

## NOTES ON MORAL THEOLOGY

### GENERAL MORAL

What makes men bad—nature or nurture? M. F. Ashley Montagu throws the blame on nurture.<sup>1</sup> He opposes the traditional concept which he says began with St. Paul and finds its modern validation in the theories of Darwin and Freud. This theory puts the blame on nature. He sees no evidence of any inherent evil in anyone, whether it be called “original sin” or a drive or tendency to destruction (Death Instinct). He feels that the doctrine of original sinfulness has enjoyed a wide appeal because it shifts the responsibility for man’s evil behavior from himself to his inherent nature.

It is clear, of course, that Mr. Montagu’s concept of original sin coincides with the Protestant rather than the Catholic view. The genuine Pauline concept of original sin leaves nature intact. It admits no inherent depravation of nature and consequently allows no shifting of responsibility. It has little in common with either Darwinism or Freudism. Even fallen human nature is still essentially superior to the brute animal. Nor is the infant born with original sin on his soul the “polymorphous pervert” of Freudism. It is in no sense instinctively committed to evil or destruction.

While it is consoling to see an author abandon this somewhat morbid and pessimistic view of human nature, it is not quite clear just how far Mr. Montagu would go in the opposite direction. There is just as much danger in shifting responsibility in the direction of environment as there is in burdening nature with it. Somewhere between the world and the flesh (we can omit the devil here) there stands the autonomous individual who commits himself to evil by a misuse of both. Any philosophy or theology which departs from this position is bound to be off balance.

Some years ago Dalbiez drew a careful distinction between the psychoanalytic method and what he called Freudism, the philosophy and psychology of Freud.<sup>2</sup> While the latter were objectionable, he felt that the psychoanalytic method itself was an indifferent procedure from the viewpoint of morality. In an article in the *American Journal of Psychiatry*, Gregory Zilboorg seems to subscribe to this distinction.<sup>3</sup> Psychoanalysis has

EDITOR’S NOTE.—The present survey covers the period from December, 1955 to June, 1956.

<sup>1</sup> “Man—And Human Nature,” *American Journal of Psychiatry* 112 (Dec., 1955) 401-10.

<sup>2</sup> Roland Dalbiez, *Psychoanalytical Method and the Doctrine of Freud*, tr. T. F. Lindsay (New York, 1941).

<sup>3</sup> “Psychoanalytic Borderlines,” *American Journal of Psychiatry* 112 (March, 1956) 706-10.

nothing to do with values. The whole field of social and moral philosophy is outside the scope of psychoanalysis.

But psychoanalysis does deal with a borderline area. The analyst, therefore, according to Dr. Zilboorg, must be cautious. His work will be rewarding only as long as he remains on purely empirical grounds. One misstep beyond his purely empirical domain and he gets into the area of religion, morality, etc., that is, he gets outside of his field. But since it is a borderline area, Dr. Zilboorg insists on the need of the analyst for a philosophy of values. I would add that the analyst has far greater need for such a philosophy than even the physician or the surgeon because of the more intimate nature of his contact with the patient. One can devoutly hope that more and more analysts will recognize with Dr. Zilboorg both the limits of psychoanalysis and the need of the analyst for a philosophy of values.

Not all psychoanalysts, however, subscribe to the opinion that the psychoanalytic method is indifferent. Differing with Dalbiez on this point is Dr. Nodet, a French psychoanalyst, who maintains that the treatment itself involves certain moral values.<sup>4</sup> The analyst, according to Dr. Nodet, constantly confronts his patients with a system of values involving certain moral truths. The first of these truths is that others should be loved for themselves. The second is that each individual has a personal value which is independent of his environment. Finally, every patient must understand and accept the value of truth and honesty in dealing with self. According to Dr. Nodet, these values are implicit in every psychoanalytic treatment.

In commenting on this opinion L. Beirnaert, S.J., criticizes it from both a theological and a psychoanalytic standpoint.<sup>5</sup> Theologically he argues that love does not have to be emptied completely of self in order to be valid. Theologians have always recognized the place of the *amor concupiscentiae* in the affective life. Also, the sense of personal value does not have to be stripped of all desire for approval and recognition. There is a legitimate desire for approval which is perfectly consistent with personal dignity.

For Dr. Nodet it is only the infant who wants to be loved and approved; the adult should be self-sufficient and altruistic. Fr. Beirnaert agrees that there is a type of dependence on love and approval which would have to be characterized as infantile. But, he concludes, one should not allow a phobia for narcissism or for an infantile need of approval to prevent a patient from accepting a reasonable desire to be loved and recognized. He doubts, moreover, that all these values are implicit in the treatment itself. The psycho-

<sup>4</sup> "Psychiatrie et vie religieuse," *Encyclopédie médico-chirurgicale* 3, 10-11; cited in "Psychanalyse et foi chrétienne," by L. Beirnaert, S.J. See note 5 below.

<sup>5</sup> "Psychanalyse et foi chrétienne," *Etudes* 288 (Feb., 1956) 219-30.

analytic process is not educative in this sense. It is not aimed at building up altruistic love or personal esteem or independence. Its whole function is to bring the subject to a knowledge and acceptance of the truth about himself. If there is a moral value implicit in the psychoanalytic treatment, it is this personal regard for truth with which the patient must be inspired.

All of this points up the fact that there is still considerable difference of opinion as to the meaning of the psychoanalytic technique. In this country the difference of opinion has been such that a committee of the American Psychoanalytic Association after a four-year study made the report "that it is impossible to find a definition of psychoanalysis that is acceptable to even a large group of members of the American Psychoanalytic Association."<sup>6</sup> It is this basic lack of agreement among psychoanalysts that makes it difficult to evaluate psychoanalysis from a moral standpoint.

Certainly, if the goal of the psychoanalytic technique is to learn the truth about self and to extend the field of conscious knowledge of self, there could be no moral objection to it. But there is another aspect of the treatment which does give pause to moralists, namely, the emotional reaction (called abreaction) which takes place when traumatic experiences are integrated into the field of consciousness. In an article in the *Irish Theological Quarterly*, Most Rev. Michael J. Browne expresses serious misgivings about this procedure when related to sexual or aggressive feelings.<sup>7</sup> He argues that, if the emotional discharge in these two areas is essential to the treatment, it must be considered immoral, whether it be considered formal or only material sin.

The chief difficulty in deciding the morality of this emotional abreaction consists in determining what is necessary for the success of the treatment. I am not convinced that sinful expression is a necessary part of psychoanalytic treatment. As far as I can judge, the patient seems to be in a state similar to that of daydreaming, except that he does his daydreaming out loud. Let us suppose that some repressed sex desire or experience is the source of the patient's neurosis. I do not see how the patient could know this beforehand, since supposedly it is completely lost to his memory. Even if the treatment did involve material sin, then, I do not see how the patient could foresee this eventuality. Let us suppose now that the process of free association brings this sinful desire or experience back to consciousness. What is required for the therapeutic effect of the analysis?

If the actual execution of the sinful desire or repetition of the sinful experience were necessary, the analyst would not be justified in encouraging it

<sup>6</sup> Quoted in Clarence P. Oberndorf, *A History of Psychoanalysis in America* (New York, 1953) p. 234.

<sup>7</sup> "The Morality of Abreaction," *Irish Theological Quarterly* 23 (Jan., 1956) 1-11.

or promoting it, even though the present state of the patient might make it only a material sin. But I doubt that reputable psychoanalysts today would maintain the need for such expression. Everyone will admit that sexual expression relieves sexual desire, but everyone knows as well that yielding to the sex appetite also strengthens it. So I doubt that sexual expression would, or even could, be considered a genuine therapy in these cases.<sup>8</sup>

But let us suppose that the original sex desire or experience was repressed by a fear of castration. The treatment might consist in conscious recall of this desire or experience (not carrying it out again) for the purpose of dismissing the desire or repudiating the experience on rational grounds rather than through repression by fear. This would not involve either formal or material sin. It might include some risk in the recall of temptation or sin, but I am inclined to think that the risk would be slight. Presumably one is dealing with repressions which took place in childhood. I should think that recalling even in some detail sinful desires or experiences of childhood would hardly be a source of temptation for the ordinary adult, especially when he is relating them in the presence of someone else.

I do not know how effective such treatment may be. I would not even be prepared to say that the above exemplifies all psychoanalytic procedure. But it does indicate that psychoanalytic treatment even in the area of sex does not necessarily involve sin.

The relation between religion and mental health is the subject of an excellent article by E. F. O'Doherty.<sup>9</sup> The author rejects the theory that religion is a neurosis, as well as the opposite opinion that the suppression of religion causes neuroses. This latter opinion, which has some following among Catholic authors, considers religion an unconscious force which somehow seizes upon consciousness and makes for mental health.<sup>10</sup>

While the author denies that religion is a neurosis, he is perfectly willing to admit that religious practices may sometimes spring from neurotic needs and serve as an escape from reality. He cites the case of the person who has

<sup>8</sup> I have wondered at times if there might not be even in this area a type of emotional release which would not be classified as indulgence. A neurotic patient, for instance, who has feelings of hatred for her father may not know why she has these feelings and may not want them. Could not the emotional abreaction consist in ridding one's self of unwanted feelings rather than merely indulging them? The criterion might be the genuine therapeutic effect of the treatment. If the feelings of hatred disappear permanently under the treatment, is there not some reason to believe that the treatment did not involve indulging them? I find it difficult to believe that feelings freely indulged will disappear. Experience seems to prove the opposite.

<sup>9</sup> "Religion and Mental Health," *Studies* 45 (Spring, 1956) 39-49.

<sup>10</sup> For a brief explanation of this theory see T. Crowley, "Jung and Religion," *Irish Theological Quarterly* 23 (Jan., 1956) 73-79.

recourse to prayer as an escape from difficulties. Another example is the person who shifts all the blame for his difficulties to the devil, whereas they are of his own creation. Every priest will recognize the genuinity of these examples and many others which the author has to offer.

Psychiatrists classify scruples of pathological origin as an obsessive-compulsive neurosis expressing itself in a religious framework. The strict Freudian finds the explanation for such scruples in terms of unresolved Oedipus-guilt, etc. A recent article in the *Month* by an English psychiatrist, E. B. Strauss, relates them to magical thinking.<sup>11</sup> He manifests a certain scepticism toward the sexual explanation and states boldly that the development of the scrupulous person has been arrested at the level of magical thinking.

Strauss seems to perceive some relation between scruples and superstition. There may be some foundation for this conclusion. Certainly there is as little basis for the fears and expectations of the scrupulous person as of the superstitious person. But the superstitious person does seem to get more relief from his superstitious practices. The superstitious person, for instance, may feel perfectly secure with the rabbit's foot in his rear pocket. The scrupulous person will be anxious even after he has carefully avoided all the cracks in the sidewalk on the way home from school.

Before passing from the problem of the pathological conscience, a remark may be in order regarding the lax conscience. While moralists have always been aware of the peculiar problem of the scrupulous conscience, it is only recently that they have become aware of a pathology relating to the lax conscience. There is no doubt that the lax conscience may be for the most part the result of lax living. But it seems that a semi-pathological condition may also be responsible for such a conscience. Psychiatrists refer to the victims of such a conscience as psychopaths. Like scrupulous people, they are usually of normal intelligence and may be very well instructed. But just as scrupulous people are victims of uncontrolled guilt feelings, the psychopath is handicapped by a deficiency of such feelings. The psychopath seems to lack the minimum emotional response to moral obligations to make an efficacious and accurate judgment of moral responsibility. What he lacks is realization, or in the language of Cardinal Newman, a *real* assent to moral principles.

While speaking of guilt feelings it can be noted in passing that the book, *Morale sans péché*, criticized in these Notes last year, was put on the Index by the Holy Office. Along with two other books of the same author,

<sup>11</sup> "Magic and Scruple," *Month* 201 (Jan., 1956) 14-25.

*L'Universe morbide de la faute* (1949) and *Manuel de sexologie* (1951), it was prohibited by a decree which was published January 23, 1956.<sup>12</sup>

Another decree of the Holy Office, dated February 2, 1956, condemned situation ethics.<sup>13</sup> The decree forbade this doctrine to be taught or approved, propagated or defended in books, conferences, etc. An article in the June issue of *Periodica* by F. X. Hurth, S.J., presents a very complete commentary on the decree as well as a thorough explanation of situation ethics.<sup>14</sup>

The fundamental error of situation ethics is its refusal to accept the objective order as the ultimate norm of morality. It does not deny this order but identifies the norm of morality with an immediate intuition of the morality of the individual situation. This judgment may for the most part correspond with the objective order. Thus, for instance, in most situations onanism, abortion, masturbation, suicide, etc., will be judged morally wrong. But even when the judgment corresponds with the objective order, it does not depend on it. It is a perfectly independent judgment which may even depart from this order. In certain situations of intolerable conflict, for instance, the above actions will be judged morally permissible.

This latter judgment should not be confused with the certain but erroneous conscience. It pronounces on the objective morality of the act, not merely the subjective liceity of placing it. It has nothing to do with error. It cannot be classified, then, as an erroneous conscience. It is the ultimate norm which actually constitutes the morality of the act.

The Holy See has also seen fit to order withdrawn from circulation the book, *L'Enseignement de la morale chrétienne*, by J. Leclercq.<sup>15</sup> The article in *L'Osservatore Romano* which announced the action of the Holy See gives a rather lengthy criticism of the book.<sup>16</sup> The fundamental thesis of the book is that moral theology, as it is taught today, has deviated considerably from the teaching of Christ. The superstructure of Aristotelian philosophy plus a juridical formalism has given Catholic moral doctrine an abstract, negative, individualistic, asocial, and juridical coating. The article categorized the criticism of moral theology destructive, in contrast to the constructive attitude of such authors as Tillman, Thils, Mausbach, Zeiger, and others who have also attacked the method of moral theology.

Ecclesiastical censorship and prohibition of books has long been an estab-

<sup>12</sup> *AAS* 48 (Feb. 28, 1956) 95.

<sup>13</sup> *AAS* 48 (March 24, 1956) 144-45.

<sup>14</sup> "Annotationes in Instructionem S.S.C.S.O. de ethica situationis," *Periodica* 45 (June 15, 1956) 137-204.

<sup>15</sup> Paris: Editions du Vitrail, 1949.

<sup>16</sup> "Critiche costruttive e critiche distruttive," *L'Osservatore Romano*, Feb. 2, 1956.

lished practice in the Church. Recently the problem of censorship by civil authorities and private organizations has become somewhat acute in this country. John Courtney Murray, S.J., gives the subject a very complete treatment in *Books on Trial*.<sup>17</sup> He shows that legal censorship is not simply a matter of deciding whether a book is good or bad. Law is not coextensive with morality. Censorship is not even, for the most part, a question of determining whether a book will do harm to the community. It involves rather a prudential decision: which will do more harm—the book or the prohibition? It is his opinion that the greater common good will reduce civil censorship to a minimum.

He thinks that the same consideration of the common good should control censorship by private organizations. Catholic organizations engaged in censoring activities should beware of doing harm to the Church. He feels that methods of persuasion are most appropriate to private organizations. Such methods as boycotting, picketing, etc., while in no sense contrary to American ways, are a little incongruous in literary censorship. Such organizations should be careful to pick competent censors and these latter should be objective and adult in their standards. They should concentrate, moreover, on a few areas. He suggests as an important field for censoring activities the "pornography of violence." He understands by this expression the portrayal of sex completely dissociated from love in a somewhat sadistic context. I believe the writings of Mickey Spillane would fall into this category.

My own impression is that private censoring agencies have been more ambitious than Fr. Murray would consider desirable. It may be that the greater good is sometimes lost sight of. This much is true: as censoring activities are expanded, more attention must be paid to this greater good.

The place of pleasure in the spiritual life has been the subject of much discussion in recent times. A recent article touching upon this subject carries the title, "Gaudia—Possuntne Deo offerri?"<sup>18</sup> The article deals with the growing custom of including joys with the "prayers, works, and sufferings" offered to God in the Morning Offering. The author takes issue with those who maintain that oblation consists essentially in renunciation and mortification. This is not true. Oblation is merely an act by which we offer the good that we do to God. This includes the intention of doing God's will and therefore includes some abnegation of our own wills. But this abnegation does not necessarily involve suffering. It can be a great joy to do the will of another.

<sup>17</sup> "Literature and Censorship," *Books on Trial* 14 (June–July, 1956) 393 ff.

<sup>18</sup> "Gaudia—Possuntne Deo offerri?", *Nuntius apostolatus orationis*, Dec., 1955, pp. 317–23.

The author goes on to say that there is more reason to question the offering of suffering to God. Suffering is, after all, the result of sin and it does not seem fitting that we should offer to God the results of sin. It is only because Christ has redeemed suffering that we can offer it to God. The author grants that it is often more perfect to renounce pleasure than to offer the enjoyment of it to God. But the renunciation of natural joys is made in reference to a greater good and not because they are unfit for offering.

In an article in *Angelicum*, L. M. Simon, O.M.I., takes issue with O. M. Lottin, O.S.B., in his interpretation of St. Thomas' doctrine on the moral determinants of human acts.<sup>19</sup> Fr. Lottin maintains that there is a certain antinomy in St. Thomas relating to the *finis* of the human act. He speaks of *finis* both as a circumstance of the act and as that which defines its moral species. It would appear also that he is speaking of the *finis operantis* in both instances. Fr. Simon denies any such antinomy. St. Thomas uses the word "circumstance" in two distinct senses. He distinguishes between the substance and circumstances of the human act. By the substance he understands the purely physical emanation of the act from the faculty. In relation to this substance, all the moral determinants—object, end, and circumstances—are circumstances. The act in its substance is a purely physical entity, e.g., the act of talking. Morality is an accidental modification of this act. Thus, the act of talking can be a calumny, a compliment, a blasphemy, etc.

It becomes clear from this analysis that what is a simple circumstance on the physical level can be a specifying principle on the moral level. Fr. Lottin made his mistake, according to Fr. Simon, in identifying substance with that which gives an act its moral specification, and circumstances with accidental modifications. It is perhaps because of such confusions that most moralists have simplified the whole problem of moral determinants without any reference to the substance of the act or distinction between internal and external act.

When Catholics and Protestants were living in separate communities, questions of cooperation were seldom practical. But today, when they are frequently found living in the same community in peace and harmony, the problem of cooperation becomes very practical. Francis J. Connell, C.S.S.R., considers a situation in which a Baptist church burned down and a Catholic lay organization offered the group the facilities of its hall for Sunday services.<sup>20</sup> Fr. Connell felt that this should not have been done because of the

<sup>19</sup> "Substance et circonstances de l'acte moral," *Angelicum* 33 (Jan.-March, 1956) 67-79.

<sup>20</sup> *American Ecclesiastical Review* 134 (June, 1956) 414-15.

danger of scandal. Since no further circumstances were given, it is difficult to assess the actual situation with which he was dealing.

But I do not think that a negative answer would have to be given in every such case. As far as the cooperation is concerned, it seems better to have people offer some Christian worship than none at all. In cases where this is the alternative, I would have no difficulty with the problem of cooperation itself. The additional problem of scandal must certainly be taken into consideration. But in many such cases the scandal can be solved by a little explanation. And even where it cannot be eliminated entirely, it must still be balanced against the damage that would result from a failure to make the offer. I am inclined to believe that in many of these cases refusal to cooperate does far more harm to the Church than good.

The subject of cooperation suggests a unique case, commented on by J. F. Groner, O.P.<sup>21</sup> It seems that in Europe Catholics who have obtained a civil divorce and attempt a second marriage have tried at times to persuade the priest to celebrate a Mass for departed relatives or some other intention on the day of the wedding. The bridal party will then come into the church and march up the aisle, just as though it were a church wedding. Fr. Groner comments that the priest celebrating the Mass cannot dissociate himself from what is going on behind him and say that it is no concern of his. I believe it is quite obvious that no priest could connive at what would certainly be a source of serious scandal. Fortunately we have never had to cope with the problem in this country.

#### FIFTH COMMANDMENT

An article in the *Journal of the American Medical Association* describes a successful homotransplantation of a human kidney.<sup>22</sup> Both kidneys of the recipient were diseased and removed after the transplantation, leaving the patient with only the donor kidney. The postoperative course of the donor was uneventful and he left the hospital in two weeks' time. The recipient gradually recovered his health and one year after the operation both donor and recipient were in good health. The operation was attempted only because identical twins were involved. Up to date, successful permanently functioning homografts seem to be limited to such individuals.

In the meanwhile the controversy over the morality of organic transplantations continues. L. Bender, O.P., carries on a discussion with an ad-

<sup>21</sup> "Illegitime Hochzeit," *Theologisch-praktische Quartalschrift* 104 (April, 1956) 139-41.

<sup>22</sup> John P. Merrill *et al.*, "Successful Homotransplantation of the Human Kidney between Identical Twins," *Journal of the American Medical Association* 160 (Jan. 28, 1956) 277-82.

versary to clarify his position against such transplantation.<sup>23</sup> Basically, his argument does not differ from that commonly used, that is, the argument from the principle of totality. According to this principle, a part of the body may be removed only where the good of the whole demands it. But his concept of direct mutilation makes the argument look stronger than those ordinarily proposed. He identifies direct mutilation with removal of an organ which is in no way harmful to the body. Removal of a harmful organ he refers to as a *sanatio* rather than a *mutilatio*. This distinction enables him to draw an exact parallel between direct mutilation and direct killing. Both are absolutely illicit. Thus, removal of an organ for the good of another is just as wrong as the direct taking of one's life for the good of another.

I would certainly not want to deny the cogency of the argument from reason against transplantation, but I am afraid that Fr. Bender's restriction of the notion of mutilation obscures considerably the difference between the direct removal of an organ and the direct taking of life. As a result, his argument has a strength which I do not think it properly deserves. The fact is that the direct removal of an organ can be licit, whereas the direct taking of one's life can never be licit. Also, the term *sanatio* will have to be extended considerably to cover such actions as removing a member to ward off the threat of a tyrant, cutting off an arm or leg to escape from a burning jail, etc.

Also taking issue with organic transplantation is M. Zalba, S.J.<sup>24</sup> He gives us perhaps the most complete treatment of the subject to date. He considers the morality of transplantation from the viewpoint of reason, moral tradition, and the teaching of the Church. Ultimately he concludes from all these fonts that the procedure is illicit.

Fr. Zalba agrees with Fr. Bender that the Holy Office condemnations of direct sterilization (1931 and 1940) constitute an official declaration of the intrinsic malice of mutilation. He goes on to take issue with the present author, who in these Notes stated that Fr. Bender had oversimplified the meaning of the decrees.<sup>25</sup> In making his point Fr. Bender had stated that there appeared to be no other reason for the illiciteness of sterilization than the fact that it is a mutilation. My position was that a careful distinction must be made between direct sterilization and direct mutilation. If the former can simply be reduced to the latter, it is difficult to see why the principle of totality cannot be applied to it, thus allowing, for instance, a

<sup>23</sup> *Perfice munus* 31 (Feb., 1956) 89-91; *ibid.* (May, 1956) 293-95.

<sup>24</sup> "La mutilación y el trasplante de órganos a la luz del Magisterio eclesiástico," *Razón y fe* 153 (April, 1956) 523-48.

<sup>25</sup> *THEOLOGICAL STUDIES* 15 (1954) 604-5.

tubal ligation to avoid a dangerous pregnancy. Such a sacrifice would certainly be for the good of the whole person.

The response ordinarily given to this objection is that it is not a reasonable means of achieving the good of the whole person. There is always the alternative of abstinence. I am afraid that this is not a very strong position. If we consider the ease with which other types of mutilating surgery are allowed, we will find it very difficult to defend the absolute prohibition of direct sterilization. No one, for instance, would demand that a patient adhere to a rigid food diet for the rest of his life rather than have his gall bladder removed. Unless we can show that there is some special reason why a direct sterilization is not a reasonable means of achieving the good of the whole person, our position will be open to serious attack. That special reason can only be that the function in question is not directed to the good of the person and, therefore, may not be sacrificed for that good.

I realize that papal statements may have at times put the stress on the principle of totality even in relation to direct sterilization. I think this can be explained by the fact that the Church has been concerned largely with the problem of eugenic sterilization, which involves the more fundamental problem of an illicit subordination of the person to the state.

Msgr. James J. Madden in the *Australasian Catholic Record* has also come out against organic transplantation.<sup>26</sup> P. Tesson, S.J., on the other hand, allows it.<sup>27</sup> Accepting the thesis of Fr. Cunningham, namely, that in this area it is permitted to do for others what one can do for himself, he subscribes to organic transplantation in the case of bilateral organs. He feels that the weight of Church authority has not yet been definitely committed to the opposite thesis. L. Babbini also continues his defense of transplantation in *Palestra del clero*.<sup>28</sup>

The discussion of this subject during the past six months has not been limited to theologians. Pius XII gave an allocution to a group of oculists in Rome on corneal transplantations.<sup>29</sup> Since corneal banks are stocked from cadavers, this procedure presents no serious moral problem. It is a legal problem rather than a moral problem. In his talk the Sovereign Pontiff said that he was confining himself to a discussion of transplantations from cadavers and that he did not intend to speak of transplantations from living persons. But he did go on to say that he would digress somewhat to comment on certain opinions expressed in the document on transplantation presented to him by the group he was addressing.

<sup>26</sup> *Australasian Catholic Record* 33 (April, 1956) 138-47.

<sup>27</sup> "Grefe humaine et morale," *Cahiers Laennec* 16, n. 1 (1956) 28-33.

<sup>28</sup> *Palestra del clero* 35 (Jan. 1, 1956) 35-37.   <sup>29</sup> *AAS* 48 (June, 1956) 459-67.

One of these digressions deals precisely with transplantation from living donors. In order to demonstrate the liceity of such transplantations, an analogy was drawn in the document between the human organism and society. It was then argued that, just as one could sacrifice an organ for the good of the physical body, so could one sacrifice an organ for the good of society (in one of its members). In relation to this argument he makes the following statement: "The purpose behind this argumentation, namely, to relieve another's misfortune or at least to alleviate it, is understandable and praiseworthy, but the method proposed and the proof on which it rests are erroneous."<sup>30</sup>

At first sight this statement might appear to contain a condemnation of transplantation from a living donor. I do not think that it does. First of all, I do not think that the Holy Father would settle a rather important dispute among theologians *per transennam* as it were and in a speech in which he stated that he did not intend to discuss the subject. Moreover, although the problem has aroused considerable interest among theologians, it does not seem sufficiently practical as yet to warrant an authoritative solution. As mentioned above, the only case in which it has proved feasible up to the present is that of identical twins. Finally, from the context it would seem that the Holy Father wanted to guard against any totalitarian application of the principle of totality. This seems clear from the conclusion he draws at the end of this discussion that the state has no right to impose mutilations upon its subjects in virtue of the right of a whole to dispose of its parts.

Certainly no moralist can appeal to the principle of totality to justify organic transplantation. To extend this principle to the community in reference to its constituent members would have disastrous consequences for the human person. Neither the individual himself nor any of his faculties is subordinated to the community as a physical part to a whole. The unity of the community is not physical but merely functional.

But it is not to the principle of totality that those who favor organic transplantation make their appeal. They have recourse to the principle of charity. And there is a vast difference between these two principles. The principle of charity does not imply any natural subordination of person to person or person to the community. There must be a proportion of goods in any sacrifice motivated by charity, but this does not imply any natural destiny of a part to the good of a whole. Moralists, moreover, have been able to find this proportion even in cases where one person sacrifices his life to save a friend who is in every respect his equal. The proportion in this case is not between life and life but between life and the practice of charity itself.

<sup>30</sup> *Loc. cit.*, p. 461.

Now it is quite true that charity will not justify suicide. But is it so clear that it will not justify the donation of a member or organ for the good of another? Only the principle of totality stands in the way of such a donation. The question then arises: Is the principle of totality exclusive? All moralists agree that it does not pertain to such things as blood transfusions, skin grafts, etc. They restrict its application to organs and members, that is, mutilations in the strict sense. But it is not altogether clear on what basis this distinction is made. If the parts are for the good of the whole and only for the good of the whole, by what right does one except blood or skin? Is blood any less a part of the human body than a kidney? I do not see how the fact that the blood will replace itself enters into the question at all. In allowing blood or skin to be donated, then, one implicitly admits that there are some parts of the body which are not limited to the good of the whole. In other words, he implicitly admits that the principle of totality is not exclusive.

Moralists have gone beyond the limits of the principle of totality even in relation to strict mutilations. In the past some moralists allowed what is referred to as euphonic castration, because it contributed to the good of the Church.<sup>31</sup> I mention this only in passing because, although the opinion was considered probable, it never enjoyed a large following and the opinion opposing such castration was considered more probable. More important, to my mind, is the unanimous opinion of moralists which allows (and at times even obliges) a mother to undergo a caesarean section to baptize or even to save the life of her child. As we mentioned in these Notes previously, this involves a mutilation in the strict sense.<sup>32</sup> Moreover, it is precisely to the principle of charity that moralists appeal in justifying it, and no attempt is made to reconcile it with the principle of totality. Considering this fact together with those mentioned above, I would conclude that, while the principle of totality could never be used to justify organic transplantation, neither does it clearly exclude it.

It has been common practice among obstetricians to sterilize patients who have had two or three caesarean sections, because of fear of rupture in a subsequent pregnancy. Hugh F. McNally and Vincent de P. Fitzpatrick conclude, after a study of 130 patients with four or more sections, that the capabilities of the uterus in such patients have been underestimated.<sup>33</sup> Hysterectomies in the multiple-section patient should be performed only when the uterus has been carefully judged to show pathological disease

<sup>31</sup> Cf. A. Liguori, *Theologia moralis* 3, n. 374.

<sup>32</sup> THEOLOGICAL STUDIES 15 (1954) 603-4.

<sup>33</sup> "Patients with Four or More Caesarean Sections," *Journal of the American Medical Association* 160 (March 24, 1956) 1005-10.

(which includes defective scars) and in the operator's opinion cannot stand the distention of another pregnancy. Not all moralists would admit the liceity of a hysterectomy in such circumstances, but the conclusion the doctors arrived at would have a sufficient following to make it safe in practice.

Any so-called humanitarian interested in promoting legalized abortion will be given pause by Japan's experience with such legislation.<sup>34</sup> On July 13, 1948, Japan passed a Eugenic Protection Law. As amended in 1949, it states that an abortion may be performed ". . . in cases in which it is feared that the continued pregnancy or the birth of the new child may greatly impair the health of the mother either for physical or economic reasons." It is not clear just what the complete motivation behind the legislation may have been. Besides the eugenic intent and the consideration for the life and health of the mother, the opinion that it would be a remedy for the large number of illegal abortions already being performed appealed to some. Others may have considered the measure a solution to Japan's population problem. At any rate, as the result of the law and its liberal interpretation, Japanese women generally feel that they may have an abortion or sterilization at any time. In the period from 1949 to 1954 the number of abortions jumped from 246,104 to 1,178,152; the number of sterilizations from 5,572 to 39,952. These are just the reported figures. Conservative estimates put the actual number of abortions at twice this figure. It is interesting to note also that an intensive contraceptive educational program resulted in an increase of abortions.

That the distinction between so-called therapeutic abortion and criminal abortion is no longer valid is confirmed in regard to cardiac patients by a French obstetrician, Professor Broustet.<sup>35</sup> While he would recommend that heart patients limit their pregnancies, he does not feel that cardiac disease is any justification for an interruption of pregnancy. In a long series of cardiac pregnancies the only one he and his partner lost resulted from a therapeutic abortion. And this was the only abortion they had performed on these cases.

By comparing it with a direct abortion, Saturnino Pani, O.F.M., declared that the Alpine guide who cut the rope which bound him to his companion climbers to save his life was guilty of direct killing.<sup>36</sup> In a recent issue of *Palestra del clero* he backs down somewhat from the position that it consti-

<sup>34</sup> Thomas K. Burch, "Patterns of Induced Abortion and Their Socio-Moral Implications." Offprint from *Social Compass* 3, n. 4 (1956).

<sup>35</sup> "A propos de l'avortement thérapeutique," *Cahiers Laennec* 15, n. 4 (1955) 49-52.

<sup>36</sup> *Palestra del clero* 34 (Aug. 15, 1955) 765-66.

tuted direct killing but still maintains that it was illicit.<sup>37</sup> In the June issue of these Notes, Fr. Lynch was inclined to agree with Fr. Pani's opponents that the case involved only indirect killing and a legitimate application of the principle of the double effect.<sup>38</sup>

It seems to me that Fr. Pani has somewhat obscured the moral problem involved by classifying the act as direct killing. I would certainly agree with Fr. Lynch that cutting the rope does not in itself constitute direct killing. I would feel quite sure also that, if it were done by the youths themselves or at least at their request, it would be a perfectly licit application of the principle of the double effect. What I am not so sure about is whether the guide has a right to cut it. The classical example of the two men on the raft makes me hesitate to say that he has. We have no quarrel with the man who jumps off the raft to lighten the load and save his companion, but we do insist that the companion has no right to push him off—or tip the raft so that he will fall off. On the other hand, if he accidentally slips and grabs hold of his companion to save himself, the companion has a perfect right to break his grip and save his own life.

Is cutting the rope equivalent to pushing the man off the raft—or tipping it so that he will fall off? Or is it similar to breaking the grip of the man who accidentally slips and grabs hold of his companion to save himself? To put it in more technical language, are the mountain climbers unjust aggressors (material, of course) or not? This will depend on just what kind of agreement exists between a guide and mountain climbers. I will have to leave the ultimate solution to those who know more about mountain climbing than a native of the Prairie State.

A sample medieval disputation is published in *Blackfriars* in which the thesis, "Nuclear warfare is not immoral," is defended.<sup>39</sup> Unlike most such theses, this one lost out to the opposition. Three effects of nuclear warfare were considered: the direct explosive power, effects of radiation in space, and effects of radiation in time, that is, genetic effects. In the disputation, hydrogen bombs and large-sized nuclear weapons are ruled out because their explosive power is so great that it involves indiscriminate warfare. Smaller nuclear weapons are ruled out because, even though the explosive power may be limited to strictly military targets, their radiation effects in space and time are uncontrollable.

I doubt that many moralists will agree that the hydrogen bomb would

<sup>37</sup> *Ibid.* 35 (April 1, 1956) 326–28.

<sup>38</sup> THEOLOGICAL STUDIES 17 (June, 1956) 169–71.

<sup>39</sup> Illtud Evans, Ian Hislop, Laurence Bright, "The Morality of Nuclear Warfare: A Medieval Disputation," *Blackfriars* 37 (March, 1956) 100–17.

have to be ruled out of a just self-defense by reason of its direct explosive power. It is quite true that, as the explosive power of a weapon becomes greater, it may carry with it in modern warfare the necessary destruction of large numbers of non-combatants. But granted a sufficiently important military target which could not safely be eliminated by any less drastic means, I do not think one could rule out the hydrogen bomb because of its explosive force. For the same reason I doubt that moralists will agree that smaller nuclear weapons will have to be ruled out of a just self-defense by reason of their radiation effects. Damage to non-combatants is not a problem peculiar to nuclear warfare. It has always been a moral consideration in warfare, and moralists have allowed such damage where the alternative was an equivalent loss to the defender.

To my mind the major problem in this movement toward larger and larger nuclear weapons is a practical one. What is the mentality behind it? Are we aiming at a one-weapon war? Once we are in possession of the large weapon, will we be satisfied with the use of smaller but adequate weapons? The bombing of Hiroshima and Nagasaki in the last war does not give us much reason to hope for such moderation.

*Palestra del clero* continues its discussion of the morality of professional boxing. Dr. Luigi Scremin<sup>40</sup> and G. Angiolini,<sup>41</sup> a diocesan priest, line up on the side of A. Boschi, S.J., in condemning the sport. F. Robotti, O.P., on the other hand, continues to defend his position that it should be tolerated, at least as a *minus malum*.<sup>42</sup> Fr. Boschi in a series of articles backs up his position with a very impressive array of medical and moral opinion.<sup>43</sup>

If only the deaths resulting from professional boxing were considered, I do not think the case against boxing would be very strong. With ordinary medical precautions I think fatal accidents can be kept to a minimum. I am more concerned about the intention of doing serious injury, which to my mind is quite clear in some matches. I do not think this intention is ever explicit, but it seems to me to be implicit in the actions of a boxer who will keep pommeling an opponent's eye, even after the skin has been broken and bruised. But my chief concern would be with the danger of serious injury, particularly in the case of those who make a career of boxing. The damage to the brain resulting from blows to the head repeated over a long period of time cannot be overlooked. Whether boxing regulations can be

<sup>40</sup> "Sulla moralità del pugilato," *Palestra del clero* 35 (March 1, 1956) 215-17.

<sup>41</sup> "Sulla liceità del pugilato," *Palestra del clero* 35 (March 15, 1956) 264-70.

<sup>42</sup> "E tollerabile lo sport del pugilato?," *Palestra del clero* (April 15, 1956) 382-86.

<sup>43</sup> May 1, 1956, pp. 404-13; May 15, 1956, pp. 453-63; June 1, 1956, pp. 499-516; June 15, 1956, pp. 568-71. On the morality of professional boxing see also Martinez Balirach, S.J., "La moral y el boxeo," *Sal terrae* 44 (June, 1956) 333-42.

tightened up so as to reduce injuries to the point where they could be considered purely accidental, I am not sure. Fr. Boschi seems to feel that such regulations must eliminate all hard blows to the head, chin, neck, solar plexus, liver, and heart. If this is true, I doubt that the sport will ever be regularized. I think I would be satisfied if the brain damage could be eliminated. Other injuries could be prevented without drastic changes in the sport.

#### JUSTICE

Busy cashiers from time to time will find themselves short at the end of the day in spite of all precautions. What is their obligation to make up the difference? P. F. Cremin answers correctly that, if their contract obliges them to make good all losses in their department, they are bound to make up the difference.<sup>44</sup> This supposes that the losses are traceable to their mistakes. In the absence of any such clause, there is no obligation to make up any such shortages. These are obvious cases of simple damnification. Where there is no formal guilt, one of the conditions necessary for restitution is missing.

Francis J. Connell, C.S.S.R., takes up the more delicate case of transferring a clergy book.<sup>45</sup> If the book is given to a layman, he maintains that there is a violation of commutative justice. The layman is getting a reduction in fare to which he has no title. If the book is handed over to another clergyman, a distinction must be made. At times, railroads will allow such transfers or will, for instance, allow the members of a whole community to use a single book. If such is the case, no injustice is done. But if the book is transferred against the wishes of the company, another distinction must be made. If the other clergyman has no book, an injustice is done to the company. If he has a book but has forgotten it, there would be no violation of justice. I think this is clear from the fact that the railroad itself will give such a person a receipt for the full fare which will entitle him to the reduction when he presents the clergy slip. There might be a danger of scandal, of course, even in this case, and the donor risks the confiscation of his book. I might add that, whereas the injustice would involve the difference in fare for the layman, for the clergyman it would involve rather the price of the clergy book.

What preferences do people have in regard to stealing? The *American Sociological Review* carries an article which makes a study of public attitudes toward stealing.<sup>46</sup> Of the 212 respondents only ten preferred to steal from

<sup>44</sup> *Irish Ecclesiastical Record* 85 (June, 1956) 434-36.

<sup>45</sup> *American Ecclesiastical Review* 134 (May, 1956) 348.

<sup>46</sup> Erwin O. Smigel, "Public Attitudes toward Stealing," *American Sociological Review* 21 (June, 1956) 320-27.

small business. 102 preferred to steal from large business, 53 from the government. Of those who preferred to steal from big business the predominant motive was that such institutions can afford it best. The predominant motive for not stealing from small business was that it does not have much money. The main reason given for not stealing from the government was that it is like stealing from yourself. I suppose these statistics are about what one would expect. While a poll of the attitudes of honest citizens toward stealing may have some value, I should think that a poll of those who have engaged in this particular crime would be more revealing.

In the field of labor Edmund A. Grace warns the people of Ireland that danger of harm to the common good must be considered in demands for wage increases.<sup>47</sup> According to the author, these increases in the past have come from the pockets of the wealthy, who cannot contribute to further increases without harming the economy. He argues that neither prices nor profits are high. Any further wage increases should come only from increased production. This is the only reasonable approach to this subject, but it is admittedly difficult to put across to those who are receiving low wages. Wage increases which are not based on increased production are generally illusory and result in inflation.

In this country labor and industry are more concerned with so-called "right-to-work" laws. Bernard H. Fitzpatrick presents the moral aspects of this problem in a very profound article published in the *Catholic Lawyer*.<sup>48</sup> His argument seems to run as follows. The right to shop closure is ancillary to the right to work. It will therefore yield to this right except where it can be shown to be necessary to protect the reasonable value of this work. This condition is verified only in competitive industries where shop closure is necessary to maintain wage standards. But since very few unions maintain wage standards throughout an industry today, shop closure is, for the most part, unnecessary. It would constitute, then, an immoral interference with the right to work.

Mr. Fitzpatrick's argument would prove to my satisfaction that what I would call a union "industry" (as opposed to a union "shop") might not be necessary, but I find it a bit difficult to apply it to the union shop. It has been my understanding that the purpose of the union shop was to protect bargaining in the individual plant. Mr. Fitzpatrick seems to think that the wage contract would be adequate to solve this problem. At the most, he would allow an exclusive bargaining statute giving the union exclusive bargaining rights in the plant.

<sup>47</sup> "Wages and Prices," *Studies* 45 (Spring, 1956) 15-22.

<sup>48</sup> "Right-to-Work Laws," *Catholic Lawyer* 2 (April, 1956) 91-107.

Those who argue for the union shop maintain that in certain industries where the turnover of labor is fast it is impossible to maintain the membership necessary to qualify as the exclusive bargaining agent without the union shop. They argue also that in areas where labor is not organized it is frequently impossible to establish a membership. Mr. Fitzpatrick's argument does not seem to go deep enough to reach this problem.

Others argue that, even where the union is established as the exclusive bargaining agent, a union-shop clause is justifiable. Their reasoning here is that the union provides and must provide for non-union workers the same benefits which are supplied their members. They argue that it is not just that non-members should have the rights of union members without the obligations. Mr. Fitzpatrick feels that, where the union can maintain wages without the union shop, the latter would be unjustified. In doing so, he seems to release the worker who wants to exercise his right to work from any burden in maintaining these wages.

As I mentioned in these Notes previously, I think it is much healthier for a union to work for its own membership.<sup>49</sup> But in situations where in spite of honest effort a union finds it impossible to attract a sufficient membership to maintain security or to keep peace within its ranks, I do not see where there is anything immoral in bargaining for a union shop. Assuming that labor organization is necessary in a particular industry, I do not see how a demand that all who wish to work in the industry belong to the union is an invasion of the right to work.

Given a society organized into vocational groups, the above statement would not be valid. In such a society labor organizations would be free associations in the fullest sense of the term. But in the absence of such groups the labor organization must perform their function. It is in some sense, then, a necessary organization. Since the situation is somewhat anomalous, viz., a private organization substituting for a public society, I would not want to set down a natural-law obligation on the part of a working man to join a union. But it does seem to me that the importance of the union is such that it can at least bargain for a contractual obligation.

Ever since the term "social justice" was used by Pius XI in the Encyclical *Quadragesimo anno*, moralists and ethicists have been trying to find a place for it in the Thomistic scheme of virtues. Many moralists have been content to identify it with legal justice, including under this term natural-law justice as well as positive-law justice.<sup>50</sup> Others have made it a sub-species of legal

<sup>49</sup> THEOLOGICAL STUDIES 16 (1955) 567.

<sup>50</sup> This opinion was recently given some confirmation in a letter written in the name of Pius XII by Monsignor dell'Acqua on the occasion of the 16th Social Week at Seville

justice, a superior species including two or more of the other species, or an entirely distinct species.

The thesis of William Ferree, S.M., that social justice is a special virtue, is well known. He develops the idea briefly in an article in *Social Order*.<sup>51</sup> The direct object of the virtue is the common good, and its specific act is the organization, promotion, and support of social institutions. Another view is taken by William Drummond, S.J., who defines social justice as a special species of justice which directs that material goods, even privately owned, serve the common good.<sup>52</sup> Fr. Drummond's thesis differs from that of Fr. Ferree in that he makes wealth the material object of social justice. For Fr. Ferree social organization is the material object. Fr. Drummond admits that social justice will demand social organization, not however because it is the act of social justice, but because the social use of property cannot be realized without social organization.

Moralists and ethicists who have already made up their minds on this subject will probably continue to hold opinions already formed. I would be willing to agree with Fr. Drummond that Pius XI uses the term in reference to the socio-economic order, but I would not be sure that he intended to restrict it to that order. But whether one agrees with his classification of social justice or not, he will find his treatment of the ownership and use of superfluous goods very enlightening.

What is wrong with segregation? This is a question which often generates more heat than light. J. Masson, S.J., treats the "color bar" as it exists in various parts of the globe and the attitude which the various Christian sects have taken toward it.<sup>53</sup> It is wrong because it rejects, repels, and excludes those who are its victims. Some people think it is just because it has been legalized or at least confirmed by custom. Fr. Masson shows no sympathy with this attitude. Laws can be unjust, and this is a clear example of an unjust law. He argues, however, that a distinction must be drawn between the color bar and economic, social, or cultural bars. One should regret the existence of the latter and try to eliminate them, but it would be a mistake to confuse them with the color bar. They are based on economic, social, or cultural inequality, not on race or color. His conclusion is that laws and

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in Spain. He writes: "This . . . is the meaning of the general or legal justice of which the Scholastics spoke and which in pontifical documents is often called social justice" (*Ecclesia* 16 [May 26, 1956] 427).

<sup>51</sup> "Social Justice and Social Order," *Social Order* 6 (May, 1956) 225-31.

<sup>52</sup> William J. Drummond, S.J., *Social Justice* (Milwaukee: Bruce, 1955).

<sup>53</sup> "Le chrétien devant le 'colour-bar,'" *Nouvelle revue théologique* 78 (June, 1956) 611-33.

directives of Church or state will never of themselves remove the color bar. Only charity will solve the problem; the world must become color-blind.

Does an accused person have a right to silence? An article in the *Marquette Law Review* traces the judicial history of this right.<sup>54</sup> St. Thomas held that it all depended on the law. At that time the law demanded a confession of guilt whenever the court was in possession of at least partial evidence. Later moralists argued that, if there was danger of a death sentence, there would be no obligation to confess guilt. A confession under such circumstances would be too much to expect of human nature. Today Church law (can. 1743) removes from the defendant any obligation to admit guilt. Our own Fifth Amendment gives the same protection to a defendant in civil court. The right of a defendant to silence in court is taken for granted in this country today.

But the question has become acute in recent times in connection with Congressional investigations. The Supreme Court has extended the immunity of the Fifth Amendment to those called before such committees. There can be no doubt, then, of their right to silence in regard to crimes committed by themselves. But the same right would not extend to crimes committed by others. Even here, of course, moralists allow for excusing cause. Recent experiences with people who were obviously abusing the civil rights to which they were appealing have made some question the wisdom behind the Fifth Amendment. A knowledge of the history of criminal court procedure antecedent to this Amendment will adequately document the wisdom behind it.

A more difficult moral problem in connection with civil rights concerns the practice of so-called blacklisting of those connected with communistic organizations and activities. A *Report on Blacklisting* in movies, radio, and television was published recently by John Cogley.<sup>55</sup> It was Mr. Cogley's opinion that the practice of blacklisting, especially when carried on by private organizations, was an invasion of civil rights and involved a usurpation of authority by private individuals. Those engaged in the practice feel that they are performing a public service and exercising a patriotic duty.

Certainly the duty of protecting the good of the community belongs primarily to the government. It would seem also that any formal investigation of criminal conduct should be restricted to the public authority. A situation in which private citizens, at will, constitute themselves detectives and investigators would not be conducive to peace in the community. This function should be left, for the most part, to the police whose duty it is. Moreover,

<sup>54</sup> John R. Connery, S.J., "The Right to Silence," *Marquette Law Journal* 39 (Winter, 1955-56) 180-90; reprinted in *Catholic Mind* 54 (Sept., 1956) 491-501.

<sup>55</sup> John Cogley, *Report on Blacklisting* (2 vols.; Fund for the Republic, 1956).

even if a private citizen chances upon some menace to the community, the ordinary procedure would be to report the person to the public authorities. The practice of so-called blacklisting by private agencies would have to be considered an extraordinary means of protecting the common good and one which should have to be resorted to only rarely. But given a critical situation which could not or would not be handled otherwise, I think the practice could be justified. The insidiousness of the communist threat may well demand such extraordinary measures. One who takes this function of blacklisting upon himself is assuming, of course, a tremendous responsibility. Before blacklisting a person, he must be certain of the charge. Mere suspicion will not be enough. I would not feel that even the publication of a person's name in a communist newspaper would warrant blacklisting him without further investigation. It would be wrong also to blacklist a person who has already repented of a past crime. But within these limits I do not feel that I could condemn the practice from a moral standpoint.

While dealing with the right to reputation, mention should be made of an article in the *Review for Religious* on the obligation of secrecy of the master of novices. John R. Post, S.J., a master of novices himself, presents a very careful treatment of the obligations of the master of novices regarding information received from manifestations, etc.<sup>56</sup> Masters and mistresses of novices will find it very helpful in classifying the information they receive in their official capacity and in understanding the limits arising from the confidential nature of much of this information. I do not think that too much stress can be put on the importance of these limits. Next to the confessor, I know of no one who comes in contact with more intimate self-revelation than spiritual guides. The obligation of secrecy in regard to such knowledge comes closer to the obligation of the seal of confession than any other fiduciary obligation.

#### SACRAMENTS

I suppose every moralist has puzzled over the problem of simulation and dissimulation in connection with the sacraments. L. Bender, O.P., treats the subject in a series of articles in *Periodica*.<sup>57</sup> The difficulty in solving practical cases, as Fr. Bender correctly states, arises at least partially from the fact that the two terms are not used in reference to the same act. Simulation refers to the administration of the sacraments; dissimulation refers to non-administration.<sup>58</sup> All authors admit that simulation of the sacraments is

<sup>56</sup> "Novice Master and Secrecy," *Review for Religious* 15 (Jan. 15, 1956) 11-20.

<sup>57</sup> "Simulatio et dissimulatio in sacramentorum ministracione," *Periodica* 45 (March 15, 1956) 46-65; *ibid.* (June 15, 1956) 243-54.

<sup>58</sup> Dissimulation of administration would involve an attempt to conceal the administration of a sacrament from others, e.g., in time of persecution.

wrong. All admit as well that it is licit to dissimulate non-administration. But the precise difficulty comes to this: How can you dissimulate non-administration without simulating administration?

Presented this way, the problem may seem insoluble. It seems quite true that, unless what the minister says or does provides some basis for a judgment that the sacrament is being administered, it is difficult to see how he can conceal non-administration. In practice, however, the authors put limits to the notion of simulation. All admit that, if one administers the matter and form of the sacrament but withholds his intention, or even administers the matter or the form, he is guilty of simulation. All admit, too, that if he places a similar rite, e.g., a blessing instead of absolution, which has some meaning of its own, there is no question of simulation. But there is a vague area in between these two extremes which authors dispute. This is the area of actions which merely have the appearance of the matter or the form of the sacraments and which have no meaning in themselves, e.g., to anoint with water. Fr. Bender maintains that even these actions involve simulation and are therefore seriously wrong. Other authors seem to feel that these actions, at the most, involve a lie and are therefore only slightly sinful.

Fr. Bender maintains his position even in connection with the administration of the Eucharist and refuses to allow a priest to present and then withdraw a Host from an unworthy communicant. In so doing, he is perfectly consistent with his principles. Since this action has no meaning outside the actual distribution of Communion, he would classify it as simulation. All other authors, however, allow this practice and put it in the category of licit dissimulation.

I am wondering if in the vague area mentioned above we might not find something akin to the mental reservation. Since neither the matter nor the form of the sacrament is used, there seems to be no harm done to the sacrament. On the other hand, the action is not equivocal, as for example the blessing. Could it not be argued that, just as a blessing would be equivalent to the verbal equivocation, so the pretended distribution of Communion would be equivalent to a mental reservation?

What happens to sins committed before baptism for which one is not sorry at the time the sacrament is administered? Are they forgiven the first time the neophyte approaches the sacrament of penance? J. J. Danagher, C.M., answers correctly that such sins are not valid matter for the sacrament of penance, which is limited to the sins committed after baptism.<sup>59</sup> These sins are forgiven the first time the newly baptized has attrition for them. It may be that he has this attrition only in a subsequent confession. Even

<sup>59</sup> *Homiletic and Pastoral Review* 56 (March, 1956) 787-89.

in this case the sins are remitted in the virtue of the revivification of the baptism rather than by reason of the absolution itself.

A. Boschi, S.J., discusses a case concerned with the Masses said on All Souls' Day.<sup>60</sup> Though the situation described would be a rare occurrence, every priest can readily appreciate the possibility. A certain priest, after pouring the wine into the chalice during his third Mass on All Souls' Day, noticed that the particle of the Host from the previous Mass was still in the chalice. At Communion time, when he consumed the Precious Blood, he had the distinct impression that there was much more consecrated matter in the chalice than usual. At the time he merely consumed the contents of the chalice and continued with the Mass. Only later in the day did it occur to him that perhaps he forgot to consume the Precious Blood in his second Mass and that this accounted for the unusual experiences in the third Mass. His chief concern then was with the validity of the second and third Mass.

Even if the priest forgot to consume the Precious Blood in the second Mass, Fr. Boschi says that there is no doubt about the validity of the Mass. The Communion pertains only to the integrity of the Mass. As long as there was a valid consecration, the Mass would be valid. He feels certain also of the validity of the third Mass. The words of consecration pronounced over the chalice would refer to the wine not yet consecrated. There would consequently be a valid consecration of both species. I do not think that anyone could have any quarrel with the solution of this case.

G. Rossino considers another case of error in connection with the Mass.<sup>61</sup> It is the story of a priest who inadvertently reverses the formulas for consecration, saying the formula for the bread over the wine, and vice versa. Fr. Rossino maintains that the consecration would be valid. Since the proper matter is present when the formula is pronounced, the consecration will be valid, even though the words are misdirected. The prevailing intention of the minister, in spite of his actions, is to consecrate with the correct formula. Hence the formulas would refer to what the words meant rather than to what the priest had in his hands. To be perfectly secure, he urges the priest who discovers the mistake immediately after the consecration to repeat the consecration conditionally. But if the mistake is adverted to only after the Mass, there would be no cause for concern, even about the application of the Mass.

Church legislation regarding the Eucharist has always respected the intimate relationship between Mass and Holy Communion. Although it has never opposed the distribution of Communion outside of Mass, it has restricted it to those times and places where Mass may be celebrated. The only exception it has made is in favor of the sick who may receive Communion

<sup>60</sup> *Perfice munus* 31 (Jan., 1956) 23-25.

<sup>61</sup> *Perfice munus* 31 (April, 1956) 162.

at home. This sometimes creates a hardship for those who are not sick but devoted to the care of the sick. L. L. McReavy considers the question of distributing Communion to the other members of the household when bringing it to the sick.<sup>62</sup> He advises that the bishop may allow this *per modum actus*, according to a response of the Sacred Congregation of the Sacraments, dated January 5, 1928. Some authors say that epikeia can be used if the priest does not have the required permission. Regatillo merely says that the permission may be legitimately presumed.

Considering the problem of the nurse in the hospital, Fr. McReavy advises that she may be given Communion only in a permanent oratory. He would allow the use of epikeia in a room where Mass was said from time to time. Unfortunately, this does not help the nurse on duty who cannot get to the chapel and who can only receive at the time the priest is bringing Communion to the sick. It is my impression that chaplains will frequently allow these nurses to receive while on duty. Although no provision is made for such cases, it seems to me that the manifest desire of the Holy See to make frequent Communion accessible to all makes this practice not altogether unreasonable in cases where the nurse could not otherwise get to Communion.

While speaking of Communion to the sick, we might note a discrepancy which occurred in relation to the New Ordo for Holy Week. The text in *L'Osservatore Romano* stated that on Good Friday Communion could be distributed only during the services, and on Holy Thursday and Holy Saturday only during or immediately after the services, with the following exception: "exceptis infirmis *vel* in periculo mortis constitutis."<sup>63</sup> But when the text appeared in the *Acta* it read: "exceptis infirmis in periculo mortis constitutis."<sup>64</sup> The first reading would have made it very easy for hospital chaplains to give Communion to the sick on those days. The corrected text, while more in accord with previous legislation, would put the distribution at an unusual time and might interfere with hospital routine.<sup>65</sup>

*L'Ami du clergé* presents the problem of a missionary who receives hosts from a group of nuns who in turn get them from their European houses because they are not able to bake them on the mission itself.<sup>66</sup> The hosts are carefully packed and the Sisters assure him that they are good for a year.

<sup>62</sup> *Clergy Review* 41 (May, 1956) 295-97.

<sup>63</sup> *L'Osservatore Romano*, Nov. 27, 1955, "Instructio," nn. 18-19.

<sup>64</sup> *AAS* 47 (1955) 846.

<sup>65</sup> As the text of the *Instruction* reads, no allowance is made for distribution outside of the liturgical action on Good Friday. On Holy Thursday and Holy Saturday, according to a probable opinion, the expression "continuo et statim ab eis expletis" will allow distribution even some time after the services and in places where Mass has not been celebrated (cf. E. F. Regatillo, S.J., *Ius sacramentarium*, nn. 374-75).

<sup>66</sup> *L'Ami du clergé* 66 (May 31, 1956) 358-61.

Working on this assumption, they put in their order for a whole year. The missionary wonders how this can be reconciled with can. 1272. A. Bride responds that under no circumstances could this practice be tolerated. The most he will allow is an interval of five or six weeks from baking to consecration, or a maximum of two months from baking to consumption. This supposes that there is no danger of corruption. He bases his answer on previous responses of the Sacred Congregation to the effect that hosts two, three, and six months old could not be considered *recentes*. Ordinarily diocesan regulations will provide for weekly or biweekly renewal of the species. It is less usual that anything will be stipulated regarding the freshness of the hosts for consecration. *L'Ami* lists one recent statute which considers hosts recent if they are no more than a month old. This is a little more generous than the norm of St. Charles Borromeo (three weeks) which has been used by many authors, but unless there were danger of corruption, I think it could be safely followed in other areas where no diocesan regulation prevails. Priests, of course, should try to keep their hosts as fresh as possible.

The practical application of the new Eucharistic legislation is still presenting new problems. E. F. Regatillo, S.J., agrees with the opinion which Gerald Kelly, S.J., expressed some time ago regarding the use of food for diagnostic purposes (e.g., before diagnostic X-ray).<sup>67</sup> Food taken for such purposes can be considered medicine rather than food.

A. Gennaro takes up a related problem in connection with tuberculosis patients.<sup>68</sup> They are given a medicine called PAS (para-aminosalicylic acid), which tends to cause an upset stomach. By way of prevention patients are given a few mouthfuls of bread after taking the medicine. Would a patient be allowed to receive Communion under such circumstances? Fr. Gennaro answers that food taken to avoid an upset stomach must be considered medicine rather than food. I believe the same principle could be applied to pregnant women who find that the best preventive for morning sickness is a cracker.

Do people who go to late Masses automatically qualify for the dispensation from the Eucharistic fast? Commentators agree that there must be some reason for attending the late Mass. T. Cummins maintains that, where Catholics habitually attend late Masses, the reasonable cause of availing themselves of rest which they cannot get during the week would be sufficient for the use of the dispensation.<sup>69</sup> J. J. Danagher, C.M., agrees that most Catholics who attend late Masses on Sunday would qualify for the dispensation, but like Fr. Cummins he does not feel that they would qualify automati-

<sup>67</sup> *Sal terrae* 44 (March, 1956) 173.

<sup>68</sup> *Perfice munus* 31 (Feb., 1956) 88-89.

<sup>69</sup> *Clergy Review* 41 (Jan., 1956) 33.

cally.<sup>70</sup> This problem might solve itself for a certain percentage of these people. Taking advantage of the dispensation would involve a sacrifice of some of the rest they desire. They would prefer to sleep rather than get up early enough to take some nourishment and allow for the hour fast before Communion.

Giving absolution to the unconscious dying Catholic who can manifest neither his sins nor his sorrow has always posed a theoretical problem to the moral theologian. While I believe that most of us would be Thomists in theory, we find it easier to explain our practice according to Ballerini, who does not demand any external manifestation of the acts of the penitent. But in a short treatment of the subject P. F. Cremin makes a point which should be emphasized.<sup>71</sup> Since, due to the divided opinion, the absolution must be conditional,<sup>72</sup> every effort should be made to give a person in such a state extreme unction. Because it is certain that the validity of this sacrament does not depend on the acts of the penitent, it can be administered absolutely and, as long as at least internal attrition is present, it will be received both validly and fruitfully.

L. L. McReavy is of the opinion that the practice in England is not to defer absolution except when the proper dispositions of the penitent are clearly absent.<sup>73</sup> He agrees that, although theoretically deferring absolution for the good of the penitent can be justified, it is seldom prudent to do so. I think most priests in this country would be inclined to follow the same practice. For the ordinary penitent the grace of the sacrament has a more certain ascetical value than the deferment of absolution.

A. Mancini, S.D.B., considers the delicate problem of the confessor in a boarding school where a boy in confession accuses another boy of leading him into committing impure actions.<sup>74</sup> The confessor calls the boy after confession and asks details of the sin, including the name of the accomplice. Then he asks the boy's permission to take the matter to the superior. The boy reluctantly gives the permission.

One can hardly find language strong enough to condemn this whole procedure. And Fr. Mancini does not hesitate to do so. Unless it was clear that the boy was a menace to the school, the confessor should have done no more than urge the boy in confession to bring the matter to the superior. If the

<sup>70</sup> *Homiletic and Pastoral Review* 56 (Jan., 1956) 342-43.

<sup>71</sup> *Irish Ecclesiastical Record* 85 (March, 1956) 201-8.

<sup>72</sup> This does not apply to those who have requested the sacrament, even through a third party, before they lost consciousness. The sacrament of penance would be administered to them absolutely.

<sup>73</sup> *Clergy Review* 41 (April, 1956) 231-34.

<sup>74</sup> *Palestra del clero* 35 (April 1, 1956) 337-38.

boy was afraid, Fr. Mancini advised that the confessor might have offered his assistance to protect the boy from revealing himself.

I think I would have hesitated to give even this last advice. To my mind it involves too much danger of harm to the sacrament. There are times when opportunities to do good or prevent harm must be sacrificed to protect the sacrament. And confessors must be careful to keep the proper perspective in this connection. The good or harm at stake is often immediately evident, whereas an appreciation of the larger good of the sacrament may appear only after some reflection. Actually, if the confessor acts with the permission and even according to the desires of the boy, there is no danger of any strict violation of the seal. But the whole procedure is so open to misunderstanding and misinterpretation that the good of the sacrament might be very seriously jeopardized. And no harm that might be prevented would warrant any danger of undermining confidence in the sacrament.

Extreme unction may be administered only to those who are in danger of death from disease or old age. This excludes those who are in danger of death from any other cause, even a serious operation. From time to time authors have discussed this particular limitation and with few exceptions have reluctantly concluded that the sacrament could not be extended to these cases. An author in *L'Ami du clergé*, however, concludes that, if the operation is necessary and dangerous, the sick person may be given the sacrament.<sup>75</sup> He argues that one who must undergo a dangerous operation because of an illness is ultimately in danger of death by reason of that illness.

This is a rather interesting conclusion. On the practical level, I would not doubt that it could serve as a good rule of thumb. In practice, patients who would have to undergo a dangerous operation would normally be already in danger of death. But whether in theory one could justify giving the sacrament when the disease was only the remote cause of the danger, is a little more difficult to decide. But the conclusion does not seem to be altogether contrary to the wording of the canon.

#### CHASTITY AND MARRIAGE

A. Mancini, S.D.B., presents the case of a young student preparing for his examinations who is afflicted with insomnia.<sup>76</sup> From time to time he finds that only masturbation will relieve the tension and induce sleep. A lawyer friend warned him that this would lead to impotence. Then he began to question the wisdom of presenting such motivation to the young man and apparently sought counsel.

<sup>75</sup> *L'Ami du clergé* 66 (April 12, 1956) 233-35.

<sup>76</sup> *Palestra del clero* 35 (Feb. 1, 1956) 147-48.

Certainly masturbation cannot be accepted as a legitimate relief from insomnia. Some have attempted at times to apply the principle of the double effect to this case, arguing that as long as the pleasure is not intended or accepted it can be considered a bad effect of an action which is compensated for by the good effect, that is, the release of tension and subsequent sleep. This reasoning is false. It is the action itself which is evil, not merely the pleasure. The pleasure is bad because the action is bad. Moreover, it is not quite accurate to speak of the pleasure as though it were an effect of the act. It is part of the act. The act does not *cause* pleasure; it *is* pleasurable. There is no question, then, of an indifferent act with two effects, but a bad act with a good effect. Fr. Mancini states the morality of placing such an act simply and clearly in the principle: "non sunt facienda mala ut eveniant bona."

He agrees that the motivation presented was unhealthy. Impotence might result from pathological masturbation, but it would be a rare case. I am inclined to believe also that in such cases the fear of impotence resulting from the imprudent suggestion would be more likely to lead to it than the actual masturbation. As far as other motivation is concerned, while he would not want to rule out supernatural fear, Fr. Mancini would prefer to stress the motive of love of Christ.

The case of a student who has a problem before examinations may eventually be solved by the examination. A more difficult problem concerns the young man who has an habitual problem at night. It is dangerous to generalize too much in such cases, but it would seem that a certain ambivalence leading to indecision can explain many of these problems. The strength of even the normal appetite makes indecision in this area fatal. It is very difficult, even impossible, in many of these cases to arrive at a satisfactory estimate of guilt. But even where there is a clear case of overpowering temptation and the confessor makes a judgment of non-responsibility, there is no room for complacency. The confessor should never feel that his work is done until control over the appetite has been restored.

A certain pessimism regarding the sex conduct of the male is inherent in the institution of legalized prostitution. M. Zalba, S.J., takes up the moral problem involved and lists the opinions of moralists who have opposed legalized prostitution since the 16th century.<sup>77</sup> The arguments of those who favored the toleration of prostitution were based on the authority of St. Augustine and St. Thomas. St. Augustine argued that, if prostitution were outlawed, worse vices would follow ("Aufer meretrices; turbaveris omnia

<sup>77</sup> "Moralistas a favor del abolicionismo," *Estudios eclesiásticos* 30 (April-June, 1956) 239-54.

libidinibus"), e.g., sodomy, bestiality, etc. Fr. Zalba argues that both of these authors were dealing with a particular situation and did not intend to set down a universal principle. Since the same situation does not prevail today, their opinions can no longer be appealed to. Moralists for the past few centuries, while respecting the authority of these two authors, have declared themselves in favor of abolitionism. Fr. Zalba concludes from this that the institution should be outlawed.<sup>78</sup> I think most moralists would agree that today legalized prostitution creates more problems than it solves.

While we are dealing with the subject of law and morality, it will not be out of place to mention current discussions of laws regarding homosexuality. An article in the *American Journal of Psychiatry* discusses the variety of penal laws on homosexuality in this country.<sup>79</sup> The penalties for sodomy range from a prison sentence, which in some states can go up to life, to a \$100 fine in Indiana. Neither mutual consent nor the intended privacy of an act accidentally discovered is any defense against the indictment. In Western Europe, on the other hand, laws regarding homosexuality follow in general the Napoleonic Code and restrict penalties to the use of force or other coercive influence and to violations of public decency. The American Law Institute is presently working on a penal code which would put homosexual relations on a par with heterosexual relations which do not involve the use of force or its equivalent, corruption of the young, or public outrage.

Certainly not everything which is immoral is matter for penal legislation. Both the Church and the state have always recognized this fact in their legislation. Ultimately the present question comes to this: should homosexuality be penalized any more than heterosexual offenses of a similar nature?

It is clear, of course, that any change of legislation could not be based on the Kinsey opinion that homosexuality is just as natural an outlet for the sex instinct as heterosexuality. But certain arguments have been put forth which are not without validity. One argument maintains that the present laws serve only to promote blackmail without affording any real protection. To show that severe laws do not check offenses, proponents of a change point to the great increase in offenses which has taken place in Britain in spite of severe penal legislation. I should think also that the possible pathological nature of the homosexual tendency would be a con-

<sup>78</sup> As a result of a campaign carried on by *Ecclesia* against legalized prostitution, the Spanish government outlawed the practice by a decree dated March 3, 1956; cf. *Ecclesia* 16 (March 17, 1956) 223.

<sup>79</sup> Karl M. Bowman and Bernice Engle, "A Psychiatric Evaluation of the Laws of Homosexuality," *American Journal of Psychiatry* 112 (Feb., 1956) 577-83.

sideration in such legislation. But whether a change should be made in these laws at present is a matter for a prudential decision on the part of our lawmakers. I would not be so much concerned about a relaxation of the laws as I would about the conclusion that might be drawn from such a move. I am afraid that too much meaning might be attached to a relaxation of present laws. It could readily be misinterpreted as a permissive action on the part of the lawmakers.

What does a girl have to reveal to her prospective mate about her past? A. Mancini, S.D.B., deals with the case of a girl who wishes to have a ruptured hymen repaired to conceal a deliberate violation of chastity.<sup>80</sup> The *Dizionario di teologia morale* condemns such surgery on the grounds that it would be deception. Niedermeyer also condemns it in his compendium. Fr. Mancini, however, would allow the operation on the principle that no one is obliged to reveal a past fault. He maintains that if the husband were deceived it would be his own fault.

Moralists agree that a young girl has no obligation to reveal past sexual lapses to her future partner, but some authors will hedge on the methods of concealment. They will not allow any simulation of virginity. I would be inclined to agree with Fr. Mancini. If the girl has no obligation, I do not see why she may not take whatever means are necessary to protect her secret. In practice, however, it seems to me that in this day and age it hardly seems necessary to resort to surgical repair. There are so many other causes for rupture, e.g., athletics, surgery, use of internal hygienic pads, etc., that it would be very rash to conclude to an immoral past from a ruptured hymen. The only purpose such surgery would serve would be to give subjective reassurance to the girl.

Does this privilege of silence extend to known sterility? P. F. Cremin considers the case of a young engaged woman who was treated for a disease of the ovaries with subsequent sterility.<sup>81</sup> Must she reveal this fact to her intended husband? Fr. Cremin maintains a serious obligation in justice to reveal this sterility to her future spouse. It is a serious defect pertaining to the primary purpose of marriage which a young man would want to take into consideration before entering into the contract. Fr. Cremin would certainly except the case where the man was sterile himself or it was clear to the woman that he was not particularly interested in children.

Simple sterility in relation to future marriage involves nothing more than a moral problem. But when the sterility results from a bilateral vasectomy, the problem of the canonical impediment of impotence arises. The *Clergy*

<sup>80</sup> *Palestra del clero* 35 (April 15, 1956) 390-91.

<sup>81</sup> *Irish Ecclesiastical Record* 85 (May, 1956) 354-56.

*Monthly* relates the case of a couple who were married outside the Church because the husband had undergone a double vasectomy.<sup>82</sup> Now they want to have the marriage convalidated. The husband is told that if he wants to be fertile again he will have to undergo a serious operation and wear metal tubes. He would like to have the marriage fixed up but does not want to undergo the operation.

S. (presumably Fr. Sanders) allows the marriage to be convalidated. Since the condition is not permanent, there is certainly no question of the impediment of impotency. The fact that the husband is unwilling to undergo the operation makes no difference: "natura rei attendi debet, non autem voluntas."

In solving the case Fr. Sanders discusses the theoretical question involved. Does double vasectomy constitute impotence? Or is it a simple sterilizing procedure? Fr. Sanders holds the view that it constitutes impotence. But since there are weighty authorities on the other side, he feels that can. 1068, §2 can still be applied and the vasectomized man may get married. He seems to base his own opinion chiefly on authority. It is his opinion that Pius XII accepted and proposed the view that bilateral vasectomy constitutes impotence in his Allocution to the Urologists.

There can be no doubt that this statement of the Holy Father comes closer to a confirmation of this opinion than any previous statement, but as Fr. Sanders admits, not all agree that it closes the argument. The context of the pertinent statement is not such as to exclude all doubt.

The description of the surgical procedure necessary to reverse the vasectomy indicates a rather unusual case. The ordinary repair job, according to Dr. Vincent O'Connor, who has performed many such operations, "is a simple procedure which should be readily accomplished by any moderately well-trained and meticulous surgeon." In his description of the operation no mention is made of any metal tubes. It consists merely in rejoining the ends of the tubes.<sup>83</sup>

Perhaps the most important publication on marriage during the past six months is the pamphlet, *Beginning Your Marriage*, by John L. Thomas, S.J.<sup>84</sup>

<sup>82</sup> *Clergy Monthly* 20 (May, 1956) 140-47.

<sup>83</sup> Dr. O'Connor has performed more than fifty of these operations. In a private communication he reports that, if the vas has been severed at a distance of 2 to 3 cms. above the convoluted portion, his percentage of success is around 75 or 80 per cent. If the ligation has been low down, the percentage drops considerably and might be less than 40 per cent. For a description of the surgical procedure see Dr. O'Connor's articles on the subject, *Journal of the American Medical Association* 136 (1948) 162-63; 153 (1953) 532-34.

<sup>84</sup> Oak Park, Illinois: Delaney Publications (206 S. Grove Avenue).

The pamphlet is intended only for engaged and married couples and distribution is restricted to the clergy. It fulfils a real need while at the same time avoiding the objectionable features of other publications of this type which either contain erroneous doctrine or else offend against propriety. Fr. Thomas not only presents the Catholic approach to the subject of marriage but also dispels many of the false and exaggerated notions of marital union and its various aspects which one frequently finds in modern manuals.

What can be done for childless couples when the cause of sterility is in the male? The medical profession has been devoting considerable study and research to this problem. Unfortunately, the remedies uncovered do not always stay within the limits of good morality. One remedy suggested in a recent article in the *Journal of the American Medical Association* recommends artificial insemination with split ejaculations.<sup>85</sup> The theory is that it is only by an accumulation or concentration of sperm that fertility is possible in some individuals. The single ejaculation contains either a sub-fertile sperm count, or else a normal count but an excessive amount of carrier fluid. Only the first part of the ejaculation is used, since it contains the bulk of the sperm. To get the required count and concentration a number of split ejaculations are combined and subsequently inseminated into the wife.

Certainly, if the sperm is obtained through masturbation or through unnatural intercourse, this whole procedure is immoral. But if it were obtained through legitimate intercourse, I do not think the procedure would be clearly outlawed, even though some assistance were necessary in the way of collecting the sperm and later inseminating it in the woman. I think such insemination would be classed as assistant rather than artificial insemination, particularly if it took place as an adjunct to marital union.

Another suggested remedy is the so-called "testosterone rebound."<sup>86</sup> The procedure, as described, actually produces azoospermia (complete sterility) while the hormone is being taken, but as soon as the treatment stops the sperm reappears and it is hoped that it will reach fertility levels. This treatment might seem to some to present a moral problem. It seems to produce fertility precisely by causing temporary sterility, as it were, by building up the strength of the faculty. Would this have to be classed as direct sterilization?

Since the individual concerned is already sterile, it is difficult to see how

<sup>85</sup> Edward T. Tyler and Heron O. Singher, "Male Infertility—Status of Treatment, Prevention and Current Research," *Journal of the American Medical Association* 160 (Jan. 14, 1956) 91-97.

<sup>86</sup> Charles W. Charny, "Treatment of Male Infertility with Large Doses of Testosterone," *Journal of the American Medical Association* 160 (Jan. 14, 1956) 98-101.

the process can be considered a direct sterilization. It may perhaps make him more sterile than he actually is but, since it does not remove the *potentia generandi*, I do not think that it can be considered an immoral procedure. There is some doubt about the actual value of the treatment, but if it can solve a sterility problem, I do not see why there should be any moral objection to it.

As already intimated, artificial insemination is not an acceptable solution to the problem of childlessness. An article in the *Linacre Quarterly* by Gerald Kelly, S.J., presents the first two statements of Pius XII on this subject, together with a thorough commentary on the statements and a discussion of the moral aspects of both donor and husband insemination.<sup>87</sup> A recent statement on the same subject is found in the Pope's Allocution to the Second World Congress on Fertility and Sterility.<sup>88</sup> He rejects as absolutely immoral and illicit artificial fecundation "in vitro" (test-tube babies). He also makes some further comments on artificial insemination taken in the ordinary sense. The matrimonial contract confers no right to artificial insemination. Such a right is in no way contained in the right to the marital act. Nor can one appeal to a right to offspring to justify artificial insemination. The marital contract gives a right to the natural marital act, not to offspring.

Another article in the *Journal of the American Medical Association* concludes from statistics that the number of children to be expected by a woman who marries at the age of seventeen and who makes no attempt to thwart her normal fecundity is about thirteen.<sup>89</sup> The study also discovered that the median line for a first conception is about two or three months after marriage. The use of contraceptives does not lengthen the time required to achieve a pregnancy when the practice is abandoned. In relation to the use of contraceptives, however, the author refers, and without objection, to the opinion of I. C. Rubin, that many couples practice birth control needlessly and unwisely. They do so needlessly because they are already sterile. They are unwise because their practice covers up a sterility problem, and by the time they abandon contraception and discover their infertility much valuable time is lost during which the problem might have been solved.

What is said of contraception in this connection would be true also of the practice of so-called *amplexus reservatus*.<sup>90</sup> This practice is also unhealthy

<sup>87</sup> "The Teaching of Pope Pius XII on Artificial Insemination," *Linacre Quarterly* 23 (Feb., 1956) 5-17.

<sup>88</sup> *AAS* 48 (June, 1956) 467-74.

<sup>89</sup> A. F. Guttmacher, "Factors Affecting Normal Expectancy of Conception," *Journal of the American Medical Association* 161 (June 30, 1956) 855-60.

<sup>90</sup> "De amplexu reservato," *Estudios eclesiásticos* 30 (April-June, 1956) 197-227.

because of the psychic frustration it involves, as well as the danger of causing chronic congestion, particularly in the female. These are just a few of the considerations which must be made in considering the morality of this practice. A. Yanguas concludes, however, from a very thorough treatment of the subject that, though the practice is open to danger and abuse, nothing can be advanced to show that it is wrong in itself. As far as positive legislation is concerned, neither the decree of the Holy Office ordering the books of P. Chanson withdrawn from circulation nor the later *Monitum* can be adduced to show that the practice is wrong in itself. This opinion is shared by many moralists.

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