CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

GENERAL MORAL

Authentic Christian morality is and should be fundamentally an expression of the love of God and neighbor. There can be no doubt, though, that a fear of sin and its consequences plays a salutary part in the Christian economy of salvation. But theologians have always ranked Christian charity a higher motive for moral conduct than a fear of sin. And although theologians ordinarily restrict themselves to a theological or supernatural viewpoint, I am sure they would agree that even from a psychological point of view charity must be ranked superior. Religious charity may have its psychic aberrations; but whatever they are, they are rare. The same, unfortunately, cannot be said of a fear of sin. It can and does degenerate into a morbid anxiety. Good Christian souls are sometimes haunted by an obsessive fear of sin. One has only to consider the scrupulous conscience, plagued by imaginary faults and reduced to a state of chronic doubt by a fear of wrongdoing, to appreciate the havoc an uncontrollable fear of sin can work in souls.

When confronted with such pitiable cases, even the confessor may in a moment of desperation be tempted to wish that treatises *De peccatis* could be struck from the moral textbooks. A little reflection will be sufficient to make the confessor realize that such a solution is too simple to be genuine. But these cases will sometimes reach the psychiatrist's office. And the psychiatrist without a religious background will find in them a confirmation of his own attitude toward moral restrictions. An unnamed author in the *American Journal of Psychiatry* recently made the following pertinent statement:

> Unhappily . . . our race is still burdened with sin concepts, even with the absurdity of 'original sin' and there are experts who grade and classify sins. And so it happens that many psychiatric patients express sin delusions often of the most painful character . . . . For the patient sin means punishment, even to indefinite sentence into the regions so authoritatively defined in Part I of the Divine Comedy. And for the patient, the physician's assurance to the contrary constitutes perjury.[1]

One can sympathize with the psychiatrist's desire to alleviate the suffering of the mentally and emotionally afflicted. Yet the psychiatrist must realize

EDITOR'S NOTE.—The present survey covers the period from December to June, 1955.

[1] "Sin, Crime, and Sickness," *American Journal of Psychiatry* 3 (Dec., 1954) 471–72.

that he is dealing with the accidents of the moral order. They are unfortunate and certainly deserving of sympathy and help, but the fact of such accidents is no more a reason for overthrowing the whole moral law than the fact of hyperthyroidism is a reason for removing all thyroid glands. The desire to remove human suffering is a worthy one, and it may be true that much neurotic anxiety could be cured by eliminating the concept of sin from society. But what would be the effect on normal people? It is easy for those who are dealing exclusively with the mentally and emotionally unbalanced to lose sight of the normal, and in concentrating on the unhappiness which the fear of sin causes in the few to forget the unhappiness which it prevents and is meant to prevent in the many. It is extremely unfortunate that some people have delusions in regard to sin. It would be disastrous, though, to reduce all sin to a delusion.

A somewhat similar attitude toward sin is found in a book by Dr. A. Hesnard, the French sexologist, *Morale sans péché*.[2] Why is it that so many faithful Christians are haunted by fears and anxieties, feelings of guilt, etc.? Dr. Hesnard answers that they are the victims of a morality based on sin. The curious part of this morality is that it persecutes the innocent. Those who go ahead and sin are actually relieved of guilt feelings, according to Dr. Hesnard.

He traces this morality of sin to primitive taboos. These were passed down to modern times through the intermediary of Jewish monotheism and monachism. For this mytho-morality of sin Dr. Hesnard would substitute the interhuman ethic of love, which he considers to be the moral teaching of Christ. This message of Christ would have put an end to the morality of sin had it not been for monachism which reintroduced it.

Dr. Hesnard feels that the morality of sin results in what psychiatrists of psychoanalytic persuasion call regression. The introspection, egotism, and preoccupation with self of this kind of morality causes this regression. The solution, according to Dr. Hesnard, will be found in the altruistic, social, interhuman ethic of Christ. In this ethic the only moral reality will be the interhuman relation always to be made more perfect by cooperation, tolerance, charity, etc.

L. Beirnaert, S.J., in his criticism of the book correctly points out that there is no antinomy between the morality of sin and the morality of Christ. The morality of Christ integrates the morality of sin and structures it on the level of charity. Regression does not consist in the permanence of precepts or the fear of sin in moral life. It consists rather in the inability to rise

[2] Cf. L. Beirnaert, S.J., "La 'Morale sans péché' du Dr. A. Hesnard," *Études* 284 (Jan., 1955) 35–49.

above the level of fear in moral conduct or in a pharisaical satisfaction in fulfilling the moral law.

Fr. Beirnaert also points out that not all fear of sin or guilt feelings must be considered regressive. Besides the neurotic guilt resulting from imaginary sin of which Dr. Hesnard speaks, there is a real guilt resulting from a genuine violation of the commandments, the first of which is the charity which he is so interested in promoting. The recognition of this sin is something entirely different from the obsessive feelings of neurotic guilt. This genuine guilt can be removed by repentance and divine pardon. It neither needs, nor will it be removed by, mental hygiene.

It might be well to remark here that although we cannot accept the extreme solutions which psychiatrists at times will offer, we cannot deny that they are grappling with a real problem. And even though regression may be an accident of traditional morality, we cannot be complacent about it. Moral education should be such as to reduce these accidents to a minimum. In this regard it is very important, to my mind, to achieve a proper balance of motivation in training the consciences of the young. Children should certainly learn of sin and its consequences, but they should be motivated chiefly by the love of Christ. Fear of sin and punishment should be reserved for emergency motivation. In educating the consciences of their children parents will have to examine the attitudes and motivation prevailing in their own moral lives. If parents are preoccupied with sin, there is considerable danger that this will be reflected in the consciences of their children. Attitudes of parents will be absorbed by children almost without their realization. Parents must be made to realize also that the consciences of the young will be influenced by the affective relations existing in the home. If the home atmosphere is dominated by fear, it may be difficult for the child to learn charity in his religious and moral life.

It is one thing to do away with sin; it is another to do away with guilt. Catholic authors in the field of psychiatry and sexology will recognize the necessity of the moral law and the consequent fact of sin. But their experience with neurotics and sex deviates will lead them to a solution of reduced responsibility. No one will quarrel with such a solution when there is question of genuine neurotic or psychotic patients, but when an author virtually reduces all penitents to patients he is exceeding not only the limits but also the data of psychiatry. Marc Oraison in his book, *Vie chrêtienne et problèmes de la sexualité*,[3] fell into this error on the subject of sexual sin. He concludes from what he considers the almost universal immaturity of the sex instinct that formal mortal sin in this area will be a rarity. The book, already

[3] Paris, Lethielleux, 1952.

reviewed in these Notes, was put on the Index by a decree published January 3, 1955.[4] An article in *L'Osservatore Romano* which accompanied the publication of the decree lists the errors contained in the book and labels the author's conclusions regarding chastity "untenable."

The Abbé submitted humbly to the decree of the Holy Office.[5] In a letter to *Le Monde* he also asserted that the errors listed in the article in *L'Osservatore Romano* do not represent his thought on the subject, though he now sees that his text was open to such interpretation.[6] He accepts the decree as an invitation to work in such a way as to avoid such confusion in the future. Anyone acquainted with the Abbé's writings will look forward to future contributions.

During the past decade or more Catholic authors have been discussing the methods of presenting moral theology. W. Conway summarizes the criticisms leveled at present methods as follows: "Moral theology should be the scientific study of the way of life to be lived by the followers of Christ—in actual fact it is often expounded in such a way as to give the impression that it is the scientific study of a purely natural system of ethics, such as would appeal, for example, to Cicero."[7] Suggested remedies are that moral theology should be presented as the scientific study of the imitation of Christ or that it should be built around the theological virtue of charity.[8] While granting the importance of stressing that the Christian moral law is a law of love, Fr. Conway cautions against presenting it in such a way as to obscure the objective moral order. As he says: "The Christian life is not simply a life lived for the love of God; it is a *good* life lived for the love of God and the problem of determining precisely what is a good life remains."

I think moralists today would agree that the course of moral theology as taught in seminaries does not in itself present an adequate plan of Christian living. It is a course destined primarily for confessors and actually limited for the most part to the preparation of the confessor as a judge. It is not even sufficient to train the confessor adequately to play the part of counsellor or advisor. To serve as a plan for Christian living it would have to be supplemented by such tracts as grace and the Mystical Body from dogmatic theology and the whole course of ascetical theology. But while the course

[4] *L'Osservatore Romano*, Jan. 7–8, 1955. [5] *AAS* 47 (Feb. 25, 1955) 89.

[6] *La documentation catholique* (Mar. 6, 1955) 288.

[7] "The Science of Moral Theology, New Trends," *Irish Theological Quarterly* 22 (Apr., 1955) 154–58.

[8] The most recent effort at a reorientation of moral theology is that of Bernard Olivier. He does not refer to his system as a theology but rather as a catechesis, a Christian moral catechesis. Cf. *Morale chrétienne et requêtes contemporaines* (Tournai: Casterman, 1954) 219–55.

in moral theology as it is presented today is not adequate in itself, neither would any plan of Christian living be adequate without it. I believe this is the point which Fr. Conway wishes to make.

Those engaged in writing book reviews will be interested in a controversy on the subject carried in the *Clergy Review*. The original article by David L. Greenstock[9] is a summary of an article written by L. Bender, O.P.,[10] on the obligations of book reviewers. It attracted the attention of Charles Davis who in a subsequent article objected to much of the doctrine proposed.[11] It should be said in defense of Fr. Bender that not all of the criticism in Fr. Davis' article should be laid at his door. The summary, unfortunately, is not as accurate as it might be. But a reading of Fr. Bender's original article does justify some of Fr. Davis' disturbance. For instance, Fr. Bender states that an editor by accepting a book for review implicitly enters into a contract with the publisher of the book to review it.

I can readily admit that such an agreement might exist between publisher and editor. If it did, there would certainly arise a subsequent obligation in justice. But without such an agreement I am inclined to agree with Fr. Davis that it would be very difficult to prove an obligation in justice to review the book. I would certainly hesitate to lay such an obligation on editors of periodicals in this country. Book review sections in periodicals are a service to readers. They are not devoted to the interests of either publisher or author. Actually, both publisher and author benefit by the advertising value a review will have, a value which even an unfavorable review may have, and it is this value which prompts publishers to send out books for review. In sending out such books publishers recognize the risk involved. They realize that editors do not intend to give up their independence and discretion in regard to books chosen for review. Nor do they expect a book to be returned. The publisher knows that if he is not satisfied he can always stop sending books for review to a particular editor. But he also realizes that the advertising value of a book reviewed goes far beyond the list price of the review copy. It is a good business risk.

Moral textbooks allow a tolerant attitude toward legalized prostitution where it can be shown to be a *minus malum*. The old argument was that it protected the chastity of girls and women in other parts of the city. More and more evidence, however, points to the fact that it promotes rather than discourages sin and crime.[12] The *Journal* of the American Medical Associa-

[9] "Reviewers and Reviews," *Clergy Review* 40 (Mar., 1955) 151–57.

[10] "Doctrina moralis de recensione librorum," *Periodica* 42 (Mar. 15, 1953) 24–32.

[11] " 'Touché' or, A Reviewer Replies," *Clergy Review* 40 (Apr., 1955) 216–19.

[12] Cf. Luigi Scremin, *La prostituzione e la morale* (Milano: Istituto di Propaganda Libraria, 1949) 55–92.

tion carries an article on an actual situation of legalized prostitution.[13] The author shows that it tends to spread rather than control venereal disease. This is because it is very difficult to diagnose venereal disease in women. The medical certificate as a result gives no guarantee. Yet it lures customers to such establishments by giving them a false sense of security. The author does not pretend to know whether legalized prostitution protected the other girls in the area he studied, but he gives evidence to show that it actually encouraged sin among the soldiers by removing the fear of venereal disease. He had no proof to show that legalizing prostitution was ineffective in removing gangster control but rumor had it that all the houses of prostitution in the area on which he was reporting were in the hands of a gangster.

The step from prostitution to bingo is a long one but there are those who would put them in the same theological gehenna. As a result thirty-two States have constitutional provisions against such games. The first issue of *The Catholic Lawyer* carries a lengthy and thorough article on the subject which leads to the conclusion that bingo and other such games (e.g., raffles) when run for laudable purposes by religious, charitable, or fraternal organizations should be legalized.[14] The author does not advocate general legalized gambling but he would favor the above restricted resolution. Actually, the Church might be better off if it could raise its money some other way than by bingo and raffles. On the other hand, though, it is difficult to see how states which allow pari-mutuel betting on dog or horse races can consistently continue to ban bingo. During the past few years two referendums to legalize bingo were proposed to the voters. The one in New Jersey passed by a wide margin. The one in Michigan was defeated.

While on the subject of law it might be well to mention an article by Francis J. McGarrigle, S.J., on penal law.[15] Fr. McGarrigle takes issue with a statement made by John C. Ford, S.J., and Gerald Kelly, S.J., in this review "that it is not easy to deny the penal-law theory *in toto* and still explain the laws of religious institutes." Fr. McGarrigle seems to argue that since the violation of such rules would fall into the category of an imperfection, the rules are more than merely penal in nature.

I do not think that these two notions are incompatible. The theory of merely penal law rules out sin but it does not rule out imperfection. The

[13] Walter Lentino, M.D., "Medical Evaluation of a System of Legalized Prostitution," *Journal of the American Medical Association* 158 (May 7, 1955) 20–23.

[14] Frederick J. Ludwig and Dominic P. Hughes, O.P., "Bingo, Morality, and Criminal Law," *The Catholic Lawyer* 1 (Jan., 1955) 8–26.

[15] "Religious Rule and Moral Obligation," *American Ecclesiastical Review* 132 (Jan., 1955) 27–30.

fact that one who violates a religious rule is guilty of imperfection is not inconsistent with the penal law theory. Only a sinful violation is incompatible with the penal law theory. So I think the rules of religious institutes still constitute a problem for those who want to deny this theory.

JUSTICE AND LABOR

Stealing has been defined in various ways by moralists over the centuries. All of these variations, however, have preserved the substance of the Thomistic definition, "occulta acceptio rei alienae." But after considering them, L. Bender, O.P., concludes that changes or additions made were inexact or superfluous.[16] His conclusion applies to such words or phrases as "lucri faciendi causa," "domino invito," "iniusta," "domino rationabiliter invito," etc. In his opinion these notions are included implicitly and are more accurately expressed in so far as they pertain to stealing in the original definition.

I think everyone would agree with Fr. Bender that uniformity and simplicity of definition is desirable for pedagogical purposes. But while a simple definition may be easy to impart and easy to retain, it may be more difficult to explain than a longer but more explicit definition. My own personal opinion is that the words "domino rationabiliter invito" give the definition a precision which it would otherwise lack. Everyone admits that taking from another in extreme need would not be classified as theft. Yet such taking is not clearly excluded by the Thomistic definition. The added words "domino rationabiliter invito" make allowance for such a case. Fr. Bender maintains that the case of extreme need is provided for in the word "alienae." In extreme need the goods taken cannot be said to belong to another. Even if one were to grant this, I think the whole notion is much more clearly expressed in the added phrase. Moreover, I am not sure that the term "alienae" does not apply to the goods until the one in extreme need actually occupies them. It applies at least in the sense that until such occupation they are not "propriae." Moreover, in those cases where borrowing would be sufficient to relieve extreme need, the goods would remain "alienae" even after occupation.

A more difficult problem than the definition of stealing is the determination of the absolutely grave sum. It is comparatively easy to determine what would be considered a serious loss to the individual. The same can hardly be said of damage to the common good or to society. Yet it is obvious to everyone that some norm must be established. The relative norm would protect the individual against serious damage but it would not protect

[16] "Furti definitio," *Angelicum* 32 (Jan.-Mar., 1955) 21–34.

society. Some absolute sum must be established which would cover those cases where the individual because of his wealth would not suffer serious harm but the community would, because of loss of respect for property rights.

But it is not easy to establish a norm for determining this sum. For many years moralists tried to express it in money values but the instability of these values led some moralists to look for some more stable norm. After the first World War Vermeersch discovered that the sum accepted by moralists (100 gold lire) was equivalent to the month's wages of a workingman.[17] He thought that this norm would serve as a more permanent measure of the absolutely grave sum. Subsequent events however showed that even this norm was not reliable. The wages of the workingman did not follow the fluctuations in the value of money. As a result, in 1926 Arendt argued for a new norm—the weekly wages of a favored worker.[18] He found by comparison that this wage was equivalent to the amount moralists had maintained over the centuries to be the absolutely grave sum. Yet, since the relationship between the workingman's wages and the absolutely grave sum is merely coincidental and there is no intrinsic reason why the wages of a workingman over any period of time should constitute the absolutely grave sum, these wages remain a somewhat uncertain norm.

American moralists are still inclined to follow Arendt's norm, setting the absolutely grave sum roughly at about $75. Moralists in other countries are proposing other norms. A. Boschi, S.J., for instance, feels that Vermeersch's norm applies more accurately to Italy.[19] He sets the absolutely grave sum at the workingman's monthly wages, 50,000 lire ($75–80). Another writer in *Perfice munus*, however, considers Boschi's norm too liberal.[20] Estimating the pre-war 100 gold lire in the buying power of present-day lire, he arrives at a figure of 30,000 lire. But even this more conservative estimate is equivalent to more than two weeks' wages and so departs from both Vermeersch's and Arendt's norm. The conclusion to draw from all this seems to be that ultimately the estimate of the absolutely grave sum in any particular country or area will have to depend on the common opinion of moralists in that area.

Is there a divine precept to work? J. Geraud states the common opinion of moralists that the obligation to work does not come directly from divine

[17] *Theologiae moralis principia, responsa, consilia* 2, n. 421 (1921 edition).

[18] J. Arendt, S.J., "La matière absolument grave dans le vol," *Nouvelle revue théologique* 53 (1926) 123–32.

[19] "Materia grave nel furto," *Perfice munus* 29 (1954) 645–49.

[20] L. Morstabilini, "Determinazione della materia assolutamente grave nel furto," *Perfice munus* 30 (Feb. 1955) 89–92.

precept but from the duty every man has to preserve his life.[21] Ordinarily this will involve the necessity of work. The words of Genesis merely give expression to this fact. They do not impose a special obligation. Fr. Geraud goes on to say that the obligation to work covers only the necessities of life. Man has no obligation to work to provide all the added comforts and conveniences of modern life. Far from being of obligation such pursuit of comfort can actually be detrimental to the spiritual life. Hence the divine precept to rest rather than to work.

Moralists ordinarily do not say much more on the subject of work except that in practice most people will have an obligation to work. In a series of two articles H. Rondet, S.J., pursues a theology of work.[22] Where does work fit into the divine plan? Is it no more than a necessary evil consequent upon original sin? From a study of Christian sources Fr. Rondet finds that the Christian concept of work differs from the pagan concept. For the Christian work is creative, a participation of man in the divine work. Only the pain of work is the result of original sin. A further pursuit of this theology of work would seem to be a fertile field for profitable study.

The necessity to work implies the right to work. This right in modern times will ordinarily mean the right to a job, the right to gainful employment, since such employment is the only means which many have of supporting themselves. This right obviously does not imply a corresponding obligation in justice on any particular employer. It does mean that no one may be unjustly interfered with in seeking or retaining gainful employment.

A current controversy has to do with the union-shop demand. Is it an unjust interference with the right to work? Eighteen States have already passed right-to-work laws and twelve more States are currently considering such bills.[23] They all have this in common—they outlaw the union-shop clause in labor contracts and establish the freedom of the worker regarding union membership. Such legislation seems clearly to regard the union-shop demand as unjust interference with the right to work.

These laws have been roundly condemned by William J. Kelly, O.M.I., who sees in them an attack on union security.[24] This view is supported by Leo C. Brown, S.J., who argues that the union shop can be necessary for union security.[25] The turnover of employees in some industries is so rapid

[21] "Y a-t-il un précepte divin du travail," *L'Ami du clergé* 65 (Mar. 13, 1955) 167–69.

[22] "Eléments pour une théologie du travail," *Nouvelle revue théologique* 87 (Jan., 1955) 27–48; Feb., 1955, 122–43.

[23] Benjamin L. Masse, S.J., "What's Happening to Right-to-Work Laws?" *America* 93 (May 7, 1955) 149–50.

[24] "Right to Work Laws: A Moral Study," *Machinist* 9 (Nov. 18, 1954) 4–5.

[25] "Right to Work Laws," *Social Order* 5 (Mar., 1955) 99–104.

that the union could not otherwise maintain its membership, with the consequence that it could not function effectively.

For those who maintain a moral obligation to join a labor union, the union-shop demand obviously involves no injustice. But even apart from any moral obligation to join a union, it is not clear to me that a union-shop demand would constitute unjust interference with the workingman's rights, except, perhaps, in the case of a corrupt union. If a union is securing benefits for the working man in a particular industry, I do not see why membership in the union cannot be made a condition for continuing to work in that particular industry. So it is not clear to me that the union-shop demand is unjust or consequently that right-to-work laws are necessary to protect the worker. I can understand, too, how in some areas or industries outlawing the union shop would be tantamount to outlawing the union itself.

On the other hand, granting a virtual monopoly to a union may not be altogether desirable. The union that has to go out after its members will make sure that it has something to offer them. But the union with a captive membership can readily degenerate and divert its attention to activities not directed to the welfare of the worker. My own conclusion would be that the union shop is desirable when and if it is the only means of achieving union security and effectiveness.

The subject of labor organization is also treated in an article by G. Gundlach, S.J.[26] The article gives a general view of papal doctrine on the nature and scope of labor organization. One point he brings out is worthy of note. It is a mistake to conclude that what is good for labor in one country is good everywhere. After the last war the military government, particularly the Americans, promoted the single union in Italy. This meant bringing Communists, Socialists, and Catholics into one organization. The result was chaos and the attempt failed completely but not before much damage was done. The single union worked in this country, so it was concluded that it would work in Italy, even though Italian traditions were against it.

Another much discussed question in the field of labor during the past six months has been the guaranteed annual wage. I do not think that any obligation in commutative justice could be established in regard to such a guarantee but it certainly seems to be a legitimate bargaining point for a union contract. In fact, it may fall into the category of those things which the conditions of modern society make advisable. The wage contract is meant to give the workingman a type of security and a steady income which an owner does not enjoy. It is in exchange for such benefits that the laboring

[26] "Doctrina pontificia de syndicatu operariorum," *Periodica* 44 (Mar. 15, 1955) 5–17.

man accepts the conditions of labor. But the conditions of modern industry with its periods of unemployment remove some of that security. The guaranteed annual wage will help to restore the workingman's security and make the labor contract a dependable source of income. Whether industry can carry the burden of guaranteed wages is a question which only time can answer. *Social Order* carries two timely articles on the subject, one by Francis Corrigan, S.J.,[27] the other by Joseph Becker, S.J.[28] Fr. Becker makes a very complete study of the pros and cons of GAW.

The question of paying taxes has always been a vexing one for moral theologians. What is the obligation to pay taxes? The big problem in this country concerns the income tax. The question of obligation to pay such taxes cannot be answered until it is broken down into two further questions: Is the tax law, at least the amount, just? Is there a moral or merely a penal obligation to pay just taxes? If the tax laws are unjust, no one has any obligation to pay them. If there is merely a penal obligation to pay just taxes, one will not commit a sin by not paying them. This does not mean that one is free in regard to such taxes. One cannot take the attitude toward just taxes that would be proper in regard to unjust taxes, even though the obligation to pay such taxes may be merely penal. One may defend himself against unjust taxes. But everyone agrees that no one has a right to defend himself against a just law, even though of a purely penal nature.

Philip Land, S.J., discusses the problem of evading taxes.[29] He argues that since the legislative and executive parts of our government make a prudential judgment in setting the budget, the best judgment that can be made under the circumstances, the tax law to meet the budget must be considered just. And since it is just, there is a moral obligation to pay it. Fr. Land does not accept the penal law theory. He maintains that moral obligation even in positive legislation arises "from the necessary connection of the line of conduct required by law and the achievement of the common good."

Fr. Land's arguments to show the justice of our tax laws are certainly persuasive, but I feel that he was taking on more of a burden than necessary in attacking the theory of penal law. Even if one granted the theory, he might still deny its application to tax laws. This would be difficult enough to show but not as difficult as an attempt to disprove the whole theory of penal law.

[27] "The Big GAW Debate," *Social Order* 5 (April, 1955) 155–58.

[28] "G.A.W. for Auto Workers," *Social Order* 5 (June, 1955) 255–64.

[29] "Evading Taxes," *Social Order* 5 (Mar., 1955) 121–25; "A Note on Tax Obligations," June, 1955, 276–77.

Against the theory of penal law Fr. Land appeals to the "necessary connection" between the act prescribed and the common good. This relationship involves moral obligation. I think a distinction should be made here. There is a necessary connection between an act prescribed by positive law and the common good in this sense, that the act must contribute to the common good. Otherwise the law would be unjust. But there is no necessary connection in the sense that the act must be necessary for the common good. If this were true, every obligation would be from the natural law. This would militate not only against the concept of penal law but against the whole concept of positive law obligation.

There are certainly some actions which are necessary for the common good independently of any positive legislation. But there are other actions for which no natural law obligation can be found. A clear instance in ecclesiastical legislation would be the matter of drinking water in connection with the Eucharistic fast. Previously it was a mortal sin to drink water before going to Communion. Now it is allowed. As far as the nature of things goes, there are reasons for and against drinking water before going to Communion. But none of them are such as to impose an obligation. Independently of positive legislation there would be no obligation to abstain from water before receiving Communion. The same is true in civil law. Let us suppose that the town authorities decide to build a swimming pool. They tax the citizens to defray the expenses of building the pool. Once the authorities have legislated the taxes, there is an obligation on the part of the citizens to pay them. But who would urge an obligation to contribute to such a project independently of positive legislation? The obligation in cases of this kind depends on positive legislation rather than any natural necessity for the common good.

And there are those who maintain that if it is up to the reasonable will of the legislator to impose an obligation, it is also up to him to decide what kind of obligation to impose, that is, a serious, slight, or merely penal obligation. And the arguments are such that it is difficult to deny their force.

But even granting the penal law theory, it might still be open to question whether tax laws fall into this category. There are strong arguments to show that such laws bind in virtue of legal justice. Nevertheless, a respected body of opinion maintains that the obligation in this country is merely penal. Granted this opinion, though one should certainly urge people to pay their taxes, an obligation under pain of sin or a consequent refusal of absolution would be out of place, unless perhaps a penitent refused to pay any

taxes at all. In this latter case it is difficult to see how one could avoid a violation of natural legal justice.

FIFTH COMMANDMENT

How significant is a good intention in an action which effects the loss of one's own life? L. L. McReavy comments on answers to two cases given by Arnold Lunn in a Catholic newspaper.[30] The first case concerns an injured member of a polar expedition who leaves his companions in order not to reduce their already slender chances of getting back to their base alive. For the injured member this means certain death. Lunn exonerates him from the charge of suicide because "it is the intention that counts."

Fr. McReavy agrees with the solution and observes that the reason given is correct in context but cautions against establishing it as a general rule. The caution is worth noting and emphasizing. A good intention will never justify a bad act. Neither will it justify an indifferent act with a bad effect unless the good to be achieved balances the expected damage. For instance, the intention to save a child's life would not make it permissible for a bus driver to carry a bus load of passengers over a cliff. But popular morality tends to be intentional rather than objective. It is difficult, for instance, for the popular mind to arrive at a correct solution of the second case presented to Lunn for solution. The case concerns an agent in enemy territory who takes a lethal dose of poison to avoid being tortured into giving information to the enemy. Lunn correctly classifies it as suicide. The popular mind would tend to consider it an act of heroic self-sacrifice.

Curiously enough, Lunn holds out the mercy of God to such a person, and apparently, even though subjectively guilty. If the agent were subjectively guilty and remained impenitent to the end, there would clearly be no place for divine mercy. But in many instances subjective guilt would be mitigated or completely absent because of a lack of deliberation or even invincible ignorance on the part of the victim.

In connection with suicide, an article in the *American Sociological Review* carries some revealing statistics on suicides attempted or committed in the Seattle area over a period of four years.[31] Statistics showed that there were 64.3 suicides (per 100,000) among divorced persons and only 19.5 among the married. There were 110.7 attempted suicides among divorced persons and 47.9 among married persons. The number of completed and attempted suicides was just about the same for men and women but the men were more

[30] *Clergy Review* 40 (Mar., 1955) 170–74.

[31] C. F. Schmid and M. D. Van Arsdol, Jr., "Completed and Attempted Suicides," *American Sociological Review* 20 (June, 1955) 273–83.

successful. Figures of this kind seem to indicate that the trials of married life are not as fatal as the attempt to escape them.

The obligation to use extraordinary means to preserve life is the subject of an article by John C. Ford, S.J.[32] Must blood transfusions be considered ordinary means with the consequence that refusal to allow them by Jehovah's Witnesses must be classified as objectively wrong? Most theologians would consider blood transfusions an ordinary means, at least in cities where blood is easily available. But is a blood transfusion an ordinary means for a person who is convinced on religious grounds that such a transfusion is an offense against the law of God? Fr. Ford maintains that the person's mistaken frame of mind makes the transfusion for him an extraordinary means. And since it would be an extraordinary means for the patient, the doctor would not be obliged to give it to him.

Fr. Ford argues that the same cannot be said for children. For them the transfusion must be considered an ordinary means. The objections of parents, however, will often be an excusing cause for the doctor unless a court order gives him protection. He also holds that the state would be exceeding its authority in forcing a transfusion on an adult. But it would be within its rights in demanding it for a child even against the wishes of the parents. The child has a certain right to life whatever the erroneous beliefs of the parents.

I think everyone will agree with Fr. Ford that a sincere Jehovah's Witness is not subjectively guilty of wrongdoing in refusing a transfusion. But I prefer a second explanation offered by him to support his conclusion. I would rather consider the transfusion an ordinary means and excuse the patient on the basis of invincible ignorance. The Witness does not regard the transfusion as an extraordinary means, that is, one which he may use but is not obliged to use. He regards it as an illicit means which he may not use at all. Even if the Witness regarded it as an extraordinary means, I would not like to admit that his mistaken frame of mind actually makes it such. Although good moralists allow it, I am reluctant to let the distinction between ordinary and extraordinary means rest on subjective dispositions, especially on an erroneous conscience. I would rather say that such people are not responsible either because of overwhelming emotions or because of an erroneous conscience.

The morality of giving blood to another finds no dissenting voice among moralists. Indeed, it is so taken for granted that, as mentioned above, a transfusion is considered an ordinary, and therefore an obligatory, means

[32] "The Refusal of Blood Transfusions by Jehovah's Witnesses," *Linacre Quarterly* 22 (Feb., 1955) 3–10; May, 1955, 41–50.

of preserving life and health. Under certain circumstances, therefore, one might even be obliged in charity to donate blood to another. The same agreement among moralists does not extend to donating a member or an organ to another. There are those who hold that, far from being an ordinary or even an extraordinary means to preserve life, an organic transplantation from a live donor is an illicit means. This subject of organic transplantation has received much attention in recent issues of European clerical journals. The discussion received its impetus from an article by A. Bongiovanni in *Perfice munus*.[33]

Fr. Bongiovanni allows organic transplantation where it will not deprive the donor of the function involved, that is, where the organ is bilateral. Permitting such transplantations also are J. Geraud,[34] if the operation involves no risk and there is a proportionately grave reason; A. Gennaro,[35] if it does not involve loss of the function to the donor; and L. Babbini with the same qualification.[36] Opposed to it are T. Goffi,[37] L. Bender,[38] and G. Borg.[39] The subject is also thoroughly discussed in a book by Julian Pareda, S.J., but he concludes his study without declaring himself for either opinion.[40]

The secular press for the past few years has been carrying reports of so-called changes of sex. M. Campo, S.J., takes up the subject briefly in *Sal terrae* but unfortunately does no more than lay down the general principles governing mutilation and then goes on to discuss two problems arising from a spontaneous sex change mentioned by Lugo.[41] The one concerns a priest, the other a married person, whose sex changed spontaneously. Lugo argues that the priest would retain the sacerdotal character but would not be able to exercise orders validly. He maintains also that a marriage in which one of the parties changed sex would be dissolved.

Such cases are, of course, purely speculative. To my knowledge no spon-

[33] "Del trapianto d'un membro," *Perfice munus* 29 (Dec., 1954) 696–702.

[34] "Peut-on donner un oeil pour soigner un aveugle?" *L'Ami du clergé* 65 (Mar. 13, 1955) 167.

[35] "De mutilazione," *Perfice munus* 30 (Apr., 1955) 208.

[36] "Moralitá del trapianto di un organo pari," *Palestra del clero* 34 (Apr. 15, 1955) 359–61.

[37] "Moralitá del trapianto di un membro umano," *Palestra del clero* 34 (May 15, 1955) 469–70.

[38] "Il trapianto d'un membro dal punto di vista morale," *Perfice munus* 30 (Apr., 1955) 209–14.

[39] "Del trapianto d'un membro," *Perfice munus* 30 (Mar., 1955) 164–67.

[40] Cf. M. Campo, S.J., "La mutilación y el transplante de organos," *Sal terrae* 43 (Mar., 1955) 145–47.

[41] "Cambio de sexo," *Sal terrae* 43 (Jan., 1955) 31–32; "Cambio de sexo, algunos problemas morales," May, 1955, 284–87.

taneous change of sex has ever occurred nor has any such change been effected medically or surgically. Sex depends fundamentally on the nature of the gonads, that is, whether they contain ovarian or testicular tissue. Changing sex would involve removing the gonads of one sex and replacing them with those of the opposite sex. I have never heard that this has ever been attempted. Obviously, such an attempt, even if it were surgically feasible, would be morally inadmissible.

But the expression "to change sex" has been used somewhat loosely of certain medical and surgical procedures aimed at removing or altering sex organs and/or changing sex characteristics. In such procedures, however, no real change of sex takes place. The liceity of such procedures will depend on the nature of the case. If the proper precautions were taken to avoid error, there would be no moral objection to an attempt to determine the dominant sex of an hermaphrodite (an individual with gonadal tissue of both sexes) and a consequent removal of the gonadal tissue of the opposite sex. Neither would there be any objection to an attempt to correct the sex of a pseudo-hermaphrodite (an individual with gonadal tissue of one sex but with other genitalia or secondary characteristics to varying degrees of the opposite sex) by suppressing the secondary characteristics of the opposite sex and reconstructing the other genitalia to correspond with the sex of the gonads. Such procedures would involve nothing more than a return to normalcy and as such would be morally unobjectionable.

But it would be certainly illicit to tamper with the sexual organs of a physiologically normal individual to adjust them to a psychological abnormality such as transvestism or homosexuality. Such surgery or treatment, besides being contrary to nature, would lead either the individual himself or others into error regarding his true sex. And even if the intention of such a person were presumed good, it would increase the danger of unnatural vice and invalid marriage unions.

At least one of the cases reported in the secular press concerned a physiologically normal individual who insisted that he was a female who had been given a male body by accident.[42] The *Journal* of the American Medical Association carries a study of the psychological factors prevailing in such men seeking sex transformation.[43] The article deals only with individuals who are physiologically normal males but who claim they are psychologically female. The existence of such individuals opens up the whole question of

[42] Cf. *Journal of the American Medical Association* 153 (May 30, 1953) 391.

[43] F. G. Worden, M.D., and J. T. Marsh, Ph.D., "Psychological Factors in Men Seeking Sex Transformation," *Journal of the American Medical Association* 157 (Apr. 9, 1955) 1292–98.

how individuals get their sense of being male or female. It seems that it is not just a function of a biological, endocrine, or other factor but a complex biological and psychological process involving a tremendous amount of learning in the early years.

The authors of the article found that the patients they studied, though they wanted to be female, had only a very superficial concept of what a woman is. Their conclusion was that the psychological problems of such patients do not refer merely to sex but pervade the whole personality. It would be unlikely therefore that they could be solved by tampering with the sex organs. The study seems to indicate, then, that such tampering, besides being immoral, is also futile.

Another problem connected with sex is that of sterilization. Aidan Carr, O.F.M.Conv., discusses a Maryland court case where sterilization of a mentally deranged woman was ordered by the judge.[44] Since Maryland has no sterilization law, the judge took advantage of a provision that the court should have full power to take care of persons *non compotes mentis*. Sterilization was considered a fulfillment of the court's duties of caring for such a person. Fr. Carr also cites an article in *Time* which revealed "an alarming growth among American men in some areas, especially in the midwest, of vasectomy." He feels that both of these items indicate a growing trend toward legal and social acceptance of sterilization.

The Maryland court case is certainly regrettable but I am afraid it is a little late to speak of legalized sterilization as a new threat when twenty-eight states already have sterilization laws. On the other hand, I find it hard to believe that sterilization will ever become very acceptable to males. The male of the species is normally reluctant to have its masculinity tampered with, even to the extent of vasectomy. Moreover, I am given to understand that good urologists are usually reluctant to perform contraceptive vasectomies. Besides the legal liability connected with such surgery, there are the post-operative complaints of a psychological nature ranging from impotency to abdominal pains which bring many of these individuals back to the doctor's office with a request to reverse the procedure.

Contraceptive sterilization is much more acceptable to women than to men. It is, of course, just as illicit for women and without exception. But wherever another pregnancy would be dangerous, a large sector of the medical profession would consider sterilization medically indicated. Up to the present time even multiparity has been considered an indication for sterilization. In a report on 1830 cases of tubal sterilization by Harry

[44] "Sterilization: New Threat to the Natural Law," *Homiletic and Pastoral Review* 55 (Mar., 1955) 467–70.

Prystowsky, M.D., and N. J. Eastman, M.D., it was discovered that the highest number (33.3%) were indicated by multiparity alone.[45] The number of 8 children was used as a norm because maternal mortality was thought to rise sharply after the eighth child. But while the report reveals a situation in the medical world which is deplorable from a moral standpoint, it presents a conclusion which is quite gratifying. The study showed that the hazards of the sterilizing procedure were such that they approximated those imposed by undisturbed fertility and that sterilization because of multiparity alone cannot be justified on medical grounds.

As is true generally in dealing with moral problems, the morality of some cases of sterilization can be clearly discerned. Other cases are open to discussion, and in such cases it frequently happens that solid arguments can be advanced to support opposite opinions. All moralists would agree, for instance, that it is wrong to sterilize a woman whose heart condition makes it dangerous to have another pregnancy. This is obviously a direct sterilization. Moralists in general would agree also that it would be permitted to remove a cancerous uterus. This would clearly be classified as a licit indirect sterilization. In the first case the threat to the woman's life is from another pregnancy. In the second it is from the uterus itself. But what of the case where there is a pathological condition in the uterus itself which, however, will constitute a threat only in case of pregnancy. This case falls somewhere in between the two cases mentioned above. It is verified in the scarred uterus which has been so weakened by previous caesareans that it cannot carry another pregnancy. In a recent book on medical ethics Jules Paquin, S.J., allows a hysterectomy in this case.[46] In so doing he is following Gerald Kelly, S.J., and John C. Ford, S.J., who also allow the removal of a badly scarred uterus.[47] Regatillo-Zalba would seem to allow it, though they feel that the opposite opinion is more probable.[48] Entirely opposed to it is Edwin F. Healy, S.J., who argues that the opinion allowing hysterectomy in this case has no intrinsic probability.[49]

I am in favor of the opinion which allows a hysterectomy in this case. It seems clear to me that a uterus which is so damaged that it cannot function

[45] "Puerperal Tubal Sterilization," *Journal of the American Medical Association* 159 (June 11, 1955) 463–68.

[46] Jules Paquin, S.J., *Morale et médicine* (Montreal: Comité des Hôpitaux de Québec, 1955) p. 261.

[47] "Notes on Moral Theology," THEOLOGICAL STUDIES 15 (Mar., 1954) 71.

[48] E. F. Regatillo, S.J., and M. Zalba, S.J., *Theologiae moralis summa* 2 (Madrid: Biblioteca de Autores Cristianos, 1953) 265; cf. also *Sal terrae* 42 (July, 1954) 364–66.

[49] *Quaestio hodierna de mutilatione*, Analecta Gregoriana, Series Facultatis Theologicae, 68 (1954) 437–40.

adequately must be considered in a serious pathological condition. And the pathology is just as real in the non-gravid as in the gravid uterus, though it is true that the danger of death accompanies only the latter.

I do not see, first of all, why a hysterectomy in this case must be considered a direct sterilization. To my mind it is no more directed at preventing a pregnancy than the removal of a gravid uterus about to rupture is directed at removing a pregnancy. The reason that justifies both is the pathological condition of the organ. It is true that danger of death is present in the case of the gravid uterus. But this is required to provide a sufficient reason to balance the loss of the fetus. Why should it be demanded where there is no fetus in the balance? Moreover, even if it were demanded and lacking, the subsequent sterilization would not necessarily be direct. The operation would be illicit, but because of a lack of sufficient reason, not because it constituted direct sterilization. But to my mind there is sufficient reason in a pathological condition which so incapacitates the faculty that it is not adequate to its primary function.

To clarify, let us suppose that some other organ, e.g., an appendix or a gall bladder, was not functioning but would cause no danger to the patient unless she became pregnant. Would anyone demand that she retain the organ or maintain that there would be no sufficient reason for removing it until it actually brought on the danger? I think everyone would agree that it would be advisable, perhaps even obligatory, to have the organ removed before the danger occurred. Nor would anyone suggest abstinence as a necessary alternative. Now the fact that the organ in question is the uterus itself does not to my mind change the nature of the case. It is an organ which is incapacitated. It is an organ which will not cause danger except in case of pregnancy. And the alternative is abstinence. I do not see why the solution to the case should not be the same. The fact that removing the organ results in sterility is to my mind incidental.

SOME PRECEPTS

The problem of supporting functions in aid of Protestant churches comes up frequently in this country. J. McCarthy discusses a case concerned with such support in Ireland.[50] The case has to do with joining what is known as a silver circle. Each subscriber pays a shilling a week and participates in a weekly drawing of prizes. The purpose of the circle is to provide funds for the maintenance of a Protestant church.

Fr. McCarthy concludes that the cooperation in this case is material and remote. As a rule for such cooperation he proposes that "Catholics may

[50] *Irish Ecclesiastical Record* 83 (Apr., 1955) 279–82.

lawfully cooperate in these functions where failure to do so would upset the harmonious relations and mutual good will which exist in the community." A rule like this should not be overlooked. Harmony in a community can at times be disturbed by too strict an approach to such cooperation. And frequently it is the Church that suffers in the long run.

J. Geraud in *L'Ami du clergé* takes up the question of servile work.[51] He makes some rather significant observations on the nature of the law. Its purpose is to provide the proper atmosphere for the religious observance of Sunday. The repose is a means, not an end. The purpose of the law does not change over the centuries but the means of achieving it have changed in the past and will continue to change in relation to social changes. Priests and moralists should neither promote nor inhibit this change. They will merely direct it in such a way that the purpose of the law will be achieved. Custom will play an important part in bringing about this adjustment to social change.

The importance of adjusting the Sunday observance to social changes is something which I think needs to be stressed today. My own view, which is certainly not original, is that Sunday observance excludes in general what would make Sunday just another day of the week. In modern times this means chiefly the work of making a living. I think that this work of making a living is the modern equivalent of servile work. It is the daily struggle for survival, or perhaps the daily pursuit of the good life, that absorbs a man's interest and, if uninterrupted, distracts him completely from ultimates. It is this preoccupation which to my mind the Sunday rest is meant to interrupt. Consequently, in modern times it does not seem that what a man does is as important in determining his Sunday obligation as why he does it. I do not see why what is done for recreation or exercise, even though it might coincide with a speculative concept of servile work, should be forbidden any more than games or calisthenics. As long as it does not represent continued preoccupation with the work of making a living, I do not think it should be considered servile work today. Scholastic endeavors to achieve a philosophical concept of servile work have actually arrested the development of a notion which, as Fr. Geraud says, should adjust itself to social changes.

In practice, I think the best approach to take to the Sunday observance today is to make sure that what is done, unless it can be classified as intellectual or artistic work, does not represent a continuation of the week's pursuit of a livelihood. Once that is determined, the important element to

[51] *L'Ami du clergé* 65 (Mar. 13, 1955) 169.

be considered is that of scandal. The lack of scandal in the ordinary community will be a practical indication of a customary practice.

The laws of fast and abstinence give rise to many practical cases. J. J. Danagher, C.M., considers the case of a person who omits either breakfast or lunch, takes his full meal in the evening and then a late snack at a party.[52] While recommending that such a person take his full meal at noon and delay his evening collation, he allows the above arrangement if there is some reason for it. The fact that one is going out in the evening and expects to be served a light snack is accepted as a sufficient reason. I think that moralists would agree with this solution, with the provision, of course, that scandal be avoided.

SACRAMENTS

A priest may not baptize an infant unless there is reasonable hope that the child will be raised Catholic. J. Marbach is asked about baptizing the child of Catholic parents living in civil union who refuse to have their marriage regularized.[53] May the pastor refuse baptism on the score of their marriage status? Fr. Marbach answers that as long as they promise to raise the child as a Catholic and their promise seems sincere the pastor should baptize the child. But since the occasion of baptism frequently offers an opportunity to regularize such marriages, he suggests that a question be put to parents about their marital status almost as one of the routine questions asked at baptism.

The insertion of parents' names in the baptismal register offers a problem in some cases. W. Conway discusses a case in which a child was born to a woman four and a half months after marriage.[54] The husband denies paternity and refuses to have his name inserted in the baptismal register. The pastor accedes to his wishes. Fr. Conway points out that the pastor acted correctly. There is a presumption of paternity only if the birth occurs more than six months after marriage or less than ten months after separation, e.g., by death. Before six months, therefore, the word of the husband suffices. After that time he would have to prove non-paternity; his word would not suffice.

What about adopted children? Is it permissible to insert the names of the adoptive parents in the register? L. L. McReavy answers that if the adopted child is presented for baptism the names of the true parents should be

[52] *Homiletic and Pastoral Review* 55 (June, 1955) 792–96.
[53] *Priest* 11 (Mar., 1955) 224–25.
[54] *Irish Ecclesiastical Record* 83 (June, 1955) 450–52.

inserted in the register.[55] If the name of the true parent or parents is not known, the child must be registered as "filius patris ignoti" or "parentum ignotorum." But the names of the adoptive parents should be added in a marginal note. If it is vouched for, the legitimacy of the child should also be noted. If the child is adopted after baptism, the register may not be altered regarding the child's parentage but its new name and that of the adoptive parents should be added. Fr. McReavy goes on to say that at times an excerpt from the register will suffice for a baptismal certificate. When this is allowed, the illegitimacy or real parentage of the child may be concealed. The frequency of adoption during recent years makes this information very practical.

Is there a valid sacrifice where there is only one valid consecration? A. Michel denies the validity of such a Mass.[56] This is the common opinion. But there are some authors who allow the validity of the sacrifice in such a case. The practical question concerns the Mass said for a stipend intention. Has the priest fulfilled his obligation? Michel answers no. Regatillo and others, relying on the opinion which allows the validity of such a sacrifice, would urge the priest to say another Mass but would not feel justified in obliging him to do so.

Walter J. Schmitz, S.S., considers the obligation to have a server for Mass.[57] After listing the four cases mentioned in the Instruction of the Sacred Congregation of the Sacraments in which a priest without an indult would be allowed to say Mass without a server, he concludes that the priest's private devotion would not be sufficient. In an article published a few years back, Gerald Kelly, S.J., after a study of the same Instruction, concluded that the Mass *devotionis causa* could be allowed if the priest's devotion were such that omitting the Mass would be a serious inconvenience to him.[58] This would be true of the priest who says Mass every day, even when it involves considerable inconvenience. It would not be true of the priest who would omit Mass on the slightest pretext.

The pastor has the obligation of seeing that children do not receive their first Communion before they are properly disposed or prepared. What about children who do not go to Mass? L. L. McReavy feels that no general answer can be given to this question.[59] The only grounds on which they

[55] *Clergy Review* 40 (Apr., 1955) 230–33. See also Msgr. E. Robert Arthur, "Baptismal Certificates for Adopted Children," *Jurist* 13 (1953) 57–79.

[56] *L'Ami du clergé* 65 (Jan. 13, 1955) 23–24; Apr. 14, 1955, 230–33.

[57] *American Ecclesiastical Review* 132 (Feb., 1955) 121.

[58] "Mass without a Server," THEOLOGICAL STUDIES 11 (1950) 577–83.

[59] *Clergy Review* 40 (May, 1955) 287–90.

might be excluded would be a lack of the *gustus* necessary or the required dispositions. In this connection it might be well to remember that failure to attend Mass on Sunday is frequently the parents' rather than the child's fault.

Fr. McReavy also takes up the question of going to Communion in fixed order.[60] The case concerns a boarding school where the local superior wishes to introduce the custom of going to Communion row by row. It is to be understood, of course, that no boy need communicate on any particular morning unless he wants to do so. Fr. McReavy answers that, unless the superior has received some directive from the Ordinary, it is up to his or her prudence to make the decision.

A custom of this kind would create a problem especially where the reception of Communion, though not of obligation, is practically unanimous. If a substantial portion of the community is not receiving, there may be little or no embarrassment in abstaining even though the communicants leave the pews row by row. But as the reception of Communion becomes more universal, the danger of embarrassment increases. Although one likes to see an orderly approach to the altar rail, there is a point where such order becomes a serious handicap to the person who for one reason or another must abstain. Even without such order, where everyone else is receiving it is difficult to remain anonymous, especially in a small community. A fixed order adds to the difficulty. It seems to me that one who is promoting daily Communion should be willing to sacrifice a certain amount of order to protect the anonymity of those who abstain. Needless to say, the greater the danger of embarrassment in abstaining, the more urgent the recommendation of the Sacred Congregation of Sacraments to have a confessor easily accessible at Mass time.[61]

May one offer his Communion for others? This question comes up in connection with religious institutes and other pious organizations whose members are obliged to offer Masses and Communions for specified intentions. J. McCarthy responds that the Communion itself may not be offered for others.[62] Like food for the body, Communion can benefit only the one who receives it. But the act of receiving Holy Communion is an act of supreme worship and like other supernatural acts has value *ex opere operantis*. This value, whether it be meritorious, impetratory, or satisfactory, may be offered for others. It is only to this value that the obligation from rule extends.

[60] *Clergy Review* 40 (May, 1955) 290–91.
[61] Cf. T. L. Bouscaren, S.J., *Canon Law Digest* 2, 213.
[62] *Irish Ecclesiastical Record* 83 (Mar., 1955) 201–64.

The recent legislation on the Eucharistic fast still occupies the attention of moralists and canonists in clerical periodicals. John J. Reed, S.J., has written a very scholarly article dealing with select questions pertaining to the legislation.[63] Father Reed argues that the wording of the Constitution excludes an extensive but not a broad interpretation of the norms. An extensive interpretation would go beyond the meaning of the words. The broad interpretation stays within the proper meaning of the words but includes the fullest significance of such wording.

He argues also that the fulfillment of the objective condition suffices not only for the priest in special circumstances but also for the non-priest. A personal inconvenience, therefore, is not required to qualify for the dispensation.[64] He goes on to defend the position that the confessor need not give his advice personally but may do so by mail, telephone, or through a third party. In his opinion a person who cannot consult a confessor may go to Communion provided he is certain that he has fulfilled the conditions for the dispensation and missing Communion would involve some special though not necessarily serious inconvenience. These are just a few of the questions Fr. Reed discusses. His conclusions can safely be reduced to practice.

Would a priest be allowed to bring Communion to the sick on the occasion of an evening Mass? J. Marbach[65] and Msgr. James Madden[66] both argue that the priest may not do so. They allow it only in the case where the sick person has fasted from solids, except medicine, from the previous midnight or where he is receiving in the form of Viaticum. Francis J. Connell, C.SS.R., takes the same position in regard to the faithful where an evening Mass, though permitted, was not celebrated.[67] If they fasted from solids from the previous midnight, he would allow them to communicate. He also allows the use of epikeia in a case where the people are already congregated in the church and the Mass for some reason has been cancelled. Otherwise, the priest may not give them Communion in the evening.

[63] "Select Questions on the Eucharistic Fast," THEOLOGICAL STUDIES 16 (Mar., 1955) 30–76.

[64] His Eminence Cardinal Pizzardo, Secretary of the Holy Office, in a response to the Bishop of Faenza dated January 28, 1953, affirmed the obligation of a priest to fast in two cases presented by the Bishop to the Holy Office. Both cases concerned a priest in special circumstances who fulfilled the objective condition but suffered no personal inconvenience (*Palestra del clero* 34 [Jan. 1, 1955] 27). A private response, of course, does not destroy a probable opinion but it does give an indication of the current mind of the Holy Office on the matter involved.

[65] *Priest* 11 (June, 1955) 488–89.

[66] *Australasian Catholic Record* 33 (Apr., 1955) 134–35.

[67] *American Ecclesiastical Review* 132 (Jan., 1955) 46.

The question of generic confession in connection with daily confession of devotion is treated by J. Geraud.[68] He argues that generic confession is doubtfully valid outside a case of necessity; hence it may not be used for daily confessions of devotion. I think all moralists would agree that generic confessions of devotion should be discouraged, but as far as validity is concerned Gerald Kelly, S.J., after a careful study of the whole question, came to the following conclusion:

> The generic confession of devotion is, in itself, sufficient for valid absolution. The authorities for this view are many and eminent; and their argumentation is logical and convincing. Since the negative side has but few defenders, whose objections can be satisfactorily answered, it cannot be said to cast a solidly probable doubt on the arguments for validity.[69]

Evidently, Fr. Geraud is following the opinions of a very small minority. If one allows a minority opinion of such weak stature to destroy certitude in moral matters, it will be limited to those rare instances in which opinion is unanimous.

Faculties granted in the Code for hearing confessions on board ship were extended some years back to air travel. The priest travelling by plane gets these faculties automatically provided that he has faculties from his own Bishop, etc., according to c. 883, 1. The question arises, what if his faculties lapsed on leaving his diocese? W. Conway maintains that as long as he had faculties before he left the diocese, he qualifies for the Code faculties.[70] J. J. Danagher, C.M., seems to feel that the priest must actually have faculties when he boards the ship or plane in order to qualify for the Code faculties.[71] Fr. Danagher's opinion is certainly the safer of the two but I think that Fr. Conway's view is sufficiently solid to qualify at least for the jurisdiction supplied in probable and positive doubt (c. 209).

Strangely enough, there is a lot of confusion among the laity regarding the resumption of married life by those who have obtained a civil divorce. Msgr. James Madden reviews the principles involved in such cases.[72] The civil divorce in no way affects the marriage bond. Consequently, there is no reason in ecclesiastical legislation why divorced persons may not resume normal married life. In fact, if they are separated without sufficient reason,

[68] *L'Ami du clergé* 65 (Mar. 13, 1955) 169–70.

[69] "The Generic Confession of Devotion," THEOLOGICAL STUDIES 6 (1945) 373.

[70] *Irish Ecclesiastical Record* 83 (June, 1955) 452–54.

[71] "Confessions at Sea and in the Air," *Homiletic and Pastoral Review* 55 (May, 1955) 650–55; June, 1955, 740–47.

[72] *Australasian Catholic Record* 32 (Jan., 1955) 38–40.

they not only may but ordinarily should resume their married status. But to avoid any scandal of the weak, especially among non-Catholics, arising from their civil law status, he recommends that the two parties renew their consent formally. And, of course, if a second marriage has been attempted, the charge of bigamy will have to be guarded against by obtaining a civil divorce from the second party.

CHASTITY AND MARRIAGE

The ordinary prelude to modern marriage is company-keeping or so-called "going steady." When this practice is engaged in by those who have hopes of getting married within a reasonable period of time it is not only unobjectionable but highly desirable. It offers prospective partners the opportunity to foster mutual love and affection as well as the occasion to adjust to each other's personality. It thus gives them the necessary experience to make a prudential judgment regarding their ability to live together in harmony. But when "going steady" is engaged in by adolescents who because of their youth have no prospects of getting married, besides being premature and devoid of any intelligent purpose, it also constitutes a danger to chastity if continued over any period of time.

In an article on the subject which appeared in the *American Ecclesiastical Review*, Francis J. Connell, C.SS.R., asserts that the practice of "going steady" among youths with no prospects of marriage is sinful.[73] He agrees with Aertnys-Damen that it is generally a proximate occasion of sin. He also maintains that even where there has been no sin in the past and no danger of sin in the future, it is still a remote occasion of sin and therefore venially sinful. Briefly, then, according to Fr. Connell, "going steady" is always sinful; generally a mortal sin; sometimes only venial.

In this opinion Fr. Connell is following the judgment of European moralists. These moralists are certainly respected in their field but on this particular subject I think it is somewhat risky to rely too much on the opinions of moralists living in a different social milieu. Occasions of sin will often vary according to time and place. Let me illustrate by an example. St. Alphonsus, a moralist of the eighteenth century, proposes the question of premarital visits by those who intend to marry.[74] Roncaglia, another moralist of the period, allowed such visits arguing that no one should be obliged to marry an unknown person. St. Alphonsus, while admitting the cogency of his argument, says that in practice he would not allow such

[73] "Juvenile Courtships," *American Ecclesiastical Review* 132 (Mar., 1955) 181–90.
[74] *Theologia moralis* (Gaudé edition) 6, n. 452.

couples to visit each other more than once or twice. This conclusion is based on practical experience.

I think everyone would admit that this would be a very severe norm to set down in this day and country. It would be a mistake, though, to conclude that St. Alphonsus did not know what he was talking about. But what may have been true in his day is not necessarily true today. Similarly, what is true of European society is not necessarily true of our own. What European moralists say about "going steady" does not therefore necessarily apply to this country. Anyone who has spent some time in Europe will know that there is an entirely different attitude toward social mingling of the sexes in adolescence. It is not that human nature differs from place to place but rather that, as in the matter of dress, custom frequently reduces danger.

I would hesitate to label the practice itself as sinful. I think that it can be dangerous and should be discouraged but I would prefer to settle the question of sin on an individual basis. To my mind there are several good reasons for this position. First of all, the term "going steady" is often used in a broad sense, as Fr. Connell admits, and not in the restricted sense which he condemns. For youngsters who ordinarily do not make distinctions, labeling "going steady" as sinful could easily result in false consciences. Secondly, to be a proximate occasion of sin, the practice would have to result in frequent sin for those who engage in it. I am not prepared to say that this is generally the case for the Catholic boy or girl of ordinary virtue. As for the rest, I am not sure that the virtue of purity comes off any worse in steady company-keeping than in individual dating. Also, as for those cases where it must be considered only a remote occasion of sin, there are enough moralists who say that one can ignore a remote occasion of sin to make it risky to call the practice venially sinful. Finally, I think that we moralists at times think that we have solved a problem whenever we can label something sinful. This somewhat false security tends to make us neglect motivation which might be much more effective. There are many reasons against going steady which might be very effective with youth but which we tend to overlook or ignore just as soon as the practice can be labeled sinful. Even if one agrees with Fr. Connell's thesis, I think it would be wise to put the stress elsewhere.

Another problem of chastity which harasses youth is that of solitary sin. In a series of two articles in the *Priest* Robert P. Odenwald, M.D., treats the whole problem very thoroughly from the viewpoint of a psychiatrist.[75] Confessors and spiritual guides dealing with youth will find the articles profitable reading. A few points deserve special mention.

[75] "The Problem of Masturbation," *Priest* 11 (Jan., 1955) 28–32; Feb., 1955, 126–32.

Masturbation among very young children (three years old) should not be a cause for panic among parents. There is obviously no moral guilt in such masturbation. So anything like severe punishment or dire threats is completely out of place. Such measures and accompanying displays of emotion will only serve to make an unhealthy impression on the child and may well cause trouble later on. But the practice is not something which parents should allow to continue. They should gently but firmly wean the child away from the habit. Another point the author makes is that masturbation does not necessarily indicate any abnormality. Most cases can be handled as a moral problem. The aid of a psychiatrist will be needed only where masturbation is compulsive, an escape from depression or an indication of autoerotic fixation. A final point he makes is that every case should be handled individually. There are no master formulas to be applied to masturbators in general.

The goal of the priest in the confessional and in youth counseling is to help the youngster overcome the habit. A fatalistic attitude, or a laissez-faire attitude based on some idle hope of an automatic cure, is not only morally but also psychologically unfounded. The confessor must guard against the temptation to take the attitude that the all-important thing is to keep such youngsters coming to the sacraments. A confessor can be deceived by this attitude into maintaining a discreet silence for fear of alienating them. The sacraments are undoubtedly important in solving the problem of masturbation but the sacraments do not ordinarily work miracles. These silences will allow a habit to become more deeply rooted in spite of frequent reception of the sacraments. A kindly word of advice, on the other hand, may be the external grace needed to inspire the penitent to profit by the sacrament and overcome the habit.

I sometimes think that in counseling on this matter too much time is spent on means and too little on motivation. If the penitent really wants to be pure, the problem of means will ordinarily be a simple one. The important thing is this will to be pure. I do not think we can presume that the penitent has this will merely from the fact that he comes to confession. We can presume that he has the dispositions necessary to receive the sacrament, but such dispositions are often enough not sufficient to cure the habit. In order to insure efficacious dispositions the confessor must suggest, or at least activate, motives which up to now have not exercised their full influence on the penitent.

Homosexuality is another problem of sex which the confessor must be prepared to deal with. It is not at all as common, of course, as solitary sin. Nor do all homosexual acts indicate a psychosexual deviation. Some have

their origin in a lack of opportunity to contact the normal object of the sex appetite. There is moral disorder here but not psychological disorder. The psychological disorder will manifest itself either in indifference to the sex of a partner or an exclusive preference for the same sex. The former would more properly be classified as bisexualism.

John F. Harvey, O.S.F.S., in an article in THEOLOGICAL STUDIES takes up the pastoral treatment of homosexuals.[76] The important point in dealing with this subject is to separate the moral problem from the psychological problem. The priest will deal chiefly with the moral problem. Here again there is no place for fatalism, but as Fr. Harvey points out, the confessor may often have to battle with a certain fatalism on the part of such penitents. I have heard that they are often the victims of an insidious kind of indoctrination. They are told that nature has done them an injustice, that it is not just that they should be deprived of sexual activity, and that therefore it is permissible for them to indulge in the only kind of such activity available to them, namely, homosexuality. The confessor will not get far toward a cure until he can overcome this attitude.

The psychological problem will demand the attention of a psychiatrist. But whether the sex appetite can be restored to its proper object is questionable. Psychiatrists are usually pessimistic on this subject. Not every means, of course, which might suggest itself to a psychiatrist to correct this instinct will be morally permissible. But if it can be restored to its normal object the problem of the confessor will be largely solved. If it cannot be restored, though the prospect may be staggering to such an individual, perpetual chastity is the only alternative. But it can be done and actually offers the only genuine happiness open to the invert. As Fr. Harvey correctly points out, marriage is no cure for homosexuality. In fact, it may only drive the homosexual further along the path of deviation.

The question might come up, what about a vocation in such cases? Certainly, if there have been lapses, a vocation is either out of the question or should not be considered until a very long trial gives clear proof of control. But if the homosexuality has been latent, that is, if there have been no lapses, and the person is otherwise normal, I do not see why it should be an impediment to a vocation. It seems a little incongruous to demand an attraction for the opposite sex as a requisite for a life of celibacy. But a confessor must exercise great prudence and caution in advising such a person aspiring to a vocation.

[76] "Homosexuality as a Pastoral Problem," THEOLOGICAL STUDIES 16 (Mar., 1955) 86–108.

Confessors will sometimes be confronted with a married person who finds marital relations repugnant and consequently refuses them. A. Boschi presents the case of a married couple with two children.[77] The wife is finding the marriage act more and more repulsive and is beginning to refuse her husband the *debitum*. Though both are very religious persons, the resulting friction is ruining the marriage. What is the confessor to do with such a case?

Fr. Boschi advises the confessor that he cannot allow a situation like this to continue. Since the wife is a very religious woman, the confessor should appeal to her spirit of self-sacrifice. She should be willing to make a sacrifice for the sake of her husband and children. But he wisely cautions prudence and patience both because of the delicacy of the subject and the possibility of some pathological condition. In cases of this kind the confessor cannot always be sure that the party is subjectively guilty of grave sin. Hence he must be very careful about refusing absolution even if the penitent should refuse to change her course of action.

It is because it goes against the nature of the instinct that repugnance to marital intercourse is suspect of some pathology. A much more common problem, and less suspect of pathology, is difficulty in controlling the sex appetite in circumstances where for some reason a pregnancy should be avoided. The only licit means for avoiding a pregnancy are total abstinence or the use of the rhythm theory. Since total abstinence ordinarily puts too much of a burden on married couples, they take refuge in periodic continence.

But the use of rhythm demands some sufficient reason. Otherwise, a couple who make use of the marriage right are obliged to contribute their share to the propagation of the human race. J. Marbach states that such a reason is present in almost every case.[78] As he says: ". . . there is always the good reason of staying out of sin." His argument seems to be that rhythm keeps them from practicing artificial birth control. It is therefore licit.

I do not think that this is a valid argument. The morality of rhythm depends on whether or not one has a sufficient reason for avoiding children, not on what he or she would do if they did not practice rhythm. If the couple has no sufficient reason for avoiding children, they will be guilty of sin in practicing rhythm as well as in practicing artificial birth control. The practice of rhythm is certainly a *minus malum* but it is still wrong. If in a situation where a couple did not have sufficient reason for avoiding children the confessor saw that they would resort to artificial birth control, he could

[77] "Ripugnanza ai doveri coniugali," *Perfice munus* 30 (Jan., 1955) 23–26.

[78] *Priest* 11 (June, 1955) 486–88.

counsel the use of the rhythm only as a *minus malum*. I do not think that he could advise them that under the circumstances they could licitly make use of the rhythm.

The March issue of the *Grail* carries a symposium on the subject of rhythm to which a marriage counsellor, a married couple, a sociologist, and a moral theologian have contributed.[79] John L. Thomas, S.J., the marriage counsellor, explodes some of the mythical difficulties connected with the practice of rhythm, for instance, the belief that the woman experiences the greatest desire for intercourse during the fertile period. There is no evidence to show that this is generally true. There is no set period in the human female when sex desire is either dominant or absent. But there are real difficulties involved in rhythm even after "moral clearance" has been attained. There is, first of all, the danger of resentment arising between marriage partners due to the fact that rhythm will affect them differently. Also, married couples will often agree to practice rhythm without realizing the cost in tension and frustration. Then there is the anxiety over a possible pregnancy. All this adds up to one conclusion: rhythm should not be advised or undertaken without an accurate understanding and assessment of the difficulties involved.

That rhythm can be practiced successfully by those who have an adequate reason is the conclusion of Charles and Rita Strubbe in their contribution to the symposium. They agree, however, that a rhythm based on selfishness will not work. The big danger in making the decision, according to sociologist John J. Kane, is that of rationalization. To make sure that this is eliminated, married couples must be sure to consult their confessor.

Gerald Kelly, S.J., states the moral doctrine on the subject. If a couple are willing and able to restrict the use of their marital right and have a sufficient reason to avoid pregnancy, rhythm will be licit. Fr. Kelly goes on to say that the marital duty to the human race probably does not go beyond four or five children. The sacrifices necessary to raise a large family are not of obligation but a tribute to the generosity of the individual married couple. I think one could legitimately conclude from this that, as long as a married couple intended to do their share, they could legitimately use the rhythm method to space their children.

Sometimes married couples will attempt to avoid children by the practice of so-called *copula dimidiata*. Regatillo argues from a response of the Holy Office to the Bishops of Holland and from the severe way these Bishops condemn confessors advising such means that, unless there is urgent need,

[79] *Grail* 38 (Jan., 1955) 2–18.

it will be seriously sinful.[80] Most authors hold that the practice is venially sinful. Since the practice does not constitute onanism, I do not see how it can be classified as seriously sinful. The severity of the Bishops of Holland may have arisen from a situation of scandal.

The subject of artificial insemination has been brought to public attention during the past six months. In a divorce suit which involved the question of artificial insemination the trial judge of the Superior Court of Cook County, Illinois, made the following ruling:

> Heterologous insemination with or without the consent of the husband is against public policy and good morals and constitutes adultery on the part of the mother. A child born of such insemination is not conceived in wedlock and is thus illegitimate. It is the child of the mother and the husband has no right or interest in said child. Homologous insemination is not contrary to public policy and good morals and does not present any difficulty from the legal point of view.[81]

This opinion coincides with the teaching of Catholic moralists on the subject of heterologous insemination but can hardly be squared with the statement of Pius XII regarding the morality of homologous insemination.[82]

An article in the *Journal* of the American Medical Association takes up the medico-legal aspects of donor insemination.[83] Since 1948 bills have been introduced in six state legislatures regarding such insemination, but thus far none has been enacted. The only one of these bills which opposed such insemination was that introduced in Ohio. All the rest aimed at legalizing it.

Without expressing an opinion on the subject the author shows the countless legal questions connected with the procedure affecting all parties concerned—donor, husband, mother, child, natural-born children, doctor, etc. At present considerable pressure is being brought to bear on the various state legislatures to legalize the procedure. In fact, the court decision just mentioned has been severely attacked as inhumane. Advocates of legalized insemination would do well to ponder the conclusion of the legal report on the subject made by the Commission appointed by the Archbishop of Canterbury to study the question. Here is what they say: "In our view, the evils necessarily involved in AID (artificial insemination from a donor) are so grave that early consideration should be given to the framing of

[80] *Sal terrae* 43 (Jan., 1955) 13–15.

[81] Quoted in article on medico-legal aspects of insemination cited below.

[82] *AAS* 41 (1949) 560.

[83] "Medicolegal Aspects of Artificial Insemination: A Current Appraisal," *Journal of the American Medical Association* 157 (Apr. 30, 1955) 1638–40.

legislation to make the practice a criminal offence."[84] Such an unequivocal condemnation would indicate that it is more inhumane to promote donor insemination than to ban it.

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[84] Hon. Mr. Justice Valsey, D.C.L., and the Right Hon. H. U. Willink, M.C., K.C., "Legal Aspects of Artificial Insemination," *Artificial Human Insemination*, The Report of a Commission Appointed by His Grace the Archbishop of Canterbury (London: S.P.C.K., 1948) 42.