secular colleges, and apart from the loss of a well-rounded education, I would say that parents are gravely forbidden by natural law to send their children to secular universities. However, since attendance is not something wrong in itself, but wrong because of connected dangers, it can be permitted for a really grave reason. Such reasons would include the impossibility of getting into a Catholic college (but the fact that all present Catholic students of college level could not be accommodated in present facilities does not excuse), the expense involved if there is no Catholic college in the vicinity, or, in exceptional cases, no Catholic college with the special courses desired. This last will rarely be a valid reason, since undergraduate courses are pretty much the same everywhere; one does not need a cyclotron for an undergraduate course in physics.

If there is a sufficient reason for attending a secular university, then parents are obliged to see to it, as far as they can, that the children have and take the means to develop an intellectual appreciation of their religion, especially in apologetics and morals. Just to know that there is a Newman Club at the university is not enough. They should see to it that their children attend it regularly, or that they take other means, by tutoring or private

study, to acquire the knowledge. Naturally, the same obligations bind the youngsters themselves, too.

Graduate work in secular universities is much more easily justified, and for two reasons: equal facilities are often not available in Catholic universities, and the danger to faith is considerably less if the student has a good intellectual foundation from a Catholic college.

When there is sufficient reason, and sufficient precautions are taken to justify the risk of attending non-Catholic colleges, then one can agree with John Fearon, O.P., that "the situation . . . has great possibilities for good" and that Catholics in such a situation should make the most of it; that they should not be treated as outcasts but helped to develop their faith and to become true apostles.⁵³ Certainly more can and should be done for them in a manner fitting their status as university students. There are not enough priests for the work—at least on the Pacific coast. But could not well-educated college graduates be interested in the work as a form of lay apostolate, training other apostles? Some do just that, but they are all too few.

FIFTH COMMANDMENT

A matter of the fifth commandment not strictly in the field of medical ethics, although so treated on several occasions by the Holy Father, is the question of modern warfare. L. L. McReavy gathers together a number of recent papal pronouncements,⁵⁴ and sums them up:

Per se . . . it [A.B.C. warfare] can be justifiable in legitimate self-defense. But as moralists have long insisted, it is not sufficient merely to have a just cause; two further conditions are required. The good which a war seeks to preserve or recover must outweigh the evil which it is likely to occasion. Moreover, no more violence may be used than is necessary to vindicate the right, and it must be directed only against unjust and violent aggressors. In pointing out that A.B.C. warfare can seldom be morally lawful, the Holy Father is not therefore enunciating a new principle: he is merely underlining the fact that, in practice, such warfare is more than ever unlikely to respect the conditions of the moral law.

It is worth noting, I think, that the Holy Father's statements generally lump together bacteriological (or biological) and chemical with atomic warfare as A.B.C. warfare. Remembering this might help towards a clearer understanding of some of his statements.

As for the gravity of the evil to be avoided in the present real situation, from the testimony of unquestionably reliable witnesses, refugee priests

⁵³ "Contemporary Coexistence," *Homiletic and Pastoral Review* 55 (Dec., 1954) 229-31.

⁵⁴ "Atomic Warfare—the Holy Father's Teaching," *Clergy Review* 39 (Dec., 1954) 738-42.

from central Europe and the Orient, subjugation to Communist domination can hardly be outweighed by any merely physical evils. So the practical questions are: how to preserve freedom without war, or if war is inevitable, how to keep the use of modern weapons within the limits of morality.

In his Christmas message⁵⁵ the Pope stressed these two points in considering means for achieving peace in place of the present "co-existence."

This goal will assuredly be attained if, on one side and the other, men will once again sincerely, almost religiously, come to consider war as an object of the moral order, whose violation constitutes in fact a culpability which will not go unpunished. In the concrete this goal will be attained if statesmen, before weighing the advantages and risks of their decisions, will recognize that they are personally subject to the eternal moral laws, and will treat the problem of war as a question of conscience before God.⁵⁶

His Holiness also warned the nations not to trust too much in economic systems, as though they alone could bring true peace. He pointed out that trying to raise one's standard of living too much above that of neighboring nations might harm rather than help chances for peace, since "in such a case, an upsurge of resentment and rivalry on the part of neighboring peoples would be inevitable, and consequently also the weakening of the entire group."⁵⁷

Exaggerated nationalism is another obstacle to true peace and unity. It is good for a national group to preserve its own culture and traditions, but it should be willing to cooperate and unite with other national groups. His Holiness urges again a united Europe.

Connected with the problem of war is the question, whether a soldier could ever be justified in killing himself as a means of preserving an important secret whose revelation would jeopardize the lives of many. J. McCarthy answers with a strong negative,⁵⁸ thus upholding the traditional Catholic teaching that direct suicide is never justified. He cites an article by M. Van Vyve⁵⁹ as seeming to insinuate a possible affirmative reply in words that seem to Fr. McCarthy to smack of situational ethics.

One reason for Fr. Van Vyve's concern over the problem is the fact that means are now known and used extensively, by the Communists at least, to force a secret from a person against his will: narcoanalysis and psychological "brain-washing." Both these means have been condemned by the

⁵⁵ Dated Dec. 24, 1954, but released to the public Jan. 3, 1955; *AAS* 47 (Jan. 28, 1955) 15-28; English translation, *Catholic Mind* 53 (March, 1955) 178-89.

⁵⁶ *Ibid.*; *AAS*, p. 19; *CM*, p. 181.

⁵⁷ *Ibid.*; *AAS*, p. 21; *CM*, p. 183.

⁵⁸ "Direct and Indirect Suicide," *Irish Ecclesiastical Record* 82 (Nov., 1954) 340-43.

⁵⁹ *Revue philosophique de Louvain* 49 (1951) 78-107.

Holy Father as illicit, even for obtaining secrets from accused criminals, as a violation of natural rights. He first spoke of it in his talk on International Penal Law in 1953⁶⁰ and repeated the condemnation in his allocution to the International Criminal Police Commission last October by referring to his previous words and having them published again as a footnote:

The judicial investigation must exclude physical and psychical torture and narcoanalysis, first, because they violate a natural right, even if the accused is guilty; and, secondly, because they too often produce erroneous results. It is not unusual for them to end exactly in the confessions desired by the court and to the disadvantage of the accused, not because he is guilty in fact, but because his physical and mental energy is exhausted and he is ready to make any declaration desired. "Rather prison and death than such physical and mental torture." Of this state of affairs we find abundant evidence in well known spectacular trials with their confessions and self-accusations, and their requests for merciless chastisement.⁶¹

Is prizefighting sinful? Quite a bit has been written on this question in the past few years,⁶² and the weight of opinion has been against its liceity, although few have dared to voice a strict prohibition in view of its widespread acceptance, even among the clergy. Two recent items tend to strengthen the opinion against liceity. G. Martínez, S.J.,⁶³ contents himself with recalling for his Spanish readers the American studies referred to in previous issues of these "Notes," which seem to show that permanent injury is done to the brain by any severe blow to the head, in spite of gloves and headgear. An article in *Collier's* points up the fact that the aim in modern prizefighting is a knockout, and that that is what the audience wants.⁶⁴

Last year the four major television networks carried into the nation's homes 197 main-event boxing bouts. Some were watched by as many as 35,000,000 persons in the comfort of their living rooms. . . . Forty-nine—about one in four—of the 197 bouts . . . ended in knockouts (not counting those stopped because of cuts or arm or leg injuries). These statistics indicate that only one fighter out of every eight is, on the average, successful in any single attempt to knock out his opponent. . . . fighters with poor knockout records . . . Paddy DeMarco, with seven knock-

⁶⁰ Oct. 3, 1953; *AAS* 45 (1953) 730-44.

⁶¹ As cited in footnote to the Allocution to the twenty-third Convention of the International Commission of Criminal Police, Oct. 15, 1954; *AAS* 46 (Nov. 15-18, 1954) 604; English, *The Pope Speaks* 1 (Fourth Quarter, 1954) 367.

⁶² Cf. *THEOLOGICAL STUDIES* 12 (March, 1951) 75-78; 13 (March, 1952) 86-87; 14 (March, 1953) 63; 15 (March, 1954) 79.

⁶³ "Un crimen legal: el boxeo," *Sal terrae* 42 (Nov., 1954) 565-67.

⁶⁴ W. C. Heinz, "Knockout," *Collier's*, Sept. 17, 1954, pp. 94-97.

outs in 80 fights, and Rocky Castellani, 13 in 63, don't get set to punch properly; they depend upon speed and wrestling ability. While this technique won a world title for DeMarco, it makes both him and Castellani displeasing performers to watch.⁶⁵

Evading, as others have done, a direct answer to the question, whether boxing or prizefighting as it exists today necessarily involves attempting knockouts, I am willing to go on record as holding with the opinion that to intend a knockout⁶⁶ or any injury in any form of sport or entertainment is sinful; and that to approve or desire such a knockout or injury as a spectator, promoter, or in any other capacity, is also sinful. To engage in boxing or prizefighting, or to watch it, can be licit only if there is no such intention, desire, or approval. Whether this is a practical possibility in modern fighting, is the question which I am evading. The principle of double effect can justify risking receiving an injury for a sufficient reason; but it cannot justify intending such injury. An injury or mutilation of the body or of a part of the body may be intended only if its immediate effect is to promote the good of the whole body. And the money received from boxing is not an immediate effect of the injury.

Of the few priests who have tried to defend the morality of prizefighting in print, two, Frs. Donovan and Gounley, are concerned with the morality of the sport or profession as a whole rather than with the precise question of intending a knockout.⁶⁷ Of the authors of whom I am aware, only Edwin F. Healy, S.J., says specifically that to intend a knockout in boxing is morally licit, and even he seems to distinguish between a knockout and rendering an opponent unconscious.

The practice of professional boxers of trying, by means of a knockout, to render their opponent helpless is justifiable. These boxers do not do the opponent serious injury. Ordinarily the one who is thus knocked out is simply put into a state where he is unable, for a few minutes, to continue the bout. He is still conscious, though temporarily incapacitated. If at times the man is rendered unconscious, that is merely accidental.⁶⁸

If his distinction is valid (i.e., if what is called a knockout does not ordinarily deprive the victim of consciousness) and if, further, such a blow causes

⁶⁵ *Ibid.*, pp. 95-96.

⁶⁶ I am taking this term in what I consider its ordinary meaning, to knock an opponent unconscious.

⁶⁷ Joseph Donovan, C.M., *Homiletic and Pastoral Review* 49 (Sept., 1949) 982-83; Martin E. Gounley, C.S.S.R., *Priest* 6 (June, 1950) 437-39.

⁶⁸ *Teacher's Manual for Moral Guidance* (Chicago: Loyola U. Press, 1944) p. 44.

no injury whatever but merely a temporary incapacitation more or less comparable to tying his ankles together, then I would agree that intending such a knockout can be licit. And I can see a possibility of this in a blow to the solar plexus. But the facts seem to show that incapacitation without unconsciousness or injury is the exception rather than the rule.⁶⁹

At any rate, my opinion—and I believe it to be the majority opinion—is that, in boxing or any sport, deliberately to try either to knock a person into unconsciousness or to strike an injury-causing blow is sinful. The seriousness of the injury does not affect the morality of an intended injury but only the gravity of the sin. It would affect the morality of exposing oneself to injury, since a proportionate reason can justify a risk. Hence it would affect the question of liceity of participation in prizefighting, the question from which I am still prescinding.

Two notes on alcoholism will complete the matter of the fifth commandment. Archbishop Richard J. Cushing, in an address to the National Clergy Conference on Alcoholism,⁷⁰ said:

The priest who aspires to be a complete confessor and effective spiritual director will make it his business to keep informed on the new techniques both of psychiatrists and of non-professional therapy in the cure or at least control of alcoholism. Such a priest will have at his fingertips information concerning clinics on alcoholism in nearby hospitals. He will try to know which doctors have taken a special interest in these cases. Far from having a negative attitude toward psychiatry, he will be eager to know and to work with trustworthy psychiatrists whose techniques are approved and whose moral principles are straight.

He will especially make it his business to know which of his devout parishioners may be in a position to introduce individuals to Alcoholics Anonymous, the work of which no priest can possibly ignore. He will acquaint sufferers from alcoholism with the heroic story of Matt Talbot and will preach devotion to him. He will decide in the light of local circumstances whether a Temperance Movement is needed in his region and what form it should take.

The work of the N.C.C.A. is explained by Bishop G. Bennett, episcopal adviser to its Board of Directors, in an article in *The Priest*.⁷¹ He points out that in one phase of its work, the returning of alcoholic priests to duty, they have been successful with over a hundred priests.

⁶⁹ The medical studies referred to above indicate that quite often boxers lose consciousness from blows without falling to the canvas.

⁷⁰ Boston, Apr. 21, 1954; reprinted in *Priest* 10 (Aug., 1954) 683-90.

⁷¹ 10 (Sept., 1954) 784-85.

SIXTH COMMANDMENT⁷²

Modesty, especially in feminine attire, is the subject of a letter addressed last August by the Sacred Congregation of the Council to local ordinaries.⁷³ It expressed the wish of the Holy Father that bishops "leave no stone unturned which can help remedy the situation" of the prevalent immodesty "on beaches, in country resorts, almost everywhere, . . . often even in buildings dedicated to God." A word is said, too, about sensationalism in newspapers, magazines, and movies (to which television could well be added), but the main burden of the message is against "the current mode of dress among women and especially among girls" which "constitutes a serious offense against decency."

Evidently as a result of this letter several episcopal communications have appeared, such as the pastoral letter of Cardinal Stritch, reported in the Catholic press in the first week of December. Most explicit were the decrees of Bishop Francis Beckman, C.M., of Panama, that

. . . no woman or girl may henceforth enter our churches wearing a dress which leaves exposed part of the bosom or back, or wearing a dress made of such transparent material that it leaves these parts still exposed. . . . If on occasion of a wedding or any other social function any woman or girl refuses to comply with this order, the priest must immediately stop the ceremony or function.⁷⁴

A bishop is the official judge of local circumstances and can impose laws obliging in conscience which he considers necessary for the common good or to avert a common danger. But apart from such just laws a priest should not refuse Communion to anyone nor exclude anyone from church unless the person is guilty of grave immodesty or would be a source of grave scandal. Objectively slight immodesty, unless obviously sinful in intent, is not sufficient reason to refuse the sacraments, especially in public, where refusal would cause great anguish to the person so treated.

Just what constitutes objectively slight or grave immodesty in dress is very difficult to determine, since modesty is essentially relative, depending on what will or will not tend to incite observers to impurity in given circumstances of time, place, custom, and so forth. It is a question of fact and to that extent belongs more in the field of sociology. An excellent treatment of the question, morally and sociologically, is given by John L. Thomas, S.J.,

⁷² Cf. also *infra*, MATRIMONY: SACRAMENT AND USE.

⁷³ Dated Aug. 15, 1954; *AAS* 46 (Aug. 16-20, 1954) 458-61; English, *The Pope Speaks* 1 (Third Quarter, 1954) 289-91.

⁷⁴ As reported in the *Los Angeles Tidings*, Oct. 8, 1954, p. 5.

of the Institute of Social Order, in an article entitled, "Clothes, Culture and Modesty."⁷⁵

That modesty in dress concerns mainly female attire is due to the psychological fact that women are generally not excited by male exposure, but men are very susceptible to female exposure. "Consequently, reasonable decorum in dress requires that women take this fact into consideration and avoid any fashion which is likely to excite venereal pleasure in normal males contrary to right order."⁷⁶

The relativity of this norm makes it impossible to set exact measurements of lengths, depths, weight, or sheerness, or even of definite styles. The best to be done is to recall the general moral principles:

1. One who deliberately seeks to arouse sinful passion in another through manner of dress is doing evil. 2. In our Western culture, unnecessarily to expose or to dress in such manner as to call undue attention to the portions of the body adjacent to the reproductive organs and/or the breasts is wrong. 3. Any marked exposure of portions of the body usually covered in a given society, since such unaccustomed exposure is likely to be an occasion of sin to others, is morally reprehensible.⁷⁷

As a practical norm Fr. Thomas thinks that, if Catholic women follow the prevalent fashion but carefully avoid extremes, they will be free from sin. Of specific instances, he notes that the SDS⁷⁸ Modesty Crusade condemns as sinful such items as bare midriffs, strapless swim suits, strapless and halter-type formals, extensive décolleté and "short shorts." He agrees that these styles should probably be condemned as unreasonable fashions, but thinks that "for the most part . . . the types of clothing which the standards condemn cannot be shown to be an occasion of sin to normal individuals."⁷⁹ According to the moral principles, of course, extremes in these styles will often be sinful, and even the ordinary forms may be, in certain circumstances.

Fr. Thomas brings this out in an example, stressing that the danger to chastity is often more from the type of conduct allowed nowadays among young people than from what they wear, although it is often a combination of the two.

For example, where it is customary for girls to wear shorts and a halter around the home, it is unlikely that the mere casual view of them will be an occasion of sin

⁷⁵ *Social Order* 4 (Nov., 1954) 386-94. ⁷⁶ *Ibid.*, p. 391. ⁷⁷ *Ibid.*, p. 392.

⁷⁸ Supply the Demand for the Supply. Another modesty crusade, the PCMI or Marilynke Crusade, is described by Bernard A. Kunkel, "Mary Immaculate in the Market Place," *Homiletic and Pastoral Review* 54 (July, 1954) 898-900.

⁷⁹ *Social Order* 4 (Nov., 1954) 393-94.

to the average person. On the other hand, to go for a day's outing with a "date" clad in such apparel, considering the freedom and intimacy tolerated by our society, can very readily become the occasion of sin. Under such conditions, physical nearness and prolonged exposure may easily lead to serious temptation.⁸⁰

He warns against overstressing the erotic aspects of modern fashions, as apt to cause confusion in the consciences of adolescent girls. He would prefer—and I think rightly so—that more emphasis be put on modesty in conduct between the sexes in their company-keeping habits.

An important question in this respect is the morality of "going steady," or exclusive company keeping with one person. This is not wrong in itself, but does involve dangers to purity, to which no one may expose himself without sufficient reason. All "dating" involves some danger, but even a remote hope of future marriage is sufficient to justify the slight danger. But the greater familiarity bound to come from repeated exclusive dating notably increases the danger. Even this can be justified for a proportionate reason; but moralists generally hold that only a reasonable hope of early marriage justifies this increased danger.⁸¹ Mere convenience of having a "date" always available does not seem to be sufficient reason.

Since teen-agers generally are not mature enough intellectually or emotionally for marriage, even though they may be physically, they should not be figuring on an early marriage, and hence should not "go steady."

These principles are well known in moral theology. The judgment of the facts involved may here, too, be more the business of sociology and youth counseling; but experts in these fields agree with the above outline. A recent expression of this is "Teen-age Dating," by John J. Kane, of Notre Dame University's sociology department.⁸² He shows that "going steady" is unacceptable, not only for moral reasons, but also for social reasons. Further confirmation of the dangers, as well as evidence of the prevalence of this practice, and of the fact that it is taken for granted by many, may be found in a picture article in *Life* magazine.⁸³

Another question about company keeping which often arises is that of keeping company with a non-Catholic. Joseph F. Marbach judges that it is not sinful, provided both are free to marry and that the non-Catholic is not anti-Catholic.⁸⁴ In confirmation of his view he makes the rather strange statement: "A simplified charge of committing sin in every case would seem to imply the erroneous view that a Catholic is *per se* better than a non-

⁸⁰ *Ibid.*, p. 392.

⁸¹ E.g., F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 115 (Dec., 1946) 458.

⁸² *Catholic Mind* 53 (Jan., 1955) 34-38; reprinted from *Christian Family*, Oct., 1954.

⁸³ June 14, 1954, pp. 123-29.

⁸⁴ *Priest* 10 (Nov., 1954), 991.

Catholic." Is it not true that, for a Catholic seeking a marriage partner, per se a Catholic is better than a non-Catholic, and that only per accidens a particular non-Catholic may make a better partner than a particular Catholic?

Fr. Marbach's answer is challenged by Martin John, who thinks that keeping company with a non-Catholic is always wrong because of the Church's severe prohibition of mixed marriages.⁸⁵ The fact that dispensations are granted rather freely does not change the morality. They are granted, he says, only to avoid greater evils.

The truth would seem to lie somewhere in the middle. There is no doubt about the Church's prohibition, and it is worded very strongly in canon law⁸⁶ and confirmed by Pius XI in his Encyclical, *Casti connubii*, as applying even where there is no overt danger to the faith of the Catholic party.⁸⁷ Nevertheless, although many of the reasons for which the Church dispenses imply grave sin, there are other reasons which do not. Such would be the good of the Church, a well-founded hope of conversion, even the unavailability of suitable Catholic prospects because of the *angustia loci*, the advanced age of the Catholic woman, or the fact of widowhood, especially with children. When such a guiltless reason is present, keeping company would be licit; otherwise, since keeping company is licit only as a preparation for marriage, it would be illicit. The fact that one meets a non-Catholic who is very attractive is not of itself sufficient reason.

SEVENTH COMMANDMENT: JUSTICE

It is a sin of theft to take ashtrays, towels, or other articles from hotels or restaurants as souvenirs, says F. J. Connell, C.S.S.R., even though one knows that the owners lay aside a regular fund to pay for such losses, unless one is certain that the rates have been raised above the limits of a just price for this purpose.⁸⁸ Or unless one is reasonably certain that the management is willing that the articles be taken as an advertising means, or explicitly grants permission, as is often done for out-of-town and especially foreign visitors. Nevertheless, the mere fact that one wants the article as a souvenir does not justify taking it against the wishes of the owner.

Firms generally allow their employees to make purchases at a special discount. May an employee use such a privilege to buy something for a friend? Since this would be to deprive the firm of its ordinary profit, to do

⁸⁵ *Priest* 10 (Dec., 1954) 1059-63.

⁸⁶ Canon 1060: "Severissime ubique prohibet . . ."

⁸⁷ *AAS* 22 (1930) 571.

⁸⁸ *American Ecclesiastical Review* 130 (June, 1954) 398-99.

so against the management's wishes would be unjust, as John J. Danagher, C.M., points out.⁸⁹ However, he adds, unless explicitly prohibited, it can be safely presumed that firms are willing that this be done occasionally, provided the employee is not making a business of it.

A little more involved is the question of justice with regard to copyright laws. Fr. Connell gives a good summary of the ordinary doctrine in answer to a question in the *American Ecclesiastical Review*.⁹⁰ Since copyright laws are a "reasonable determination of the natural-law right of a person to the fruits of his intellectual genius," they are binding in conscience, at least as far as any use of the matter copied would deprive the author of a justly expected profit. Fr. Connell thinks that a violation obliges to restitution, even apart from any judicial sentence. He considers this the more probable opinion.

Dermot O'Donoghue, of Maynooth, would like to see more emphasis on distributive justice in moral courses.⁹¹ He feels that it has been relegated to a rather minor place in modern treatises on justice. Defining it as justice of whole to part is easily misunderstood. It is that form of justice which demands that goods be distributed or awarded according to the relative merits of the eligible recipients. To make such a distribution or award for reasons which are irrelevant is the sin of *acceptio personarum* which is *ex genere suo* mortal; for example, to favor the rich over the poor or the poor over the rich where wealth is irrelevant, or members of one party over those of another where party membership is irrelevant. The distributor defines the right of the recipient, he does not establish it. It exists in the merits of an individual compared to the relative merits of others under consideration. It is a virtue mainly of rulers, but applies also to private individuals, as, for example, a father distributing family goods to the members of the family.

However, some of Fr. O'Donoghue's examples are at least debatable. One should clearly distinguish between what one is obliged to distribute according to merit and what is a pure gift by an owner.⁹² Disposing of surplus wealth would seem to belong rather to the latter category, and especially so would the awarding of ecclesiastical dignities. On the other hand, ecclesiastical offices should be awarded according to merit.

In a clear case of violation of distributive justice Fr. O'Donoghue would oblige the sinner to restore justice either by recalling his decision and cor-

⁸⁹ *Homiletic and Pastoral Review* 54 (June, 1954) 834-35.

⁹⁰ 131 (Dec., 1954) 401-2.

⁹¹ "The Scope of Distributive Justice," *Irish Theological Quarterly* 21 (Oct., 1954) 291-307.

⁹² Cf. the parable of the laborers in the vineyard, Mt 20:15.

recting it, or, if that is impossible, by making restitution to the one who should have been the recipient. This, he says, is the teaching of St. Thomas Aquinas.

It is clear from papal teaching and from reason itself that a worker has a right in justice to wages sufficient to enable him to live a decent human life. That from his work he should in some way be able to support a family seems also clear. But in view of the changes in social and economic structures, so that children have become more a burden economically now than in the past, and where a vast part of civilization has taken up the practice of limiting families, it becomes difficult to say just where the obligation lies of providing for the support of families with more than the average number of children. The Australian hierarchy, in the latest of their annual social justice statements,⁹³ seems to imply that in commutative justice, at least in the present order of things, employers are bound only to an individual wage (or slightly more: enough to get married); that the rest is due in social justice by some other means. They propose a concrete plan for a "family income." In brief, the basic wage would be enough for a decent living for a single man with the possibility of saving towards marriage. The same basic wage would be paid to men and women workers. After marriage a man would get a supplement to enable him to save towards the first child, and would receive additional supplements for each additional child. These supplements, in the ideal order, would come from each industry; but in the present state of things in Australia, they would have to be paid by the government. Skilled workers would get proportionately higher wages than unskilled. And all wages would follow a sliding scale based on a cost-of-living index. This system, they say, "will ensure that employers meet the specific obligations imposed on them by strict justice while society as a whole fulfills the obligations of social justice."⁹⁴

An even more specific proposal in this line suggests that family allowances be paid from a fund established by taxing all salaries ten per cent.⁹⁵

A special question in the ethics of strikes is discussed by F. J. Connell, C.S.S.R., in the July *Ecclesiastical Review*.⁹⁶ The question is whether non-striking workers should observe or cross a picket line. Fr. Connell disposes of the easiest part of the answer first by saying that, if the original strike

⁹³ "Standard of Living," Annual Social Justice Statement, Sept. 5, 1954; *Catholic Mind* 52 (Dec., 1954) 745-55.

⁹⁴ *Ibid.*, p. 752.

⁹⁵ Spartacus, "Towards a Just Wage Structure," *Christian Democrat* 5 (Sept.-Oct., 1954) 455-63, as reported in "Worth Reading," *Social Order* 4 (Nov., 1954).

⁹⁶ *American Ecclesiastical Review* 131 (July, 1954) 34.

is unjust, they should not hesitate to cross the line. If it is just and against the same employer, there will often be sufficient reason to cooperate with the strikers by refusing to cross the line. If the strike is against another employer, and their own place of employment is being picketed, they should observe the line and remain away from work only if the original strike is against grave injustices (and not merely a strike of amelioration), and against injustices which their own employer is bound, in charity at least, to try to correct by his influence on the unjust employer. Such conditions will rarely be fulfilled. In any case, civil law in the matter should be observed, concludes Fr. Connell.

The primary obligation of looking into the justice of causes in strikes belongs to the labor leaders. But their duty is not fulfilled merely by striving for the material betterment of the workers, Pope Pius XII reminded the International Labor Organization, in an audience last November.⁹⁷

The labor movement cannot rest content with material success, with a more perfect system of guarantees and assurances or with a greater measure of influence on the economic system. It cannot visualize its future in terms of opposition to other social classes or of the excessive ascendancy of the State over the individual. The goal it pursues must be sought . . . in a social order where material prosperity is the result of the sincere collaboration of all for the welfare of all and serves as a support for the higher values of culture and, above all, for the indissoluble union of minds and hearts.⁹⁸

Two questions on lying also involved points of justice. Lying in order to qualify for a competitive sports event (which includes the use of "ringers") is a violation of commutative justice, according to Fr. Connell: a venial sin, if only the honor of winning or a prize of slight value is involved; a mortal sin, if for a valuable trophy.⁹⁹

A lie in qualifying for a job is always a sin and often against justice. But if the lie is about a circumstance not essential to the contract (for example, because one had the competence from practical experience equal to what he would have got from the required training), it will not violate justice, and the man may keep his job and salary. So judges J. McCarthy.¹⁰⁰

In the light of Fr. O'Donoghue's discussion of distributive justice men-

⁹⁷ Nov. 19, 1954; *AAS* 46 (Dec. 16-27, 1954) 714-18; English, *The Pope Speaks* 1 (Fourth Quarter, 1954) 369-73.

⁹⁸ *Ibid.*; *AAS*, p. 717; *TPS*, p. 372.

⁹⁹ F. J. Connell, C.S.S.R., "Dishonesty in Sports," *American Ecclesiastical Review* 131 (Aug., 1954) 113-14.

¹⁰⁰ *Irish Ecclesiastical Record* 82 (Oct., 1954) 267.

tioned above, might there not also be a violation of justice if a man received a job in preference to a better qualified man because of his lie, especially if it is a government position or other job open to the best qualified?

ECCLESIASTICAL PRECEPTS

The present regulations on fast and abstinence in the United States give rise to some difficulties. The rules for both fasting and partial abstinence say that "meat may be taken only once a day at the principal meal." Is the essence of the law the "once a day" or "at the principal meal"? In the concrete, suppose a person inadvertently takes meat at another than his principal meal; may he take it again at the principal meal? Fr. Connell answers—and I agree with him—that if he notices it in time, and if he reasonably can, he should make that his main meal.¹⁰¹ But if it is not reasonably possible (which would usually be the case with breakfast or if he does not advert to his mistake until later), he may have meat again at the principal meal. But if he took the meat deliberately, he may not have it again.

For those who are fasting, "eating between meals is not permitted; but liquids, including milk and fruit juices, are allowed." Do milk shakes come within the limits of the "liquids" which are allowed? Fr. Danagher would rule out ordinary milk shakes and malted milks, but would allow thin chocolate milk.¹⁰² Here again I agree, and I believe it is according to the intention of the bishops' regulations. According to the letter of the law, any "liquids" would seem to be allowed. But I believe the word "liquids" should be interpreted to mean "simple beverages," or some such expression as would rule out heavier liquids. This seems evident from the history of the question. There had been a dispute about milk and fruit juices. In most parts of Europe milk is ruled out because it is considered more a food than a beverage. But in the Tyrol it is allowed, as being there an ordinary beverage. Many American authorities held the same for this country, since it is evidently considered an ordinary beverage here. To settle the dispute, the bishops explicitly allow milk and fruit juices. The nutritional content is not the deciding factor, since beer has always been allowed. But soups, and thick drinks which often constitute a lunch in themselves, such as milk shakes, malted milks, and eggnogs, are comparable to milk in most of Europe—considered more a food than an ordinary beverage.

However, until an official clarification is published, my own practice is to exhort questioners not to take the heavier drinks. If they feel that they need something of the kind between meals, I consider them excused from

¹⁰¹ F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 130 (June, 1954) 399-400.

¹⁰² John J. Danagher, C.M., *Homiletic and Pastoral Review* 54 (June, 1954) 830.

fasting or at least as having a sufficient reason for a dispensation. I would evade declaring a strict obligation on the point, although personally I think it is the proper interpretation of the regulations.

The obligation to contribute to the support of one's pastor is one which most pastors would like to see well defined; but that is very difficult to do. Fr. McCarthy does not add much detail but does state the ordinary doctrine well:

It is the clear teaching of theology that the faithful are bound to contribute to the necessary support of their pastors. . . this obligation is grave for the faithful generally. Individuals are bound to contribute according to their means. But it cannot be said that each and every member of the faithful is always bound *sub gravi* to give his share. Individuals would, however, be under a grave obligation to make their contributions if these were accurately determined, by law or custom, and if failure to make them would involve penury for the pastors or an undue burden on the other members of the faithful.¹⁰³

Fr. Connell, in a brief note, reminds readers that the *Daily Worker* and similar Communist publications are definitely forbidden by the Holy Office decree of 1949.¹⁰⁴

SACRAMENTS

Children of lapsed Catholics may be baptized as long as there is any hope that they will be brought up Catholics. If there is absolutely no hope of this, baptism should be refused, especially so if it is requested as a mere superstition. In this, they differ from children of non-Catholics, who, outside of danger of death, may be baptized only when there is a reasonable guarantee that they will be brought up as Catholics. Such is the ordinary doctrine, as reviewed by L. L. McReavy.¹⁰⁵

The necessity of baptism belongs more properly to the treatise *De ecclesia*, but it is usually also included briefly in the moral treatise on the sacrament. A great deal has been written on the subject. For moralists, a summary of opinions might suffice, and William A. Van Roo, S.J., has provided one in "Infants Dying without Baptism: A Survey of Recent Literature and Determination of the State of the Question." His conclusion is:

Given the present state of the question, then, I should say that one is not free to affirm that all the infants are saved, or that all infants dying unbaptized are given

¹⁰³ J. McCarthy, "The Obligation of the Faithful to Support their Pastors," *Irish Ecclesiastical Record* 82 (Dec., 1954) 416-18.

¹⁰⁴ F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 131 (Oct., 1954) 281.

¹⁰⁵ *Clergy Review* 39 (Aug., 1954) 539-42.

a means of salvation other than baptism *in re*, so that every one would determine his own eternal lot.

On the other hand, as matters stand now, the question is not definitively and irrevocably closed. We are in the presence of a theological tradition whose critical evaluation may well call for more delicately nuanced positions; and of a *sensus Ecclesiae* whose dogmatic force can be determined ultimately only by a dogmatic decision of the magisterium.¹⁰⁶

The question of sacramental penances has come up again.¹⁰⁷ H. Martindale, an English priest writing in the *Homiletic and Pastoral Review*, thinks that priests are generally too easy; that more severe penances should be given for mortal sins, and penances more suited to the sin.¹⁰⁸ He suggests such penances as weekday Masses and family prayers, recalling that the purpose of the sacramental penance is twofold: medicinal and satisfactory. By being excessively lenient, a confessor may lengthen a penitent's stay in purgatory.

On the whole I agree with Fr. Martindale's thesis, but with reservations on penances which require external acts, such as the weekday Masses and family prayers. Weekday Masses are certainly suitable, if possible without too much inconvenience or danger of defamation from its being recognized as a penance. Priests who are too quick to give minimum penances seem to overlook the special efficacy of sacramental penances over the same works performed apart from the sacrament. However, with any severe penance, such as one or several rosaries, I would suggest (1) explaining its value to the penitent; (2) bringing him to agreement and not just compulsory acceptance; (3) pointing out to him that he may do the penance any time and any place, not necessarily in church nor even before Communion; that he can say the rosary during Sunday Mass or on the way to work during the week.

There seems to be great divergence of practice in this matter even in the same localities, from those who rarely give more than a few Our Father's and Hail Mary's to those who frequently give large numbers of rosaries or some daily penance over several weeks. As a concrete proposal I would suggest a minimum of ten Our Father's and Hail Mary's for what seems pretty clearly to be a single mortal sin of weakness; a minimum of one rosary for

¹⁰⁶ *Gregorianum* 35 (Aug., 1954) 406-73; summarized by C. Davis, "Infants Dying without Baptism," *Clergy Review* 39 (Dec., 1954) 735-38; digested in *Theology Digest* 3 (Winter, 1955) 3-8, with a bibliography, 8-9.

¹⁰⁷ Cf. treatment of this question, *THEOLOGICAL STUDIES* 15 (March, 1954) 91-92; *ibid.* (Dec., 1954) 613-14.

¹⁰⁸ 54 (June, 1954) 799-801.

several certain mortal sins, or one especially serious sin; a relatively light penance, three or five Our Father's and Hail Mary's, where there is even slight doubt about the fulness of consent, as is often the case in sins of impurity. For a very serious crime, such as abortion or some other form of murder, a grave and *diuturna* penance should be given. In any of these cases, if the confessor judges that such a penance will be too much for a given penitent even with the suggested explanation and exhortation, then he might impose a few Our Father's and Hail Mary's and include one or more Masses of obligation, to impress the penitent with the gravity of his sin and to gain the extra satisfactory value of sacramental penance, without any great burden.

Helpful to confessors who worry about possible reserved censures penitents may have incurred, is an article by T. P. Cunningham, All Hallows canonist, on the "Contumacy Required to Incur Censures."¹⁰⁹ Any factor which lessens imputability, such as antecedent passion, drunkenness, grave fear, or inconvenience, will excuse from censures which require full knowledge and deliberation ("ausus fuerit," etc.). From all *ipso facto* censures, excusing causes include grave fear, age under fourteen for boys and girls, ignorance, error, or inadvertence (that is not crass or supine) of the law or of the fact that some form of *ipso facto* penalty is attached to the law.

The faculty to binate on weekdays under certain conditions, now in force in many dioceses, is the occasion of two comments by Fr. Connell. The faculty generally contains the proviso that it may be used only when another priest is not available. Fr. Connell thinks that this obliges one to make a moderate attempt to get another priest, if there is some probability of getting one; neither grave inconvenience nor great expense need be endured for the purpose.¹¹⁰

When the faculty is used, most parish priests run into a difficulty about stipends. Canon law clearly forbids taking two stipends on the same day (except on Christmas) and implies, at least, that any offering for a Mass must be considered such a stipend unless it is certain ("nisi certo constet") that it was given only for the celebration of the Mass and not also for its application.¹¹¹ Fr. Connell considers—and I think rightly—a wedding or funeral offering as a stipend, since it is not certain that it is not given for the application as well as for the celebration of the Mass.¹¹² What is a priest to do who has a stipend for the other Mass, too? Fr. Connell suggests that it simply be transferred to another day if it is not a scheduled stipend Mass.

¹⁰⁹ *Irish Theological Quarterly* 21 (Oct., 1954) 332-56.

¹¹⁰ F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 131 (Nov., 1954) 349.

¹¹¹ Canons 824, 2 and 825, 4.

¹¹² *Ibid.*, pp. 115-16.

If it is a scheduled one, then say one gratis for the intention and offer a second Mass for the stipend on another day.

Another solution mentioned by some as possible but not advisable would be to make it clear that no offering would be accepted for the application of the funeral or wedding Mass, that the application would be gratis, and that any offering would be for the celebration only. This would seem almost a mere verbal evasion, unless in such weddings or funerals an extra Mass be applied later for the stipend portion of the offering. I should think that the most satisfactory practical solution would be for the bishops to obtain a faculty from the Holy See to accept two stipends and give one to the seminary or other pious fund.

If a priest does accept two stipends on the same day illicitly, he has no title to the second one and so is bound to restitution. But if he has said the two Masses, no restitution is due to the donor. Therefore he should give the money to the poor, according to the solution of a case by E. F. Regatillo, S.J.¹¹³

In some places at priests' retreats, conventions, and other gatherings of clergy, it has become the custom to have only one Mass celebrated by the bishop or other dignitary, which the rest of the clergy attend. This is all right if done from necessity for lack of altars and vestments, or even if done for a rest and a change, but it is definitely wrong, according to the Holy Father, if done because of what is "to be rejected as an erroneous opinion: namely, that the offering of one Mass, at which a hundred priests assist with religious devotion, is the same as a hundred Masses celebrated by a hundred priests."¹¹⁴ For "the priest-celebrant, putting on the person of Christ, alone offers sacrifice, and not the people, nor clerics, nor even priests who reverently assist."¹¹⁵

An interesting paper on vocations, reporting the conclusions of a meeting of priests and doctors in Belgium, is presented by Roger Troisfontaines, S.J., in the *Nouvelle revue théologique*.¹¹⁶ As positive indications for encouraging a vocation he lists: a dynamic serenity which remains calm even in the face of difficulties and shocks; definite contact with reality, with normal reactions to persons and situations; a sound realization of supernatural destiny

¹¹³ *Sal terrae* 42 (June, 1954) 285-86. For other interesting cases on stipends, cf. *ibid.*, p. 283; *ibid.* (July, 1954) 340-43, 348.

¹¹⁴ Pius XII, Allocution to a gathering of bishops, Nov. 2, 1954; *AAS* 46 (Nov. 15-18, 1954) 666-77; English, *The Pope Speaks* 1 (Fourth Quarter, 1954) 375-85; this citation, *AAS*, p. 669; *TPS*, p. 378.

¹¹⁵ *Ibid.*; *AAS*, p. 668; *TPS*, p. 377.

¹¹⁶ "A propos de la vocation sacerdotale: Indications et contre-indications," *NRT* 76 (July-Aug., 1954) 716-21.

and of a personal God; and a realization that the essential business of priests is to help save souls. Absolute contra-indications are: any mental weakness, shown by false reasoning; a sense of superiority, especially if connected with delusions of having a special mission to propagate some special dogma or devotion; feelings of persecution; any indications of paranoia, no matter how greatly gifted the candidate may be otherwise. Relative contra-indications (which generally but not necessarily indicate that a candidate should be discouraged or rejected): improper motivation, such as a desire to run ("regenter") a parish, or merely to lead a celibate life; psychasthenia, shown by scruples, anxieties, obsessions, guilt feelings—which should certainly be cleared up before actual entrance into a seminary or novitiate; psychological and emotional immaturity; lack of appreciation of social values; any morbid desire of subjection. The group disagreed on whether epilepsy and hysteria should be considered absolute or relative contra-indications.

As to chastity, the will and ability to live continently are required; but mere difficulties are not contra-indications. In fact, "the *total* absence of sexual manifestations in a young man is actually a contra-indication, since it is almost certainly pathologic."¹¹⁷ Sex deviations are contra-indications, although not necessarily absolute. "At least two years of probation outside the seminary or religious house should be imposed, to see whether, with the help of proper psychotherapy, normal reactions will replace the perverse tendencies."¹¹⁸

As a parting shot, Fr. Troisfontaines asks whether it might not be a good idea to make twenty-eight a minimum age for ordination, to assure proper maturity, especially where candidates have led a very sheltered life since adolescence.

A form of sacramental which has become quite popular of late is the rosary ring or bracelet. Unless it has five decades of beads and not bumps, it is not a rosary, and so the usual blessings and indulgences for rosaries cannot be attached to it. However, it may be given a simple blessing, and, if it is of durable material, also the blessing for the apostolic indulgences for pious objects, according to G. Montague.¹¹⁹ Indulgences attached to the mere recital of the rosary can be gained no matter how the prayers are counted. For this a rosary ring or bracelet may be easier than fingers.

¹¹⁷ "L'absence *totale* de manifestations sexuelles chez un jeune homme est même une contre-indication, car elle est presque certainement pathologique" (*ibid.*, p. 720).

¹¹⁸ "Il faudra cependant imposer au moins deux ans de probation en dehors d'un séminaire ou d'une maison religieuse, afin de voir si, à l'aide d'une psychothérapie appropriée, des réactions normales ne remplacent pas les attirances perverses" (*ibid.*).

¹¹⁹ *Irish Ecclesiastical Record* 82 (Dec., 1954) 427-28.

MARRIAGE: SACRAMENT AND USE

Canon 1044 gives to a priest who assists at a marriage in danger of death in accordance with canon 1098, n.2, the same faculties of dispensing as local ordinaries have from the preceding canon, provided the ordinary himself cannot be reached. That seems to include the faculty to dispense from canonical form, which in the supposition would mean dispensing from the necessity of two witnesses. Bouscaren-Ellis hold that it does not, because the priest in canon 1098, n.2, is one who is called in for a marriage with two witnesses.¹²⁰ J. McCarthy defends the view, which seems at least solidly probable, that the reference to canon 1098, n.2, simply means an occasion when no authorized priest (pastor or delegate) is available, and that therefore any priest present in such circumstances can dispense also from the form of canon 1098.¹²¹

"The Marriage of Minors" is the subject of a paper by Msgr. John Kelly, chancellor of the Pueblo diocese, outlining the duty of a pastor in all possible conditions with regard to parental consent.¹²² (1) If the parents know and approve, the pastor should still try to discourage the marriage if the parties seem to lack maturity and stability desirable for such an important step. Also, he should be sure of sufficient age: a marriage by a boy on the very day of his sixteenth birthday would be invalid. If the age is all right, and they insist, he may marry them. (2) If the parents do not know, the youngsters should be warned of their grave obligation to inform their parents and to listen to their advice, even though they are not subject to parental authority in choosing their state of life. If they refuse to inform their parents, the priest may refuse to marry them. He may not assist at the marriage without consulting the ordinary. (3) If the parents know and object, the pastor should learn the reasons from both sides. If the objection is reasonable, he should consult the ordinary. If it is unreasonable in the circumstances, he may marry the couple without consulting. However, if the parents should threaten a lawsuit, or if the couple cannot get a marriage license, he would do well to consult the ordinary. In all this matter the ordinary can be the vicar general or a delegate.

It is interesting to note that Msgr. Kelly suggests that, if there seems good reason for the youngsters to marry and they are unable to get a license, the bishop might suggest their marrying according to canon 1098, merely in the presence of two witnesses. The authorized priest would be unavailable

¹²⁰ *Canon Law* (2nd rev. ed.; Milwaukee: Bruce, 1953), p. 498.

¹²¹ *Irish Ecclesiastical Record* 82 (Dec., 1954) 411-16.

¹²² *Jurist* 14 (July, 1954) 344-58.

because of the danger of arrest and fine for witnessing a marriage without a license.¹²³

According to John J. Lynch, S.J., advertisements have been recommending condoms as protection for the vagina during trichomonal vaginitis;¹²⁴ but condomistic intercourse is intrinsically wrong in itself and cannot be justified for any reason. As mentioned above in the section on medical ethics, Fr. Kelly explains this intrinsic illicity of any form of contraception in terms of the finality of the sex faculties, and shows that this is confirmed by the official teaching of the Church.

These points seem to make little impression on most Protestants. For example, one large Lutheran group issued a statement last summer declaring that, when it seems to be God's will not to have children, one should prevent conception by whatever means conscience and medical advice suggest, and that "it is the spirit in which the means is used, rather than whether it is 'natural' or 'artificial' which defines its 'rightness' or 'wrongness.'" ¹²⁵ Episcopal Dean James A. Pike, of New York's Cathedral of St. John the Divine, put it even more strongly when he said that in such a case "they have a positive duty to use the most effective means possible to effectuate this intent, and at the same time continue that relationship which is the sacrament of unity between the spouses."¹²⁶

Joseph F. Fletcher, whose book on *Morals and Medicine* was mentioned before, does not formally accept the principle that the end justifies the means, but he can find nothing wrong with the means of contraceptives.¹²⁷ He denies that "nature intends" procreation to follow from intercourse, since nature has made more days infertile than fertile, although in another passage he seems willing to "concede that procreation is the primary end to be served by marriage, married love and sexual regulation being proper but only secondary."¹²⁸

A rather good answer to such a concession is given by an anonymous writer in the *Catholic Medical Quarterly*,¹²⁹ reviewing an article by a lecturer in moral philosophy at the University of Aberdeen:

The issue that concerns us is not the *separation* of the primary and secondary functions of sex (that they *are* separate is after all a matter of fact), but the de-

¹²³ *Ibid.*, p. 356. ¹²⁴ *Linacre Quarterly* 21 (Nov., 1954) 126-27.

¹²⁵ As reported in the *Register*, July 18, 1954 (national ed.), p. 2.

¹²⁶ As reported in *Time*, Jan. 31, 1955, p. 37, and in news dispatches of Jan. 18, 1955.

¹²⁷ *Op. cit.*, ch. 3, "Contraception: Our Right to Control Parenthood," pp. 65-99.

¹²⁸ *Ibid.*, p. 84.

¹²⁹ "Sex and the Natural Law: A Family Planner out of His Depth," *Catholic Medical Quarterly* 8 (Oct., 1954) 13-16, reviewing an article by Antony Flew, "Contraception and Catholicism," *Bulletin of Family Planning Association*.

liberate exclusion of its primary purpose in order that a secondary purpose alone may be satisfied. It is this deliberate subordination of primary ends to secondary ends that is contrary to natural law.¹³⁰

A question which fortunately is still a rare pastoral problem in our country is that of the *amplexus reservatus*. Much has been written on it, especially commenting on the 1952 *monitum* of the Holy Office.¹³¹ Two more articles on the question have appeared in the period under consideration. E. Gagnon, S.S., and Aidan M. Carr, O.F.M.Conv.,¹³² introduce their article with two complaints about "the almost universal silence that has greeted this serious admonition," and "the scant, if any, notice in ecclesiastical periodicals." Very strange complaints, considering that articles in at least eleven different ecclesiastical periodicals had commented specifically on the *monitum* by the middle of 1953. They go on to show that the practice is really a form of hedonism and certainly morally objectionable, although admitting that "as to the degree of its malice there is still room for discussion among theologians." This seems close to what has been the prevalent opinion: that ordinarily the practice is sinful, but that it is difficult to prove that it is intrinsically evil in itself.

Some confusion might stem from the use of the term, "intrinsically evil." Many authors use the term to describe an action which is wrong independently of any positive law; and "extrinsically evil" for an action which is wrong only because forbidden by positive law, like eating meat on Friday. If this use of the term is accepted, then it should be evident that the *amplexus reservatus* is intrinsically evil and not merely extrinsically so. But in this discussion most use the term, "intrinsically evil," to mean wrong in the very essence of the act, and not merely because of dangers which are naturally connected with it. Perhaps clearer terminology would be to distinguish between what is wrong *in* or *propter se*, and what is wrong *propter pericula*.

Hyacinth Hering, O.P., is the chief defender of the opinion that the *amplexus reservatus* is wrong *in et propter se*. In an article this past Septem-

¹³⁰ *Ibid.*, p. 14.

¹³¹ Cf. G. Kelly, S.J., "Notes on Moral Theology, 1952," *THEOLOGICAL STUDIES* 14 (March, 1953) 58-60; Kelly-Ford, S.J., "Notes . . . 1953," *ibid.* 15 (March, 1954) 101-102. Besides the six authors referred to in these notes, see also: F. Hürth, S.J., *Periodica* 41 (1952) 251-69; E. F. Regatillo, S.J., *Sal terrae* 41 (1953) 103-11; J. Madden, *Australasian Catholic Record* 30 (1953) 58-59; F. Aleixo, O.F.M., *Revista eclesiástica Brasileira* 12 (1952) 917-18; A. Regan, C.S.S.R., *Irish Theological Quarterly* 21 (Oct., 1954) 366-67.

¹³² "Again: A New Conjugal Morality?", *Homiletic and Pastoral Review* 55 (Dec., 1954) 218-23.

ber¹³³ he renews the same arguments which Fr. Kelly criticized before.¹³⁴ Most of his arguments seem either to beg the question or to prove too much. However, he does make one good point in answering an objection: Incomplete acts are allowed to married persons only as preparatory to intercourse, either immediately or remotely. But even remotely preparatory acts must be really preparatory in their nature, even though not performed with any intention of immediate intercourse. But in the *amplexus* the intention to interrupt coitus is in no sense naturally preparatory to intercourse. The same argument can be applied to inchoate sodomitic intercourse, and seems pretty strong to me.

An interesting sidelight is given by a note in the Kinsey Report on males:

But orgasm may occur without the emission of semen. This latter is, of course, the rule when orgasm occurs among preadolescent males and among females. It also occurs among a few adult males . . . who deliberately constrict their genital muscles (5 cases) in the contraceptive technique which is known as coitus reservatus. These males experience real orgasm, which they have no difficulty in recognizing, even if it is without ejaculation.¹³⁵

Does *amplexus reservatus* involve orgasm without semination? Perhaps this is part of the exquisite pleasures its proponents describe. This would certainly always be wrong.

Since the unfortunate article of Gerald Vann, O.P., on the "Muddled Marriages" dilemma,¹³⁶ it has had many repercussions. Besides the reprints¹³⁷ and digests¹³⁸ there have been quite a few refutations of it by moralists and canonists,¹³⁹ one official prohibition of it,¹⁴⁰ and, to my knowledge, only one

¹³³ "Estne 'amplexus reservatus' intrinsece malus?", *Monitor ecclesiasticus* 79 (Sept., 1954) 455-78.

¹³⁴ THEOLOGICAL STUDIES 14 (March, 1953) 59-60.

¹³⁵ Kinsey *et al.*, *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948), pp. 158-59.

¹³⁶ *Blackfriars* 34 (Sept., 1953) 374-80. It was one of a series of articles by various authors on "Moral Dilemmas."

¹³⁷ *Catholic Worker* 20 (Oct., 1953) 3; *Worship* 27 (Nov., 1953) 533-39.

¹³⁸ *Sorrowful Mother Novena Notes* 17 (Nov. 20, 1953) 7, 13; "The 'Bad Marriage' Dilemma," *Catholic Digest* 18 (Jan., 1954) 13-16.

¹³⁹ F. J. Connell, C.S.S.R., "The Proper Attitude toward 'Muddled Marriages,'" *American Ecclesiastical Review* 130 (Jan., 1954) 54-55; and "More about the 'Bad-Marriage' Dilemma," *ibid.* (June, 1954) 391-97; which last was condensed in *Catholic Digest* 18 (June, 1954) 112-17; The Bystander (D. F. Miller, C.S.S.R.), *Liguorian* 42 (Feb., 1954) 111-14; Aidan Carr, O.F.M.Conv., "Pity vs. Principles," *Priest* 10 (Feb., 1954) 127-32; and "Again: Pity vs. Principles," *ibid.* (July, 1954) 603-7.

¹⁴⁰ Archbishop John J. Murray (St. Paul), *Catholic Digest* 18 (March, 1954) 10.

defense of it, by a confrère and former dogma professor, John Fearon, O.P., who was actually attacking one of the refutations.¹⁴¹ An explanation by Fr. Vann had been promised but has not appeared. Evidently in its place is the latest and perhaps the most complete criticism of it to date, by a Dominican moralist at the Angelicum, Pedro Lumberras, O.P.¹⁴² He does his best to excuse the article as rhetorical exaggeration aimed at the clergy, who would not, he feels, be misled by it. Unfortunately the laity read it and took it literally, whereas "many of his terms are not to be taken in a technical, theological sense, but to be interpreted to mean something less, at times something else."¹⁴³ Nevertheless, he proceeds to analyze the article quite thoroughly and to point out its many errors—errors which can hardly be justified by rhetorical license.

If Fr. Vann's only purpose was to persuade priests to treat such sinners more mercifully and kindly, he might well have used words more like these:

I have yet to meet an estranged (guilty) person who was interested in logic, justice, or reprimand. Rather, understanding, sympathy, tolerance, forgiveness, inspiration, loving kindness are in order. A shipwrecked person is not interested in lectures on water safety; he wants a plank. Do not deal with sins, but with sinners: hate the first, but love the latter. Successful treatment of these cases must reach the will and emotions first, and then only, the intellect.¹⁴⁴

Joseph F. Marbach, in place of simply criticizing Fr. Vann, offers an alternative possibility to work towards, fraternal cohabitation.¹⁴⁵ He outlines the usual conditions for such brother-sister permission. It may be granted only if there is (1) very grave reason to remain under the same roof; for example, small children to be raised, impossibility of maintaining separate habitation; (2) no danger of scandal; that is, the invalidity of their marriage is not generally known; to assure this they might move elsewhere; (3) no proximate danger of sin. If these three conditions are not fulfilled, permission may not be given. If staying together is a proximate occasion of sin for them and they do not seem to be able to make it remote, they simply must separate. Our Lord taught that sometimes one must give up all he holds most dear, even life itself, for the kingdom of heaven.

¹⁴¹ "Father Carr, Prudence and Theology," *Priest* 10 (May, 1954) 415-20.

¹⁴² "The Muddled Marriage," *Blackfriars* 35 (Dec., 1954) 527-38; and with slight changes in wording, *American Ecclesiastical Review* 131 (Nov., 1954) 300-312. I am following the *Blackfriars* text.

¹⁴³ *Ibid.*, p. 537.

¹⁴⁴ R. J. O'Dea, "Procedure in Separation Cases," *Jurist* 14 (July, 1954) 328.

¹⁴⁵ "Living as Brother and Sister: A Last Resort in Marriage Cases," *Priest* 10 (Oct., 1954) 861-66.

James P. Godley gives the same doctrine, with additional suggestions on handling such a case in the external forum.¹⁴⁶ In both forums it seems good to have the petitioner take an oath to keep the conditions or to refrain from the sacraments; and perhaps, to report his situation at stated intervals to his confessor. The advantages of handling the case in the external forum are to insure Christian burial after death and to help avoid scandal if their situation should become known to others. However, it is always a last resort and rarely will the conditions be fulfilled. A temporary permission, where the conditions are fulfilled, may more easily be granted; for example, while the couple await another solution, such as a papal dispensation or a practically certain declaration of nullity of a former marriage.

Any invalidly married couple is bound to complete sexual abstinence in any case, whether they can get permission for fraternal cohabitation or not. If the only obstacle to getting the permission is the fact that they are known as invalidly married, and they are practicing complete abstinence and have a grave reason for remaining in the same house, they may even get into the state of grace by an act of perfect contrition, since there is not much additional scandal in their not separating. But publicly admitting them to the sacraments cannot be allowed, since the public will not, and cannot be expected to, believe that they are living as brother and sister. As mentioned above, they might remedy this situation by moving elsewhere, where they are unknown.

Three articles in the *Jurist*, all papers read at canon law conventions, suggest chancery procedure in giving permission for separation and for civil divorce.¹⁴⁷ Of general interest is the emphasis on the obligation of getting the ordinary's permission for any such civil action in a valid marriage; and, pastorally, on aiming rather at reconciliation.

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¹⁴⁶ "Brother-Sister Arrangement in Invalid Marriages," *Jurist* 14 (July, 1954) 253-74.

¹⁴⁷ Hugh G. Quinn, "Permission for Separation and Divorce," *Jurist* 14 (July, 1954) 239-52; John A. Delane, "Canonical Separation and Civil Action," *ibid.*, pp. 318-322; Robert J. O'Dea, "Procedure in Separation Cases," *ibid.*, pp. 322-28.