CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

GENERAL MORAL

Situation ethics deifies the individual. Man is his own norm; he creates his own moral values. He is beyond the tyranny of any "totalitarian" law, even the law of nature. This is the doctrine of situation ethics in its "most pure" form. As J.-M. Le Blond advises in an article in *Etudes*, it is obviously unacceptable in this form to any Christian conscience.[1] What he fears more are certain infiltrations of situationist doctrine under the guise of themes which in themselves are authentically Christian.

One of these themes is the need for sincerity. Christ Himself brought out this need clearly in His dealings with the Pharisees. But sincerity is no criterion of objective moral goodness. One can be sincere in sinful hate. Moreover, a morality in which the major emphasis is put on sincerity can easily degenerate into a morality of "heart," an intentional morality, which ignores the external act. If sincerity is the ultimate norm, we are already in the realm of situationist or individualist ethics.

Another of these themes is that of personal vocation. Again, the concept is genuinely Christian if properly understood, but the so-called "Christian dialogue," that is, the personal relationship of the individual to God, does not put him in conflict with the law. The demands of the Christian vocation may go beyond the law but they will not go against it. Herein lies the essential difference between the Christian vocation and the vocation of the situationist: the Christian vocation supplements the law, it does not replace it.

A. Poppi, O.F.M.Conv., gives his attention in *Miscellanea Francescana* to a thorough analysis and criticism of situation ethics itself.[2] He discusses at length the matrimonial errors of Ernst Michel, which in the opinion of many reflect a situationist mentality.[3] For the rest, he is content for the most part

EDITOR'S NOTE.—The present survey covers the period from January to June, 1957.

[1] "Sincérité et vérité," *Etudes* 292 (Feb., 1957) 238–56.

[2] "La morale di situazione: Presentazione e analisi delle sue fonti," *Miscellanea Francescana* 57 (Jan.–Mar., 1957) 3–63; "Elementi di una critica alla 'Morale di situazione,'" (Apr.–June) 168–222.

[3] These errors are contained in the book *Ehe: Eine Anthropologie der Gechlechtsgemeinschaft* (Stuttgart, 1948). The book was put on the Index in 1952 (*AAS* 44 [1952] 870). Although the Instruction of the Holy Office on situation ethics (*AAS* 48 [1956] 144–45) states that the doctrine has even penetrated Catholic thought in many places, this is the only book by a Catholic which the authors agree has been tainted by the doctrine. J. Fuchs, S.J., "Morale théologique et morale de la situation," *Nouvelle revue théologique* 76 (1954) 1074, also mentions several works of Th. Steinbüchel, but B. Häring, C.SS.R., defends this last author against all reproach; cf. *La loi du Christ* (2nd ed.; Tournai, 1956) p. 90.

to repeat the catalog of dangerous tendencies gathered by M. Zurdo, C.M.F.[4] Fr. Zurdo finds traces of the "new morality" in several current movements, such as the integral humanism of Jacques Maritain, Moral Rearmament, the Rotarian movement, and the trend towards conscientious objection to war.

No one will be blamed if he finds this a somewhat heterogeneous list. But situation ethics can appear in a variety of forms. The reason may be that it is more an ethical mentality than an ethical system. Anyone who expects to find a systematic formulation of situation ethics will be disappointed. Briefly, it can be described as the mentality of those who accept the notion of personal responsibility but do not recognize an absolute moral law. It is a kind of application of the Protestant principle of private interpretation to the moral order.

One can understand how such an attitude can turn up in a variety of different movements. But while I see dangerous tendencies in the movements listed by Fr. Zurdo, I would hesitate to say that they all move in the direction of situation ethics. I would make a similar observation about the condemned work of M. Oraison, *Vie chrêtienne et problèmes de la sexualité*,[5] to which Fr. Poppi gives considerable attention. While the book is certainly open to serious objection, my acquaintance with it would not lead me to classify the error in it as situationist. Abbé Oraison seriously underestimated the autonomy of the normal person but he did not underestimate the law. Thus, a married couple might not often, in his opinion, be guilty of formal sin in practicing birth control, but they could never judge that in their particular situation it was an ethical solution to their problem. It would always be a material sin.

Fr. Poppi makes several positive observations which should not be overlooked. He believes that the challenge of situation ethics will have a salutary influence on our own ethics. It is as much an error to slight the individual situation as it is to exaggerate it. The attacks of the situationists may force the proponents of classic moral doctrine to descend a little more from the realms of the abstract into the concrete individual situation. All moralists will recognize, I believe, a tendency to categorize human actions without any reference to the individual situation. Yet the law itself will frequently call for an examination of the individual situation. *Incommoda*, excusing causes, and circumstances must be weighed before a moral judgment can be made. This is admittedly a tedious process, and one can understand a tendency to circumvent it by resorting to simple, abstract classifications. And yet this is precisely the tendency which brings traditional moral doctrine into disrepute

[4] "La 'Moral nueva' y sus repercussiones," *Ilustración del clero* 45 (1952) 251.

[5] Paris, 1951. The book was put on the Index by decree of the Holy Office (*AAS* 47 [1955] 89).

on the charge that it ignores *homo ut hic*. The tendency is very human but it can result in a very inhumane application of the natural law.

He observes also that it will force moralists to be a little more cautious in referring to the natural law what is really the product of an individual situation and, in general, to distinguish more carefully in traditional moral doctrine what is natural from what is historical. Finally, he believes that situation ethics will bring us back to an appreciation of the personal vocation, that is, the call that goes beyond the demands of the general law. To what extent this vocation is obligatory or a matter of counsel may be a very knotty question, but certainly the Christian vocation cannot be reduced to an abstract morality which would have prevailed even without the coming of Christ.

Moralists have been criticized over the past few decades for being satisfied merely to present this general law *sine addito*. The new manual of B. Häring, C.SS.R., *La loi du Christ*, seems to meet the demand for a more personalist morality while at the same time avoiding the pitfalls of situation ethics.[6] A. Stévaux in a diocesan conference expresses great admiration for this remarkable work, and these sentiments seem to be shared by all who have come into contact with the book.[7] It is constructed around the principle that Christian morality is essentially a religious morality involving a personal relationship with a living God. It is not just a morality of human perfection, nor even of human salvation, but of a communion of love with the living God. This personal morality does not, of course, remove all idea of law and obligation. The precept is one of the fundamental facts of religious morality, but it is seen as an act of love which looks to the true good of the creature. On the other hand, it is recognized as announcing only a minimum. The precept is far from exhausting the intentions of the Father regarding the destiny of His children.

The book is not, of course, without certain weaknesses, and Fr. Stévaux does not hesitate to point them out. As might be expected, a book that so emphasizes personal morality will not give the attention to the doctrine of the Mystical Body that some might wish. It will tend to slight also the concept of nature. It will be interesting, also, to see how Fr. Häring handles the precepts. The present volume deals with only general moral, which, we can say without wishing to detract from the work in any sense, is more readily adaptable to a personalist approach than the precepts themselves.

The importance of a religious orientation of man's moral and even his

[6] Cf. footnote 3 supra. The book was published originally in German under the title *Das Gesetz Christi* (Freiburg, 1954).

[7] "L'Idée-mère de la morale chrétienne," *Revue diocésaine de Tournai* 12 (Mar., 1957) 171–75.

psychic life has been a subject of much controversy among the proponents of psychoanalysis. Freud considered religion a mass delusion. Jung in his earlier years subscribed to this viewpoint but later began to see the need for religion not only as a support for moral living but even, it would appear, for psychic health. Originally, he felt that it was an infantile need with which an adult morality should be able to dispense. In later years he has given indications of a willingness to accept the objectivity of religion, although his statements on this subject are not always consistent.[8] The author of a recent book, Wilfried Daim, maintains that man's psychic life is so oriented around religion that mental health depends on it.[9] The central truth in man's life is the existence of the Absolute. When his subjective Absolute corresponds with the real Absolute, man is in tune with reality. But when man relativizes the Absolute and converts the contingent into something absolute, a fundamental conflict arises. This can happen at any stage of development. Thus, one can absolutize the maternal womb, then the maternal breast, etc. And it is precisely such conflicts that constitute the reason behind psychoses and neuroses. It follows from this that the function of psychoanalysis is to bring man back to a recognition of the Absolute. According to Daim, then, psychoanalysis, if it is to be effective, must be separated from Freudian theory and lead to religion. If it does not, it is worthless.

While he recognizes the religious appeal of this theory, Louis Beirnaert, S.J., is of the opinion that Freudian psychoanalysis will bring a man closer to the act of faith than Daim's psychoanalysis.[10] Fr. Beirnaert does not subscribe to the opinion that Freudian psychoanalysis can be separated from the Freudian theory which finds the cause of neuroses in faulty affective relations with the parents rather than in the religious sphere. By preparing the patient to accept the father with all that this role connotes, Freudian psychoanalysis actually brings the individual to the point where the concept of a heavenly Father, divine sonship, etc., can be readily accepted. It does not come within the scope of the moralist, of course, to determine either the cause or the cure of neurosis. But it is heartening to realize that the former negative attitude toward religion is gradually being replaced.

Situation ethics would liberate man from the bonds of the natural law.

[8] Cf. Raymond Hostie, S.J., *Religion and the Psychology of Jung* (New York, 1956). For a discussion of this book see A. Thiry, S.J., "Jung et la religion," *Nouvelle revue théologique* 79 (Mar., 1957) 248–76.

[9] Wilfried Daim, *Transvaluation de la psychanalyse* (Paris, 1956). Cf. André Combes, "Wilfried Daim et sa 'Transvaluation de la psychanalyse,' " *La pensée catholique* 48 (1957) 7–25.

[10] "Psychothérapie d'aggression et question religieuse," *Etudes* 292 (Jan., 1957) 67–72. For other criticisms of Daim's theory, cf. Ch.-H. Nodet, in *Vie spirituelle, Supplément* 10, no. 40 (1957) 94–107.

P. Hayoit complains of a less revolutionary but still disconcerting attitude toward positive law. "De la loi positive . . . délivrez-nous, Seigneur!", is the title he gives to his article.[11] While he appreciates the humor that lies behind such expressions of impatience with positive law, particularly ecclesiastical law, he does feel that they indicate a certain unhealthy attitude. The basic complaints against the law are its contingency, its rigidity, and its complexity. We cannot consider here Fr. Hayoit's answer to these complaints, but he does make some general comments which are worth repeating.

He traces opposition to positive law to a lack of community spirit. Those who oppose positive law do not show sufficient interest in the good of the community. He advises those who complain of ecclesiastical laws that it is the hallmark of the Christian conscience that the last word does not belong to one's private judgment but to the Church. Observance of ecclesiastical law, moreover, is one way of participating in the Mystical Body and promoting the good of that Body. It is also an authentic mark of love toward the Church and her representatives.

An entirely different attitude is reflected by those who would want to make all positive law bind in conscience. This group feels that the penal law theory is responsible for lowering standards of law observance and maintains that the solution lies in making moral obligation the immediate effect of all law. Edward T. Dunn, S.J., gives us a very thorough summary of the various concepts of the penal law theory which have been advanced over the past several centuries and answers the more common objections leveled against the concept and existence of purely penal laws.[12]

He prefers the theory of conditional moral obligation. If one does not observe the law, he is morally bound to accept the penalty. This is actually the common opinion. He dislikes Vermeersch's theory of purely juridical obligation because he feels that it is essential to the notion of law to impose some moral obligation. According to Vermeersch the moral obligation comes solely from the natural law, which forbids the use of violence against the imposition of a just penalty.

I am certainly in agreement with Fr. Dunn's defense of the purely penal law. It has often occurred to me that the argument frequently used against this theory, if valid, would destroy the basis for all positive law. It is argued that either the prescribed act is necessary for the common good or it is not. If it is necessary, there is a moral obligation to perform it, and no legislator can remove that obligation. If it is not in some sense necessary, it cannot

[11] "De la loi positive . . . délivrez-nous, Seigneur!", *Revue diocésaine de Tournai* 12 (May, 1957) 280–87.

[12] "In Defense of the Penal Law," THEOLOGICAL STUDIES 18 (Mar., 1957) 41–59.

be legislated. If the basis for the obligation in positive legislation is some already prevailing natural necessity of means to end, it would seem that the legislator does no more than interpret an already existing obligation. The obligation in this case would come not from the positive law but from the natural law. This would reduce the positive law to a mere interpretation of the natural law and hence destroy the notion of positive law in the genuine sense.

Fr. Dunn's quotation from Blackstone strikes a telling blow against those who maintain that the intention of the modern lawgiver is to bind in conscience. Blackstone's position is that the civil law binds in conscience only when it deals with rights or prohibits things which are *mala in se.* This statement is valid only concerning the actual meaning of current civil law (the civil legislator can, if he wishes, bind in conscience to any just law), but it does give strong authoritative evidence in favor of the purely penal nature of those laws which do not deal with rights or actions which are intrinsically evil. As far as the damaging effects of the penal law theory are concerned, I think that if we refer back to Fr. Hayoit's article mentioned above we will have to conclude that failure to observe positive legislation is due to something more basic than the distinction between moral and penal laws.

Civil law may or may not impose moral obligation to comply with its demands. But failure to comply will not be liable to punishment unless there is at least juridical responsibility. No one will be condemned for an act for which he was not at least juridically responsible. The problem of determining such responsibility becomes acute where some mental or emotional disorder is present. Previously the tests for insanity in the District of Columbia were the so-called M'Naghten Rule and the irresistible-impulse proof. According to the M'Naghten Rule, to establish a defense on the ground of insanity it had to be proved that the defendant was laboring under such a defect of reason that he did not know the nature and quality of the act he was performing. It was usually referred to as the right-wrong test. The meaning of the irresistible-impulse test is quite clear. Psychiatrists felt that these two rules did not adequately cover all cases of mental disorder. The M'Naghten Rule, for instance, did not protect the extreme paranoid who might well know the nature of his act. Nor did the irresistible-impulse test provide for the actions of a person given to severe depression or brooding.

In the recent Durham case the basis for determining responsibility has been broadened considerably.[18] According to the opinion expressed in this

[18] Abe Fortas, "Implications of Durham's Case," *American Journal of Psychiatry* 113 (Jan., 1957) 577–82.

case, "an accused is not criminally responsible if his unlawful act was the product of mental disease or defect." Psychiatrists feel that this rule is more in accord with the advances made in the field of psychiatry in diagnosing mental disorder. It is not clear just what effect the ruling has had on the number of insanity defenses, but it has certainly not produced the dire results some critics predicted for it. It is interesting to note, as John C. Ford, S.J., has pointed out, that ecclesiastical penal legislation is more lenient than civil law in allowing for reduced responsibility.[14] It makes allowance, for instance, for impediments of a non-pathological nature. Also, any circumstance mitigating guilt will prevent one from incurring certain ecclesiastical penalties. On the other hand, however, the civil law does not contain the automatic penalties that are so much a part of ecclesiastical penal law.

The tendency to broaden the area of irresponsibility even among those who would be considered mentally and emotionally normal and to take a benign attitude toward human weakness is quite prevalent in current thinking. Someone asks in *L'Ami du clergé* whether it is only for sins of malice that one will be condemned to hell.[15] The question clearly reflects this tendency to remove all serious guilt from sins of weakness. A. Giraud wisely comments in his answer that the distinction between sins of malice and sins of weakness is not coterminous with the distinction between mortal and venial sin. Sins of weakness can be mortal and sins of malice can be forgiven. It would be just as much a mistake to hold that all sins of weakness were venial as it would be to maintain that sins of malice were unforgivable.

The attention of psychologists and psychiatrists in recent times has been attracted not only by the conduct of the sinner and the criminal but also by that of the saint, or at least the man who performs external acts of virtue. Moreover, the benign attitude toward the sinner is sometimes matched by what appears to be a suspicious attitude toward virtue. They are no longer willing to accept virtue at its face value but draw a distinction between genuine and counterfeit virtue. Thus the angry moralist who lashes out furiously at vice and the immorality of the world may have a secret desire to enjoy the pleasures he so bitterly denounces. The dogmatic authoritarian may be inspired by a desire for power or a genuine anxiety about the truths he so categorically affirms. One need not mention, of course, how readily a romantic attachment can be mistaken for charity.

[14] "Criminal Responsibility in Canon Law and Catholic Thought," *Bulletin of the Guild of Catholic Psychiatrists* 3 (1955) 18.

[15] *L'Ami du clergé* 67 (Jan. 17, 1957) 42.

Spiritual writers and those who pursue the practice of perfection have always been to some extent aware of this problem. They have always recognized the problem of the "low motive" and the need for purifying the intention even in the practice of virtue. But a failure to grasp the psychological significance of certain types of motivation has prevented them from taking full advantage of this knowledge. It has been the contribution of modern psychiatry not only to widen the area of our knowledge of motivation but also to confront us with the dangers involved in fostering certain drives even when they are directed toward the practice of virtue.

But one must distinguish carefully between the psychological and the moral problem involved in motivation. First of all, it would be a mistake to conclude that all "low motives" are neurotic or indicate neurotic tendencies. The work of purifying the intention even in the normal person may be the work of a lifetime. Moreover, unless it is seriously sinful, the presence of a low motive will not entirely vitiate moral conduct as long as some more worthy motive is active.[16] And if the low motive is unaccepted or unconscious in these cases, it will not vitiate the conduct at all from a moral standpoint. Morally good conduct may, of course, have to be abandoned where it is found to foster a neurotic tendency. Thus, one may have to abandon a vocation if it is fostering a neurotic tendency to withdraw or a neurotic desire for security.

How can one be sure of practising genuine virtue? A. Leonard, O.P., gives three indications: (1) the presence of a variety of ideals and values which transcend biological urges; (2) the capacity for self-criticism; and (3) a certain interior unification.[17] C. Burns in the *Month* stresses the importance of purifying one's motivation or intention.[18] Substantially this suggestion coincides with the first of Fr. Leonard's indications. Certainly where these indications are verified, no neurotic drive can be active. The importance of Fr. Leonard's first two criteria is quite evident. I would like to stress the value of the third. Where a neurotic drive is active, one aspect of the person's interior life will be out of all proportion to the rest. There will not be that interior unity and coherence that should characterize healthy spiritual endeavor.

One must be careful not to conclude too readily that a "low motive" is unconscious. There are motives of which people are fully conscious but

[16] Some authors maintain as a probable opinion that, even if the motive is seriously sinful, it will not vitiate the act completely as long as some good motive is also present. Cf. Regatillo-Zalba, *Theologiae moralis summa* 1, 187.

[17] "Psychology and Mature Spiritual Life," *Cross and Crown* 9 (June, 1957) 189–94.

[18] "Psychology and Western Man," *Month* 17 (May, 1957) 293–303.

which they would not ordinarily admit to another. There are motives also of which they may be conscious or to which they may advert only at times when they are particularly candid with themselves. At other times they refuse to admit them even to themselves. Finally, there may be in the individual case a residue of unconscious motivation which escapes his attention completely and can be uncovered only with the aid of another, perhaps only a psychiatrist. It is only this last type of motive that is genuinely unconscious, although to the external observer all three may appear equally unconscious.

I would not want to create the impression that the psychiatrist is a cynical individual who suspects vice behind every virtue. The psychiatrist from his clinical experience knows what can happen, but he does not know what is actually going on in an individual patient until he understands the case thoroughly. The psychiatrist, of course, like the rest of us, must be careful not to jump too readily to conclusions in his own judgments of his patients. Also, although he may find neurotic motivation, I do not know how often he can maintain with certainty that it is the sole motivating factor and that no spiritual motives are active. I am inclined to think that it is the rare case that can be stripped of all moral or spiritual value. In other words, I am inclined to doubt that one can often reduce conscious motives in these cases to pure rationalizations.

One psychological problem whose genesis is completely hidden from its victims is that of the scrupulous conscience. Curiously enough, it is the one psychological problem to which moralists have given their attention for centuries. For some unknown reason the scrupulous conscience is not satisfied with the degree of certainty that is possible in contingent judgments and lives habitually in morbid fear of sin. The scrupulant naturally looks for security in the confessional and particularly in the sacramental aspect of the relationship between confessor and penitent. George Mora, in an article in *Cross Currents*, points out that there is also a possible psychotherapeutic aspect to this relationship.[19]

According to Dr. Mora, dual relationships are best adapted to the reenactment of childhood experiences. In the sacrament of penance there is a child-father relationship. This brings about a transference and a subsequent emotional catharsis which makes for the improvement of the patient. This transference is based on the love and charity which the priest represents as minister of forgiveness. The therapeutic effect obtains even though the priest may not be consciously exercising any efforts at therapy.

[19] "The Psychotherapeutic Treatment of Scrupulous Patients," *Cross Currents* 7 (Winter, 1957) 29–40.

The effectiveness of this relationship can be destroyed by a pathological attachment to the priest as a human person in which the sacramental action is devaluated. Also, where there is a lack of confidence either in the understanding of the confessor or the sacramental value of his action, no therapeutic relationship can be set up. It should be clear to the priest dealing with a scrupulant, then, that where there is pathological dependence or a lack of submission to his judgment on the part of the penitent, he cannot hope to achieve any therapeutic result.

The scrupulous conscience is also considered by A. Snoeck, S.J.[20] Fr. Snoeck thinks that basic to the whole problem of the scrupulous conscience is an unwillingness to assume responsibility for one's actions. There is in the scrupulous person a reluctance to accept the responsibility of life and the decisions it imposes. If such refusal were deliberate, this would be a very serious charge. It is not, of course, deliberate in the scrupulous person, and this is both his salvation and his problem.

The scrupulous person in dealing with sin makes the mistake of projecting his own attitude toward sin on God. He thinks that God is just like himself in this respect. He is also solely preoccupied with self in dealing with sin. Fr. Snoeck wonders if scrupulants can make a valid act of contrition in this state. They are so preoccupied with their own anxiety that they are scarcely aware of the priest in the confessional,—to say nothing about their awareness of God. The priest will often have to repeat the penance for them because of this preoccupation with self.

Fr. Snoeck also wonders to what extent the practice of integral confession as it is customary in the Western Church is conducive to this type of pathology. Right from their first childhood preparation for Holy Communion, children link the sacramental life with a very intimate criticism of personal moral conduct. Does this tend to create scrupulous consciences? A study of the effect on the child of simultaneous and related preparation for first confession and first Communion would be necessary to arrive at an answer to this question. But by way of caution I would like to add that while the scrupulous conscience may be a Catholic disease, or even a disease of the Western Church, the scruple is just one type of obsession, and obsessions do not show any religious preference.

M. Oraison attempts an analysis of this problem in *Cahiers Laennec*.[21] He notes that anxiety arises in the child as a result of parental interdicts of instinctual drives. Each time the child experiences these drives, the fear

[20] "La pastorale du scrupule," *Nouvelle revue théologique* 79 (Apr., 1957) 371–87; (May 1957) 478–93.

[21] "Hygiène mentale et sens du péché," *Cahiers Laennec* 17 (June, 1957) 22–32.

associated with the parental interdict is awakened. If this conflict is intense, repeated, and unresolved, it will become an automatic and chronic reaction. Childhood fears, moreover, know no rational limits. The child can associate catastrophic effects with the slightest of causes and is capable therefore of associating terrible consequences with any failure to control instinctual drives. Neurotic anxiety in the adult is nothing more than the persistence of these infantile reactions.

If certain religious themes are used to reinforce this fear, e.g., divine interdicts, divine punishment, etc., childhood anxiety takes on a religious tone and becomes associated with religious and moral obligations. Oraison does not feel that it does justice either to the revealed word of God or to the child's mental health to present this negative approach to religion. The child develops a notion of sin which is bound up with infantile fear. Although it is related to religion and to law, it is basically a fear for self rather than a genuine appreciation of religion and law that prompts compliance. He looks upon the sacrament of penance as a means of exorcising this fear for self. The Abbé argues that the theological concept of sin goes beyond the self and speaks a reference to another Person. It breaks off a friendship, a relation of love with that Person. Genuine penitence and recourse to the sacrament is not an effort to remove anxiety but a return of the sinner to this love.

Whether the Abbé's analysis of the origin of religious anxiety is correct is beyond the competence of a moralist to decide. But certainly the child's initial contacts with religion should not be dominated by fear. And it is clearly unfair to threaten with divine punishment a child who is as yet incapable of formal sin. Even when the child does reach the age of reason, the emphasis should not be put on motivation that neglects the more positive aspects of the Christian message and is likely to reactivate infantile fears.

FIFTH COMMANDMENT

The controversy over organic transplantation has stimulated very fruitful discussion of the moral principles governing not only mutilation but also direct and indirect killing. In an article in *Palestra del clero*, L. Bender, O.P., discusses the morality of a case presented by G. B. Guzzetti to justify organic transplantation.[22] It is the actual case of Maximilian Kolbe, O.F.M. Conv., a prisoner in a Nazi concentration camp, who took the place of a

[22] "Pro fratribus animam ponere," *Palestra del clero* 36 (Jan. 1, 1957) 34–38. Fr. Guzzetti's article, "Il trapianto di organi nella morale e nel diritto," will be found in *Scuola cattolica* 28 (1956) 241–62.

fellow prisoner to be confined with ten others to a hunger cell and starved to death. His act of charity was prompted by the fact that the other man had a family. Fr. Guzzetti had used the case to argue in favor of organic transplantation. If charity could justify the sacrifice of one's life, it could also justify the sacrifice of a member for another.

Fr. Bender counters, as in the past, that the argument would be valid only if Fr. Kolbe's act consisted in direct killing of self. One cannot argue from the liceity of indirect killing to the liceity of direct mutilation. I can appreciate the difference between the two cases and I do not think that one can draw a conclusive argument from the parallel between them, but I would not want to grant that there is no argument at all. While there may not be an exact parallel between indirect killing and direct mutilation, neither is there an exact parallel between direct killing and direct mutilation; direct mutilation is sometimes permitted. So, although charity will not justify direct killing, it is not clear that it will not justify direct mutilation.

In another article Fr. Bender continues the controversy over organic transplantation with T. Goffi.[23] Fr. Goffi had agreed with him that, although blood transfusions can be permitted, organic transplantation is never licit. Fr. Bender welcomed the support of his conclusions but took issue with his arguments. According to Fr. Bender, if one argues from lack of dominion, as Fr. Goffi had done, he has no more right to allow blood transfusions than organic transplantation. One cannot hold that man has that kind of dominion over one part of his body and not over another. On the basis of lack of dominion one would have to outlaw blood transfusions as well as organic transplantation.

Anyone familiar with Fr. Bender's approach to this whole subject will know that he objects to the use of such terms as *dominium*, *ius*, *proprietas*, etc., in reference to the relations of a person to himself. These terms pertain to the juridical order, which deals with the relation of a person to external things or to certain actions of another. They do not pertain to the relations of a person to his own life or members. Moreover, no one can prove to his satisfaction that man does not have dominion over his own life. The opposite seems more evident. If man can have dominion over external goods, why cannot he have dominion over himself? His life, his members, etc., are more his own than external goods. One cannot object that God's dominion over life excludes personal dominion. God has dominion over all creation, and yet man can possess creatures perfectly. Thus he can

[23] "Dominium in corpus eiusque partes," *Palestra del clero* 36 (Jan. 15, 1957) 69–75. Fr. Goffi's articles appeared in *Revista del clero italiano*, Sept. and Oct., 1956.

dispose of material things, plants, animals, etc., for his own uses. If God's dominion does not interfere with perfect dominion over these things, how how can it interfere with perfect dominion over what is more clearly man's own?

He then presents his own argument. It is not because man does not have dominion over his body that he may not mutilate it. It is rather because he has the obligation to tend toward his own perfection. Every act which of its nature tends to man's deterioration is intrinsically evil. Hence the difference between organic transplantation and blood transfusions. A mutilation involves a deterioration of the person; a blood transfusion does not.

Fr. Goffi defends himself in a subsequent article.[24] He maintains that, if one does away with the violation of justice in the problem of mutilation, he removes the very foundation for an attack on organic transplantation. The only thing that keeps organic transplantation for a motive of charity from being licit is that it is a violation of justice, an infringement on God's dominion. If the objection to it is reduced merely to a matter of pursuing perfection, is there any better way of pursuing perfection than by charitable sacrifice?

He defends his own distinction between blood transfusions and transplantations in this way. It is only when one alienates a part of his body *as a function* that he violates God's dominion. If blood is donated in such a way that it does no harm to the donor, the gift involves no more than a *use* of the blood. As long as the function remains unimpaired, there is no exercise of radical ownership.

A thorough discussion of this interesting exchange of views would take us far afield, but this difference of opinion does illustrate clearly to my mind that the arguments against organic transplantation are not invulnerable. When even those who agree on the conclusion cannot accept each other's premises, one can hardly expect the opposition to be convinced by them. In the meanwhile the more of this type of discussion, the better. Whether such discussion will lead to any clear-cut conviction regarding the morality of organic transplantation, it certainly does produce a better understanding of the problem of mutilation.

While the Holy See has never clearly expressed its mind on the subject of organic transplantation from a live donor, it has set down the principles governing medical experimentation.[25] No one may consent to medical experiments or research "when they entail serious destruction, mutilation, wounds, or perils." L. L. McReavy takes up a case of experimentation on

[24] "Dominio sul corpo e sulle sue parti," *Palestra del clero* 36 (Feb. 15, 1957) 165–67.
[25] *AAS* 44 (1952) 779–89.

an anencephalic (without a brain) fetus.[26] A research worker wants to expose the fetus to radioactive substances with the knowledge that they will adversely affect the reproductive organs. Fr. McReavy concludes that, if this would involve sterilization, it would have to be considered a serious mutilation and hence would not be permitted for experimental purposes.

It is clear from the quotation above that the Pope outlawed any serious mutilation for experimental purposes. But I am wondering how serious one would have to consider a sterilization (if it can be called such) of a fetus that will probably not be born alive and, even if it is, will not survive birth for any appreciable period of time. I would certainly not allow any experimentation that would endanger the life of such a fetus, but it is not clear to me that in these circumstances this mutilation would be considered serious. In cases of this type one must be on his guard, of course, against an attitude that would fail to respect the dignity of human life even in its most pitiable states.

Fluoridation of water supplies is out of the experimental stage, but in certain parts of the country it is still a subject of heated controversy. Since Fr. Lynch discussed the morality of fluoridation in these Notes last year,[27] the question has been brought closer to a solution. A pamphlet by Louis I. Dublin, M.D., presents arguments in favor of fluoridation which do not leave much room for questioning the liceity of the procedure.[28] First of all, water is naturally fluoridated in several areas. Moreover, a ten-year experiment with fluoridation in a number of towns produced no bad effects. In areas where there is a naturally large dose of fluoride in the water the only bad effect is mottled teeth. As far as the danger of poisoning is concerned, Dr. Dublin estimates that one would have to drink about two and a half bathtubfuls in a day to suffer any poisoning. In other words, one has about as much chance of being poisoned by fluoridated water as he has of being poisoned by the salt he uses. And on the positive side there is no doubt that it prevents dental caries in children and to a lesser extent in adults. All this plus the fact that it has been approved by twenty-two medical, dental, and major professional organizations is a convincing proof that it is a safe and beneficial procedure.

Fluoridation of water supplies is not, however, the type of measure that a government can force on a people. A youngster with dental caries is not a menace to the community like a youngster with small pox. It is his own

[26] *Clergy Review* 42 (Apr., 1957) 229.

[27] THEOLOGICAL STUDIES 17 (1956) 174–76.

[28] Louis I. Dublin, *Water Fluoridation: Facts, Not Myths* (Public Affairs Pamphlet No. 251, June, 1957).

good that is at stake, not that of others. The government, then, could not force a family to fluoridate, e.g., well water, before drinking it. But since it is a perfectly legitimate procedure, if a community votes for fluoridation I can see no harm in carrying out its wishes even though a certain dissident element in the community may object.

An article in the *Journal of the American Medical Association* makes a plea for post-mortem cesareans to save the life of the surviving fetus.[29] The authors recognize a certain apathy in the medical profession toward such procedure and realize that it is not without foundation. Only 113 successful post-mortem cesareans have been reported in 250 years of medical history. But however slim the chances of success may be in performing this operation, the mortality without it is 100%. The authors present a case of their own in which the chances for the child's survival looked very poor. Yet a live fetus was delivered eleven and a half minutes after the mother had died from eclampsia and pulmonary edema. I might add that the chances for a valid baptism would be even greater than the chances for survival. A Catholic patient and doctor would have this added reason for performing a cesarean.

The *Journal* also carries a report of a cesarean section and hysterectomy in which hypnosis was used as the sole analgesic and anesthetic agent.[30] It is supposed to be the first of its kind in medical history. The patient was fully conscious during the entire procedure and watched the delivery of her baby. There was absolutely no pain or manifestation of clinical shock during any part of the operation. But the authors caution against any general use of hypnoanesthesia. Only about 10% of surgical patients can be hypnotized to the point of anesthesia. The doctors believe, however, that hypnosis has a wider application when used in conjunction with chemical anesthesia. There is no moral objection to such procedure, of course, as long as the proportionate reason and safeguards are present.

What about the use of anaphrodisiacs as a remedy against temptation? Francis J. Connell, C.SS.R., would allow them on condition that they do not involve direct sterilization or interfere with the fulfilment of marital obligations.[31] I think I would add another caution. Ordinarily, reasonable

[29] Hendrik de Kruif *et al.*, "Post Mortem Cesarean Section with Survival of Infant," *Journal of the American Medical Association* 163 (Mar. 11, 1957) 938–39.

[30] W. S. Kroger, M.D., and Sol T. De Lee, M.D., "Use of Hypnoanesthesia for Cesarean Section and Hysterectomy," *Journal of the American Medical Association* 163 (Feb. 9, 1957) 442–43.

[31] *American Ecclesiastical Review* 136 (Jan., 1957) 55. For another treatment of this same subject see E. Ranwez, S.J., "Un nouveau remède contre les tentations," *Revue diocésaine de Namur* 8 (1954) 135–39.

care should be sufficient to repel temptations against purity. The use of anaphrodisiacs should for the most part be reserved to pathological cases where ordinary human measures have proved ineffective. Otherwise, they may serve only to conceal the real problem, namely, the failure to remove the causes of temptation. And even in the pathological case it should be understood that hormone treatment of temptation is not a permanent solution to the problem. Ultimately, the will must be able to resume control. It is the mark of a healthy personality to be able to handle sex problems without the use of artificial means. And obviously, no one should have recourse to such means without medical advice.

The first ecclesiastical statement on boxing has come from the bishops of the Piedmont Conciliar Region in Italy.[32] The bishops expressed their "open disapproval of those spectacular sports . . . such as certain forms of boxing, in which it would be difficult to decide which is more objectionable, the violence of the match or the cruelty of the crowd who go into a state of delirious excitement before such a brutal spectacle." They state further that they would "welcome a law which would discipline such an inhumane, uncivilized form of sport. . . ."

While this is certainly a strong statement, I do not think it outlaws boxing as such but only "certain forms of boxing." Neither does it call for a legal ban on the sport but only a disciplining of it. I think that everyone would approve of this stand the bishops have taken.

JUSTICE

In an article in *Social Order*, Bernard W. Dempsey, S.J.,[33] expands somewhat the definition of social justice given by William F. Drummond, S.J., in his book on the subject.[34] Fr. Drummond had limited the material object of the virtue to material goods. Fr. Dempsey would expand it to include all personal goods, spiritual as well as material, and their natural relation to the common good. He identifies social justice with what he calls the radical form of contributive justice, that is, the obligation to serve the common good arising from the natural law. Legal justice he restricts to community

[32] Here is the Italian text of the letter: "Ancora in materia di sport esprimiamo la nostra aperta riprovazione di quegli spettacoli sportivi . . . come sono certe forme di pugilato, in cui non si saprebbe dire, se sia più ripugnante la violenza di coloro che si combattono o la crudeltà del pubblico che va in delirio davanti al brutale spettacolo. Sinceramente saluteremo volentieri una legge, che disciplinasse una forma di sport cosi inumana, incivile. . . ." *Revista diocesana torinese* (Nov., 1956) 234–39; reprinted in *Palestra del clero* 36 (Jan. 1, 1957) 39.

[33] "The Range of Social Justice," *Social Order* 7 (Jan., 1957) 20–24.

[34] William J. Drummond, S.J., *Social Justice* (Milwaukee, 1955).

obligations arising from positive legislation. This is certainly a defensible position and, although I prefer the definition of social justice which includes all obligations to the community, whatever be their source, I can understand his preference for the present definition. People today are too inclined to confine the use of the term "legal" to positive law. As a result, when the term social justice is identified with legal justice, it becomes identified in their minds with positive legislation. This makes them lose sight of natural-law obligations to the community and at the same time exaggerates the role of the civil authority. On the other hand, in confining legal justice to positive-law obligations, are we not making an unnecessary concession to error? The current interest in the natural law would seem to indicate a growing readiness to accept a broader concept of the term "legal" than the positivists would allow. It might be opportune to capitalize on this trend by presenting a more inclusive notion of legal justice.

One of the consistent pleas of the social encyclicals is for a wider distribution of ownership of the means of production. John Fitzsimons in an article in the *Clergy Review* presents his views on how this should be done.[35] He tells us that the meaning of ownership has undergone a certain evolution in modern times. To a large extent it has been completely separated from the function of administration. I think it can be said that this is even more true in this country than in England. There are indeed many small privately owned companies where the owner still manages his business, but the bulk of big business is carried on by huge corporations numbering thousands and hundreds of thousands of stockholders. Technically owners of the business, these stockholders have absolutely nothing to do with its management except to vote (usually by proxy) at board elections. As far as the functioning of the company is concerned, the stockholders could all die tomorrow and the company would go on as usual. In fact the role of the stockholder (once he has made his financial contribution) is so unimportant that a company like the Volkswagen firm in Germany, Fr. Fitzsimons tells us, continues to function without any legal owners.

He does not feel that a wider distribution of this type of ownership will accomplish any great social reform. What is needed, he urges, is a new concept of ownership in which the function of administration is more important than the fact of possession. And he suggests that workers be given more of the functional benefits of ownership. Among such benefits he mentions guaranteed wages, bonus systems, pension plans, merit recognition, and a share in management. Through these benefits workers can have all the economic advantages of ownership. Certainly these are desirable goals for

[35] "The Meaning of Ownership," *Clergy Review* 19 (Jan., 1957) 26–33.

the betterment of the condition of the laborer, and the Holy See has consistently advocated that the labor contract include certain benefits of ownership. But while I do not think that the desire of the Holy See for widespread ownership would be satisfied merely by a wider distribution of stock, I do not believe that it would be satisfied either by a modification of the labor contract. The labor contract of itself does not make a man an *owner*. Moreover, I am afraid that a concept of ownership that would put the emphasis on administration would make the stockholder an even more remote entity than he is now and would virtually reduce him to the role of creditor. What is needed is a plan that will integrate the stockholders more into the actual administration of the company.

The basic obligation assumed by the employer in the labor contract is to pay a just wage. The obligation to pay a wage sufficient for the support of family according to the more common opinion derives from commutative justice. This refers to the normal family of father and mother and three or four children. Commutative justice does not extend, in the opinion of most authors, to the support of a large family. Edward Duff, S.J., sees a trend toward the opinion that the responsibility for an adequate family income does not fall exclusively on the employer.[36] Professional associations, society in general, and particularly its political instrument are also subject to a moral duty in this regard. This teaching, as Fr. Duff sees it, relieves the employer of his obligation in strict justice to pay a family wage. Fr. Duff relies on certain statements of Pius XII[37] as the basis for this opinion and more especially on a Lenten pastoral of François Charrière, Bishop of Geneva, Lausanne, and Fribourg.[38]

Whether the trend toward family allotments represents a departure from the more common opinion will depend on the arguments used to support this system. If such allotments are considered nothing more than an attempt to supplement the inadequacy of the employer, they presume rather than deny the opinion that the primary obligation is with the employer. But if these allotments are considered a direct obligation to the citizen for services rendered to society in raising a family, they do reflect a conflict with the opinion which sees in a man's labor for an employer the total means for the support of his family and hence finds in that work a value equivalent to that support. According to this concept of allotments, the father of a family

[36] "The Living Wage: A Further Note," *Social Order* 7 (Feb., 1957) 77–85. See also a previous article by the same author, "The Living Wage: A Note," *Social Order* 5 (1955) 294–98.

[37] *AAS* 41 (1949) 553.

[38] Published in *Liberté*, a Fribourg daily, Feb. 27, 1956.

is working not only for an employer but also, in raising a family, for society. Compensation, then, is due from both. There is certainly much to be said for this position. The Holy Father himself has stated on more than one occasion that a father and mother in raising a family are making a contribution to society. But in compensating parents for their contribution in raising a family the state does not, of course, acquire any new rights over the children. In no sense does the parent alienate the right to his children as he alienates, for instance, in a labor contract any right to the product of his labor. In a regime of family allotments, one would have to guard against an attitude that would begin to look upon children as wards of the state.

Another article on the just wage by Fr. Victor, O.C.D., sets down the principles to be followed by religious and ecclesiastical institutions in paying their employees.[39] The author feels that a special difficulty arises in these cases from the mentality of some priests and religious who feel that their employees are bound, more or less like themselves, to work for charity. It is natural, I suppose, for those engaged in charitable works to presume on the charity of others. It is also true, as Fr. Victor says, that even lay people have obligations in charity. But as employees they are engaged in making a living and not in fulfilling a charitable obligation. In this role they are entitled to a just wage.

Fr. Victor distinguishes various institutions, from strictly business enterprises to purely charitable works, in which lay people are employed by priests and religious, and sets down the principles for each type. Even in purely charitable institutions where the work done is not productive, priests and religious should aim at paying a just wage. But if the alternative would be giving up the work altogether with subsequent loss not only to the needy but also to the employees, it would be permissible to pay less. Half a loaf is better for an employee than none at all. Under these circumstances, however, no pressure should be put on an employee who can get more lucrative employment. And when the financial condition of the institution is bettered, the first thought should not always be to expand the institution; it should rather be to improve the lot of the employees. Justice should come before charity.

Man does not live by bread alone. He has psychological needs also; he needs to be respected and esteemed. This is due to the interpersonal situation in which he finds himself. Basically, everyone has a need to be respected and regarded as a human being. But man is able to live in sin or he is able to lead a virtuous life. No one can know the depths of his soul, but his external comportment is a legitimate object of the interest of others

[39] "Fair Wages to Our Employees," *Clergy Monthly* 21 (Apr., 1957) 89–94.

and forms the basis of an opinion of him or a reputation. What right does man have to this reputation? Moralists usually discuss this problem from the viewpoint of the true and false reputation. J. Etienne does not feel that this is a very realistic approach.[40] First of all, reputations arise spontaneously and without much reflection. Also, many people have both good and bad reputations, depending on the way they affect others. And even when there is a fairly consistent picture, how does one determine when it is true? Similarly, how does one determine when it is false? Will one act decide it?

Fr. Etienne attacks the problem from a different viewpoint. Rather than speak of a right to a reputation, he prefers to speak of the obligation one has to respect another. Judgment of another belongs to the world of communication with another and should respect the fundamental rule of such communications: fraternal charity. Ordinarily, a benevolent judgment of another will build up good personal relations. An exception would occur only in a case where a benevolent judgment would damage interpersonal relations. Then charity must give way to truth. This is a practical approach to this difficult problem and certainly has an appeal. But it does seem to put the emphasis on charity rather than justice, where it is traditionally found.

When a man is accused of a crime, not only his reputation but also his liberty, and perhaps even his life, is at stake. In modern civil law an accused must be treated as an innocent person until he is found guilty. Nor is anyone forced to give testimony against himself. In court he can protect himself by a plea of "not guilty," which frees him from any obligation to take the stand and be subjected to questioning. But before a criminal case reaches the courtroom, the suspect may already have been subjected to police interrogation. While such interrogation is licit, it should not degenerate into the use of force or fraud in obtaining confessions.

Miguel A. Bernad in *Philippine Studies* narrates a reported incident which shows the extremes to which a desire to get a confession can lead.[41] The suspect, when questioned, gave conflicting testimony regarding his part in a murder. While still in the custody of the police, he expressed a desire to go to confession. An officer, thereupon, donned a cassock and received the confession, which was simultaneously recorded on tape. The whole confession was then divulged to the authorities. Such tactics hardly need comment. Besides the simulation of the sacrament and the violation of the seal, there was a serious violation of the man's constitutional rights. The man

[40] "Les fondements du droit à l'honneur et à la réputation," *Revue diocésaine de Namur* 11 (May–June, 1957) 251–60.

[41] *Philippine Studies* 5 (Jan., 1957) 92–93.

was deliberately deceived into divulging information that would be used against him.

A less shocking but somewhat controversial case relating to the same problem has been brought to public attention in this country.[42] A man, driving a pickup truck, was involved in an accident in which three persons were killed. A pint of whiskey, nearly empty, was found in the glove compartment of the truck. The driver was taken to the hospital unconscious and the smell of liquor was detected on his breath. A patrolman requested a sample of his blood. While he was still unconscious, an attending physician extracted about 20 cc. of blood with a hypodermic needle. The sample was delivered to the patrolman, and subsequent laboratory tests showed that the blood contained an intoxicating amount of alcohol. The driver was charged with manslaughter, and the blood test was admitted into the trial over his objections.

The case finally reached the Supreme Court, which by a 6–3 vote found nothing brutal or offensive in the procedure. It found no parallel between that case and the *Rochin v. California* case. In the *Rochin* case, the police saw the suspect put something in his mouth. After a struggle they forced him to open his mouth, but by that time the man had swallowed the contents. A stomach pump was then forced on the man, and among the contents extracted from the stomach were found narcotic pills. The court ruled that "this course of proceeding is bound to offend even hardened sensibilities."

There is undoubtedly a violation of corporal integrity in taking blood for testing. It may not be a serious violation, but it is a violation and hence calls for the consent of the suspect. Some states have solved this problem by legislating that anyone driving on the highways shall be deemed to have given his consent to a blood test to reveal the alcoholic contents of the blood. Would this presumption be valid in the absence of such a law? Since it does not in itself involve a serious violation of the body, I think I would allow such a presumption where delay might interfere with the analysis. I do not feel that the doctor or the police officer did wrong in taking the blood and having it analyzed. But when the man became conscious it was quite clear that he objected to the use of the test as evidence against him and that, if he were conscious at the time, he would never have allowed the test. Any basis there might have been for the presumed permission was thereby removed, with the consequence that any use made of the information was illicit. Presumably, the Supreme Court, if we can conclude anything from

[42] "Blood Tests for Intoxication Upheld by United States Supreme Court," *Journal of the American Medical Association* 164 (May 25, 1957) 466–67.

the *Rochin* case, would have judged the procedure illicit if it had been forced on the man while conscious. To my mind, the legitimacy of such procedures does not depend on whether a man is conscious or unconscious but whether there is explicit, or at least presumed, permission for them. Without permission they are illicit whether the person is conscious or unconscious.

As already mentioned, the accused in a criminal case can protect himself in court by a plea of "not guilty." The witness before a congressional committee does not get the same protection. He can refuse to answer a question only by having direct recourse to the Fifth Amendment, that is, by admitting that an answer would incriminate him. Such an appeal may leave a social stigma, but it does protect him against legal action. In an article entitled "The Natural Law and the Fifth Amendment," Edwin P. McManus argues that the natural law would not allow a communist before an investigating committee to make this appeal.[43] Although according to the civil law he has an absolute right to such an appeal, the natural law demands that, where the good of the community is at stake, the individual must sacrifice his own convenience and admit guilt in spite of personal consequences.

In discussing Prof. McManus' article, while I agreed with his general principle, I took exception to the application.[44] It is quite true that the good of the individual must be sacrificed for the good of the community. Thus, if I know that someone is plotting against the community and there is no other way of protecting the community than by revealing the culprit, I would be obliged to reveal him even though such revelation would mean serious harm to him and myself. But there is an important distinction to be drawn between the obligation to reveal the crime of another and the obligation to reveal one's own criminal intentions. Reporting the crime of another may often be the only way of protecting the community. This can hardly be the case when the danger to the community comes from personal criminal intentions. There is always the alternative of foregoing such intentions. The obligation of a communist before the community is to sever his connections with communism rather than to reveal them. And his wrong is in his failure to do so rather than in his appeal to the Fifth Amendment.

It is a long step from criminal interrogation and congressional investigation to the examination of candidates for the religious life and the priesthood. First of all, there is no penalty at stake. It is only the reputation of the candidate that is at stake, and this only in a very limited degree. Moreover, if he does not want to expose himself to questioning, he is perfectly free not to apply. But if he does apply, certain rather intimate questions

[43] "The Natural Law and the Fifth Amendment," *Catholic Lawyer* 3 (Jan., 1957) 6–14.
[44] "Morality and the Fifth Amendment," *Catholic Lawyer* 3 (Apr., 1957) 137–42.

may be put to him to determine his qualifications. The Church has always recognized the right to question candidates regarding their qualifications for the priesthood and the religious life. This is clear from the obligation she imposes on ecclesiastical and religious authorities not to admit those who have ecclesiastical irregularities or impediments. More recently, however, attention has been given to the psychological qualifications of the candidate, and the question of sending candidates to a psychiatrist or subjecting him to psychological testing, with the very intimate and detailed questioning it involves, has been discussed with great interest.

A. Giraud in *L'Ami du clergé* considers the advisability of sending every candidate to a psychiatrist for a psychological evaluation of his vocation.[45] He recommends that only doubtful cases be sent to a psychiatrist. One does not have to work on the assumption that every candidate for the priesthood or religious life is a neurotic or psychotic. Some clearly are, some clearly are not; in neither case is the opinion of a psychiatrist called for. Moreover, even when a psychiatric evaluation is called for, it is ultimately the ecclesiastical authorities who decide the vocation, not the psychiatrist.

In practice I think some groups subject all their candidates to psychological and even psychiatric examination. It is quite true, as Fr. Giraud says, that not all candidates need such examination. But it is difficult for the ordinary lay observer to make an accurate psychological evaluation of a candidate. He can easily overlook tendencies, attitudes, etc., that might be very significant from a psychological standpoint. Secondly, by requiring that all candidates be examined, protection is given those who actually need the examination. Otherwise, however unfounded it may be, a stigma may be attached to those who are required to undergo the examination.

In an article in the *Review for Religious*, Richard P. Vaughan, S.J., deals with psychological testing.[46] He feels that these tests are useful in screening out candidates who are mentally and emotionally unfit for the priesthood or religious life. Since it is very important both for their own good and the good of the Church that such persons be excluded, he argues that ecclesiastical and religious authorities are entitled to any information that would be pertinent to a psychological evaluation of the candidate. But he does not feel that all questions listed on such tests are pertinent. Questions which have to do with past moral lapses, if they are isolated incidents, would not have to be answered for this reason.[47]

[45] *L'Ami du clergé* 67 (Jan. 10, 1957) 27.

[46] "Psychological Screening," *Review for Religious* 16 (Mar., 1957) 65–78.

[47] Since failure to answer such questions would be revealing, a candidate would be allowed to use a mental reservation in answering them.

What about the validity of such tests?[48] Certainly no psychological test is designed to determine a vocation. There are many other elements, including grace, that go into determining a vocation. The most a psychological test can do is determine the psychological aptitude of the candidate. And Fr. Vaughan recommends caution even in accepting this evaluation. While such tests provide one with extensive and intensive knowledge of the candidate, even with this knowledge prognosis is not easy. He recommends that they be used in conjunction with an interview by trained personnel. Only where both interview and test show gross deviation from the normal should a candidate be excluded. Where there is doubt, the prudent course would be to accept the candidate and observe him during the novitiate.

THE SACRAMENTS

The most important document of the period relating to the sacraments is undoubtedly the Motu Proprio *Sacram communionem* extending the indults of the *Christus Dominus* regarding evening Masses and the Eucharistic fast.[49] The editor of the *Clergy Monthly* notes that the new legislation corresponds exactly to one of the *postulata* of the First Plenary Council of India.[50] At that time, six years ago, the Holy Office stated that the Pope would never allow food to be taken before a Mass celebrated earlier than 1 P.M.

Although Cardinal Ottaviani in his brief commentary could truthfully say that even little children could understand the new law,[51] it was to be expected that a few questions would arise. The first question that presented itself was whether it is a new law or merely a modification of the already existing law. J. L. Urrutia, S.J., who states that he consulted several competent Roman canonists, maintains that it is a total reform of the old law and should be interpreted in itself rather than according to the *Christus Dominus*.[52] Other authors are not so sure. They are disturbed by the subtitle of the decree which refers to an "extension" of the indults granted by

[48] An adaptation of the MMPI (Minnesota Multiphasic Personality Inventory) is frequently used in examining candidates for the priesthood and religious life. For a study of the use of this test see W. Bier, S.J., *A Comparative Study of a Seminary Group and Four Other Groups on the Minnesota Multiphasic Personality Inventory* (Washington, D.C., 1948). For a European adaptation of this test see A. Benkö, S.J., and J. Nuttin, *Examen de la personnalité chez les candidats à la prêtrise* (Louvain, 1956).

[49] *AAS* 49 (Apr. 17, 1957) 177–78.

[50] *Clergy Monthly* 21 (May, 1957) 145.

[51] *L'Osservatore Romano*, Mar. 23, 1957.

[52] "El nuevo decreto sobre el ayuno eucarístico y las misas vespertinas," *Razón y fe* 155 (May, 1957) 481–85.

the *Christus Dominus*. Thus, F. X. Hurth, S.J.,[53] L. L. McReavy,[54] and E. F. Regatillo, S.J.,[55] feel that there are reasons for considering it both an extension and a new law. But whatever may be said for this canonical question, Fr. Hurth states that there is undoubtedly an intimate connection between the *Sacram communionem* and the *Christus Dominus* with its *Instructio*.

One discrepancy between the two documents giving rise to a difference of opinion concerns the time for afternoon Masses. The *Sacram communionem* uses the term "horis postmeridianis" rather than the "horis vespertinis" of the *Christus Dominus*. Frs. Hurth and McReavy argue that the new term must be understood to mean after 4 P.M. according to the previous regulation. Msgr. Madden[56] and Frs. Iorio,[57] Regatillo, and Urrutia take the expression literally and consider it an extension of the previous indult regarding these Masses. Hence the bishop may permit Mass any time after 1 P.M. I prefer this second opinion. If the Holy Father wanted to follow the old norm, there was no reason why he could not have used the term "horis vespertinis" in the new indult. In using a broader term he gives good reason to believe that he also wanted to broaden the indult.

One might be tempted to believe that the legislation pertaining to the Eucharistic fast would have been simplified even further if the same time limits were established both for the priest and the faithful, that is, the beginning of Mass. This would have made it easier for the faithful to calculate the time. But such legislation would not have provided for those who receive Communion outside of Mass and would have given rise to confusion in cases where people receive Communion just before Mass. So while it is a little difficult to estimate the time of Communion when one is receiving during Mass, the other norm would result in complications.[58]

Fr. McReavy maintains that the time limits must be observed exactly

[53] "Annotationes in M. P. super indulta in *Christus Dominus*," *Periodica* 46 (June 1957) 220–42.

[54] "Some Explanatory Notes on *Sacram communionem*," *Clergy Review* 42 (June, 1957) 321–32.

[55] "Novisima disciplina de las misas vespertinas y del ayuno eucarístico," *Sal terrae* 45 (May, 1957) 299–311.

[56] "Afternoon Mass and the Eucharistic Fast," *Australasian Catholic Record* 34 (Apr., 1957) 141–46.

[57] *Messe pomeridiane e digiuno eucaristico* (Naples, 1957).

[58] Some might wonder why the time for Communion was not used as a norm for the priest as well as the faithful. If I am not mistaken, the priest is obliged to fast as minister of the sacrifice. His fast refers to his function as minister as well as communicant. This may be the reason why the beginning of Mass was set as the limit for the fast of the celebrant. If the priest receives *more laicorum*, he will follow the norm used for the faithful.

and *sub gravi*. Fr. Hurth also insists that the time must be observed with mathematical accuracy. In taking this stand both are following what was the standard interpretation of the old law. Only Regatillo suggests the possibility of a moral estimate of the one- and three-hour limits. It will be interesting to see if Regatillo's opinion attracts much of a following. Given the present mind of the Holy See to facilitate frequent Communion, there is some reason for this more liberal view. But although I do not like to see a person deprived of Communion because he miscalculated by a few minutes, I think I would prefer to keep the limits exact. There is, to my mind, considerable danger that in the popular mind the law itself will be reduced to the moral estimate. Thus the one-hour fast will gradually become a fifty-five-minute fast. Then, of course, the problem recurs. Although one dislikes being mathematical about moral problems, it seems at times unavoidable.

Fr. Urrutia also argues in favor of parvity of matter. Since there is no question of an act intrinsically wrong and since the whole tenor of the new legislation is benign, he feels that it is reasonable to allow for slight violations which would be venially sinful except where there was a proportionate reason. He says: "... this doctrine appears to many to be solidly probable and safe as long as the Holy See does not decide otherwise." As mentioned above, he claims to have consulted several competent Roman canonists, especially about the controverted issues. Frs. Hurth and McReavy, however, explicitly outlaw any parvity of matter. Fr. Iorio also refuses to allow parvity of matter in regard to either time, food, or drink.

All of the authors are in agreement that, although the decree uses the term *potus*, it includes anything taken *per modum potus*. Frs. Regatillo and Iorio continue to propose their opinion that this includes anything that is in a liquid state when swallowed, but the common opinion maintains that it must be in a liquid state when taken into the mouth. The new legislation also has some effect on the ablutions at the end of Mass. If there is a three-hour interval between the first and the second Mass, the priest may (and should) take both wine and water in the ablutions.

I suppose every pastor has been confronted from time to time with the problem of baptizing children where there was some concern about the religious future of the child. E. Guillaume deals with the case of a civilly married couple who want their two children, one two-years old, the other five, baptized.[59] He correctly observes that the civil marriage itself should not determine the decision regarding the baptism of the children, but the fact that the parents claim to be freethinkers casts doubt on the future

[59] *L'Ami du clergé* 67 (Jan. 10, 1957) 26.

religious training of the children. He judges that, since the five-year-old probably has some use of reason, baptism should be deferred until he has been properly instructed.[60] He would allow the baptism of the two-year-old on the condition that the mother makes a formal promise to send the child to catechism class when he is of age. The fact that the mother actually brings the child for baptism plus the promise will give ample hope of the child's future religious education.

Paul Delor makes an interesting sociological study of this problem of the perseverance in the faith of children who have been baptized.[61] The study covered 71 out of 558 parishes in the diocese of Tournai. It revealed that only 24% of the children baptized came from homes where both parents were practising their religion; 17% came from homes where one parent was practising; and 59% from homes where neither was practising. It also revealed a drop of about 25% between the number of baptisms and the number of solemn Communions. The conclusion from this statistic is that about 25% of those who are baptized do not get even the instruction in the faith preliminary to the reception of their solemn Communion. These figures are not at all consoling, but they do show that a fair percentage of those who come from homes where the religious environment is not at all favorable get some religious education. They show also that practice falls off considerably after the solemn Communion. One must be cautious, however, in generalizing from such statistics.

What if a pastor administers the sacrament of confirmation in a case where no real danger of death existed even though the pastor judged it to be present? W. J. Conway answers that, as long as the pastor made a prudent judgment of danger, the sacrament was validly administered.[62] Although the decree granting faculties to confirm to pastors uses the expression "in vero periculo," it is commonly admitted that they apply even in probable danger. This makes the validity of the faculties depend on the prudent judgment of the minister rather than on the objective danger. Since the Church has never opposed this opinion, it must be in conformity with her mind in granting these faculties. A similar problem occurs in connection with a mistaken diagnosis of danger in administering the sacrament

[60] Does a child five years old have the use of reason? Some undoubtedly do. The decision must be made in the individual case. In a situation like this where there is doubt about the future instruction of the child, it is certainly advisable at least to attempt instructions before baptism. If the child does not respond adequately, the pastor could terminate the instructions immediately and follow the course recommended for the two-year-old child.

[61] "Admission au baptême et persévérance dans la vie chrétienne," *Revue diocésaine de Tournai* 12 (May, 1957) 298–308.

[62] *Irish Ecclesiastical Record* 87 (Jan., 1957) 51–52.

of extreme unction.[63] According to the more probable opinion, the sacrament may be validly administered only to a person in danger of death from some internal cause. Yet even here the authors maintain that a probable danger will suffice. Again, this makes the validity of the sacrament depend on the prudent judgment of the minister. Authors justify this opinion by arguing that, if Christ demanded objective danger, the sacrament would often be exposed to the danger of nullity, ministers would be bothered by scruples, and people in danger of death would be deprived of the benefit of the sacrament because of postponements.

The practice of daily Communion in closed communities, particularly when they are small, creates a problem for a person who must go to confession before receiving but does not have the opportunity. G. Rossino considers the problem of a nun who sins often against the sixth commandment.[64] She is advised by her confessor that, since she is in need of grace, she should go to Communion after making an act of contrition. When she relays this advice to another confessor, he is understandably disturbed. But then he begins to wonder if in the circumstances there is some necessity to communicate. The community is small and the chapel itself so confining that the nuns often receive right in their own places.

Canon Rossino does not admit that there is any genuine necessity in this case. There are so many reasons for abstaining from Communion that no one has any right to conclude from abstention to a state of sin. If there is this danger in a community, the nuns should be instructed to abstain deliberately on occasion just to remove any suspicion. It is not clear to me, as Canon Rossino maintains, that there is any necessity in this case. From the way it is presented, the nun and her original confessor are concerned chiefly with the loss of grace in abstaining from Communion. There is no indication of embarrassment of any kind. But I can readily understand how in a similar situation genuine embarrassment would result. And today the relaxation of the Eucharistic fast has removed for the most part what formerly was the most available excuse for abstention. So I would not want to rule out the necessity of communicating in all such cases. But in the present case I believe there is a more fundamental question at issue. Is a person who sins frequently against purity called to a life of chastity?

The Church itself supplies jurisdiction to confessors where common error or probable and positive doubt exists. It also supplies in cases of inadvertence where the priest fails to advert that his faculties have expired either

[63] For a discussion of this problem see J. J. Danagher, C. M., in *Homiletic and Pastoral Review* 57 (Apr., 1957) 655–56.

[64] *Perfice munus* 32 (Jan., 1957) 25–26.

by reason of a time limit or a limit on the number of cases. Does it supply in inadvertence referring to place? What if a confessor inadvertently absolves a penitent outside his diocese?

When this case was presented to me in the past, my answer was in the negative. But I was always at a loss to explain why the Church would supply for one kind of inadvertence and not for another. In a response in *Sal terrae*, E. F. Regatillo, S.J., argues from analogy that jurisdiction is supplied even where the inadvertence refers to place.[65] He gives several rather convincing arguments to prove his point. The argument which appealed to me most is the parallel he draws with the case of probable and positive doubt. The Church will supply in a case where a man is actually outside his diocese and has reason to think so but also has reason to believe that he is still within diocesan limits. If the Church will grant faculties in this case where a man suspects that he may be outside his diocese, it would seem to follow that it should give faculties where he does not even suspect it. Fr. Regatillo says that no other author has treated this particular case, and this has also been my impression. But I certainly think that his arguments are sufficient to establish the probability of his opinion.

The sacrament of extreme unction may be administered only when the danger of death arises from some internal cause, that is, either sickness, injury, or old age. A. Bride deals with the unique problem of anointing a person who has suicidal impulses.[66] Would this be permissible? He answers in the negative. At first sight it appears that the danger of death results from the mental disease, and therefore from an internal cause. Actually, another cause would have to intervene to effect the suicide, e.g., slashing one's wrists. It is not the same situation as occurs, for instance, in an inoperable brain tumor which of itself brings on death. Moreover, proper custody can usually eliminate the danger in these cases. I would agree, then, with Fr. Bride's solution of the case, although I must admit that it seems to lie somewhere between the case where the danger of death is from some physical ailment and that where the danger would arise from some purely extrinsic cause. And in a situation where a person with violent suicidal impulses could not be properly protected, I would not quarrel with a priest who would administer extreme unction.

Francis J. Connell, C.SS.R., answers a question relating to the intention of the minister of the sacrament of extreme unction.[67] The questioner wants to know just when the priest should intend to administer the sacrament in

[65] *Sal terrae* 45 (Jan., 1957) 44–46.
[66] *L'Ami du clergé* 67 (May 30, 1957) 346–47.
[67] *American Ecclesiastical Review* 136 (Apr., 1957) 276.

performing the rite. By way of response Fr. Connell considers several possible cases, e.g., one anointing on the forehead, anointing six parts of the body, the five senses, four, etc. I think I would rather have challenged the implication of the question, namely, that the minister must determine the precise moment at which he wishes to administer the sacrament. It suffices for the priest to have the intention of validly administering the sacrament, whatever that involves in the individual case. After that, it is merely up to him to place the essential matter and form. There is a difficulty here, e.g., the validity of a single anointing with the particular form, but it should not be complicated by involving the intention. I would advise against any further determination of the intention. It will contribute absolutely nothing to the validity or liceity of the sacrament and may serve only to create the problems which Fr. Connell brings out in his response.

It is not often that one comes across a problem dealing with holy orders. We are indebted to E. F. Regatillo, S.J., for a discussion of the type of case that can be a source of great anxiety.[68] It concerns the essential form of the sacrament and particularly the use of the singular by the ordaining bishop when several are ordained (or vice versa). He responds definitely that the use of the singular in such a case would not invalidate the orders (and a fortiori the use of the plural when one was being ordained). The singular can be taken in a distributive sense as follows: "Da, quaesumus Domine, in hunc famulum tuum, Petrum, Paulum, Iacobum," etc. In confirmation of his opinion he cites a case which was brought to the attention of the Holy Office in 1901. The bishop had used "accipe" instead of "accipite" in the ceremony of the *traditio instrumentorum* (at that time the matter and form of the sacrament was still in dispute) when several were being ordained simultaneously. The Holy Office, after a vote of the consultors which was confirmed by Leo XIII, responded: "Acquiescat." I think all can agree that any further doubts in a case like this would be imprudent.

SEX AND MARRIAGE

John L. Thomas, S.J., charges that Catholics are not prepared to counteract the modern revolution in sex conduct that is taking place.[69] There are three reasons for this. The first is what he calls the misdirection of moral anger. The other two are the Catholic's failure to understand the reasons behind his own sex standards and his failure to appreciate the basic causes of the erroneous norms of modern times. Moral anger is directed at sex itself rather than at the misuse of sex, thus causing a purely negative atti-

[68] *Sal terrae* 45 (Mar., 1957) 174–77.

[69] "The Place of Sex," *Social Order* 7 (May, 1957) 195–201.

tude toward the subject. Catholics, moreover, fail to understand that their norms flow from the nature of man himself. This happens because moral treatises give only a segmented treatment of the subject which contents itself with setting down objective standards of right and wrong. The result is that Catholics look upon these norms as arbitrary prescriptions and do not realize that they are rooted in human nature itself. Finally, Catholics do not appreicate the fact that modern erroneous ideas stem from a rejection of this concept of human nature and the restraints based on it rather than from any effort to replace them.

The most remarkable thing about these observations is that they should be true after all the effort that has gone into the subject of sane sex instruction over the past twenty or thirty years. It comes as a surprise to me that people are still condemning sex itself. One is tempted to conclude that concupiscence achieves its purpose by an attack on the mind as well as on the will.

One of the current problems in the area of sex is that of steady dating. Whether this practice has the nature of a permanent change in what sociologists refer to as our mores, I do not know. I am inclined to consider it a passing fad, about as stable as the teen-agers who engage in it. But while it is with us, it does present a problem. A positive approach to the subject by Philip T. Mooney, S.J., certainly escapes the criticism leveled at many modern treatises by Fr. Thomas.[70] Fr. Mooney identifies genuine love with the virtue of charity, which looks to the good of another, and shows how any practice which so inhibits this good can hardly reflect genuine love.

Besides presenting positive motivation, Fr. Mooney's approach avoids the risks involved in dealing with the subject on the level of sin. It is relatively easy to rationalize one's self out of sin in matters of sex. This tends to limit the effectiveness of the approach that puts the stress on sin. Moreover, when one associates the practice of going steady with sin, the whole institution of pre-marital courtship is thrown into question. Nor can this problem be solved to my satisfaction by resorting to the distinction between a free and a necessary occasion of sin. This may make pre-marital courtship licit, but it does not remove the stigma from it. It is tantamount to calling it a necessary evil. This is hardly consistent with the enthusiasm with which the practice is recommended as a preparation for marriage.

It would be interesting to study what effect association with the opposite sex has on the adolescent problem of masturbation. According to Freudian theorists the appearance of interest in the opposite sex indicates the end of the so-called autoerotic stage. Theoretically, then, the problem of masturba-

[70] "Dating in Charity," *Today* 12 (Mar., 1957) 10; reprinted in the *Catholic Mind* 55 (May–June, 1957) 212–17.

tion should subside. In practice everyone knows that no sharp line of demarcation exists, but it seems reasonable to expect that association with the opposite sex should divert the interest of the boy away from self. At least, considerations of this type should caution one against any extremes in discouraging mixed association among adolescents.

The problem of masturbation is always a challenge to the confessor. A. Bride in *L'Ami du clergé* discusses the problem from both the objective and the subjective viewpoint.[71] Besides the ordinary arguments used to prove the gravity of a single act of masturbation, he presents the phenomenological argument currently in favor. According to this argument the sex act among human beings should involve the total gift of self on the part of the man and woman. Obviously, such a complete exchange can occur only in the context of an indissoluble marriage union between the two parties. Any use of sex outside of this context of marital love is deprived of its full meaning and hence involves psychological frustration. Masturbation particularly perverts this completely altruistic act into a frustrating egotistical function.

This can be a very effective argument because its psychological appeal gives it an advantage over the more metaphysical arguments traditionally used. But one must be careful not to lose the proper perspective of the marital act. The gift of self must always be ordered to the primary end of the act and is not something that can be achieved when this end is positively frustrated. Proponents of this argument sometimes overlook the fact that this act is not completely altruistic unless it looks to the good of the species. Contraceptive relations actually foster a common egotistical attitude.

In dealing with responsibility, Fr. Bride discusses both pathological and non-pathological interference. But while he makes generous allowance for such interference, he insists that no confessor can shut his eyes to acts which are objectively grave, even though subjective considerations mitigate or remove guilt. I wonder if as confessors we do not sometimes lose sight of this all-important caution. The human tendency is to lose interest as soon as subjective innocence is established. The problem of present guilt is certainly the first to be solved, but it is not the only pastoral obligation of the confessor.

Masturbation may be a form of sex perversion, but I am inclined to think that it is more often a substitution for the normal but less accessible object of the sex instinct. When it is nothing more than a substitution it does not indicate any perversion of the instinct itself. Transvestism, however, or cross-dressing as it is called, will indicate a definite psychological

[71] *L'Ami du clergé* 67 (May 30, 1957) 348–49.

deviation. It involves the impulse to dress in clothing of the opposite sex with the erotic desire to simulate that sex. It may be associated with homosexuality or it may be distinct from it. The person afflicted with this peculiar type of malady may desire nothing more than the erotic satisfaction derived from simulating in some way the opposite sex.

An article in the *American Journal of Psychiatry* considers the medicolegal aspects of this problem.[72] Almost all transvestites are males. One should be careful, however, not to identify all masquerading with transvestism. And the current female fad for slacks, blue denims, etc., while objectionable, perhaps, on esthetic grounds, should not be confused with transvestism. The mark of transvestism is the erotic satisfaction cross-dressing achieves for the dissatisfied male. For reasons which seem fairly obvious, there are no legal statutes against transvestism. But the article points out that attempts to alter sex surgically may be liable to mayhem statutes in various states.

What is the Church's attitude toward marriage where the Rh factor is involved? J. J. Danagher, C.M., answers correctly that this factor constitutes no impediment of any kind to marriage.[73] While it does still involve some risk to offspring from the marriage, the risks have been considerably reduced by medical advances in this field. Although Fr. Danagher does not mention the point, I am sure that he would consider the presence of this factor a sufficient reason for practicing periodic continence during the marriage, if the couple so desired.

While the Rh factor does not impede marriage, impotence does invalidate a subsequent marriage when it is a permanent defect. But even in the case of impotence, if there is some doubt, the Church will allow the marriage. Francis J. Connell, C.SS.R., is asked how the Church can allow such marriages, since one is not allowed to administer the sacraments with doubtful matter.[74] Fr. Connell replies that while it is wrong per se to expose a sacrament to nullity, it may be permitted per accidens, namely, where the sacrament is very important and there is no other matter available.

Ordinarily one may not resort to reflex principles when there is question of the validity of a sacrament. Both religion and charity (the loss to the subject resulting from an invalid sacrament) forbid such recourse. But the presumption is that a more secure course of action is open. Thus, as Fr. Connell points out, if one has certain matter and doubtful matter available for baptism, he may not use the doubtful matter. But let us suppose there is no certain

[72] Karl M. Bowman and Bernice Engel, "Medicolegal Aspects of Transvestism," *American Journal of Psychiatry* 113 (Jan., 1957) 583–88.

[73] *Homiletic and Pastoral Review* 57 (Dec., 1956) 371–74.

[74] *American Ecclesiastical Review* 136 (Mar., 1957) 198–99.

matter available; the safer course is now removed. The only available alternative now is not to baptize. The question then comes to this: Is the safer course not to baptize? As far as exposing the sacrament to nullity, it is the safer course, but by no means can it be considered the safer course in relation to the person's salvation. Working on the principle that the sacraments are made for man, one must conclude that the safer course in this case is to baptize. Similarly, in marriage with doubtful impotence, the safer course as far as danger to the sacrament is concerned is to forbid marriage. But for the good of the man or woman involved the safer course is to permit marriage.

The liceity of periodic continence has been the subject of much interest over the past six months. John L. Thomas, S.J., gives it a thorough treatment in his book *Marriage and Rhythm*.[75] Fr. Thomas feels that the obligation of a married couple is satisfied if they rear sufficient children to provide for the maintenance and reasonable growth of the population. In the present situation in the United States an average of 2.83 children per couple is sufficient to maintain a stationary population. It would seem to follow that, if married couples aimed at 3 children, the growth of the country's population would be adequately provided for. But this does not represent the ideal family; that will vary from couple to couple.

Fr. Thomas' estimate of the extent of the obligation to have children is a little lower than that offered by Gerald Kelly, S.J., but agrees with the estimate of Edwin F. Healy, S.J.[76] Of the gravity of the obligation Fr. Thomas says: "If they persisted [in practising rhythm] throughout their married life, they could be guilty of serious sin."[77]

A. Yanguas, S.J., also offers a moral discussion of periodic continence.[78] His opinion is that those who make use of the marital right have a serious obligation to have children. This obligation remains serious even after a couple has two children. Although he does not say so explicitly, there is an implication that the serious obligation would cease after three children.

Last but not least is the article of Lawrence J. Riley in the *Homiletic and Pastoral Review*.[79] Msgr. Riley subscribes to the opinion of those theologians

[75] *Marriage and Rhythm* (Westminster, Md., 1957).

[76] For Fr. Kelly's opinion of the obligation see THEOLOGICAL STUDIES 14 (1953) 54–57. Fr. Healy expressed his opinion in his book *Medical Ethics* (Chicago, 1956) p. 166. Although he maintains that a couple with three children have fulfilled their obligation to the human race, he adds that, if they practice rhythm without reasonable cause thereafter, they will be guilty of venial sin because of some slightly sinful motive, e.g., selfishness, avarice.

[77] Thomas, *op. cit.*, p. 113.

[78] "De continentia periodica seu de sterilitate facultativa," *Estudios eclesiásticos* 31 (Jan.–Mar., 1957) 43–74.

[79] "Moral Aspects of Periodic Continence," *Homiletic and Pastoral Review* 57 (June, 1957) 820–28.

who hold that the prolonged practice of rhythm (about five years) without an excusing cause would be a serious sin. But he also admits that he could not refuse absolution to one who intended to continue the habitual practice of rhythm without serious reason because of other opinions to which he concedes extrinsic probability. First of all, there are those who hold that no serious obligation to have children can be proved. Secondly, although Msgr. Riley does not mention this opinion, there are those who hold that only a lifetime practice of rhythm could be seriously sinful. Fr. Thomas seems to fall into this class. Finally, there are those who with Gerald Kelly, S.J., measure the obligation by the number of children and maintain that it ceases after a couple have made their contribution to the good of the species.[80]

I am inclined to agree with Msgr. Riley that the whole tenor of the Pope's talk on rhythm indicates a serious obligation. I find it difficult to believe that one can evade an obligation of one's state for a whole lifetime and still be guilty of only venial sin. But I prefer to measure the obligation by the degree of failure to contribute to the good of the race rather than by time. I would agree also with Fr. Kelly that there is a limit to this obligation. But it is my candid opinion that the whole dispute regarding the serious nature of the obligation is theoretical rather than practical. Whatever one holds about the serious nature of the obligation to have children, I have grave doubts that any husband and wife can without serious reason confine themselves to the sterile period for a lifetime and still avoid serious sin.

Human desire resists frustration in any form. With some it is the desire to avoid children that must be realized at all costs. With others it is the desire to have children. Our present culture recognizes the marital risks involved in satisfying the desire to have children by sexual union with a third party, but there are those who feel that a safe solution of the problem can be found in artificial insemination. But two serious legal problems stand in the way of such a solution: the uncertainty of the law regarding adultery and legitimacy. Advocates of donor insemination are bending their efforts to bring about reforms in the law so that a clear distinction would be made between adultery and donor insemination and so that a child born of such

[80] In an effort to be brief in his classification of the opinions of other authors, Msgr. Riley has understandably failed to represent the opinion of some of them adequately. I do not think Fr. McCarthy, for instance, can be classed with those who measure the obligation on a time basis. He holds that, after a couple have one or two children, any serious obligation would come only from a danger of incontinence or injustice. Also, Fr. Lynch does not seem to commit himself on the gravity of the obligation. He merely cites an opinion that a serious obligation cannot be proved. Finally, Fr. Kelly seems to agree with Fr. McCarthy that the grave obligation ceases after one or two children.

insemination would be declared legitimate. Jerome A. Petz, S.J., considers these two suggestions for reform and the arguments used to support them, and shows how even from a purely legal standpoint they are objectionable.[81] He also shows how they have their origin in a concept of marriage which is completely alien to the concept on which our common law is based. The article should be of great service in offsetting the propaganda in favor of reform being circulated by the proponents of artificial insemination.

While the present Pope has condemned procurement of semen for artificial insemination even from the husband, he has not entered into the discussion of the morality of sterility tests. But these tests have long presented a problem to moralists and, as might be expected, there are certain differences of opinion regarding the morality of some of them. P. Palazzini discusses these tests again in an article in the new theological journal *Divinitas*.[82] He concludes from his study that certain direct methods for procuring sperm are licit, e.g., involuntary pollution, aspirating the testicles, massage of seminal vesicles. But he considers such indirect methods as aspirating the vagina after legitimate intercourse and the use of a punctured condom illicit, putting them in the same class with *copula interrupta*.[83]

He is opposed to these indirect methods for procuring sperm because in intercourse the sperm is already destined for generation *in actu secundo*. One who removes sperm or impedes it in these circumstances interferes with the generation of a particular individual, which is an illicit interference in the course of nature. I am not sure that I fully understand the force of Fr. Palazzini's argument, but I would like to make two observations that flow from my understanding of it. First of all, the presumption in these cases is that the two parties have not been successful in achieving a pregnancy. There seems little likelihood, then, that the process has much chance of actually interfering with a pregnancy. Also, the whole basis for the argument for the liceity of these procedures is that they do allow for a possible conception. It may be true that in removing some sperm the doctor makes fertilization by those particular sperm impossible, but as long as fertilization is absolutely possible I think the obligation is satisfied.

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[81] "Artificial Insemination—Legal Aspects," *University of Detroit Law Journal* 34 (Mar., 1957) 404–26.

[82] "De moralitate examinis spermatis," *Divinitas* 1 (Apr., 1957) 161–73.

[83] Since Fr. Palazzini does not define the meaning of direct and indirect methods of procuring semen, my understanding of the distinction is gathered from the context. The basis for it seems to be the relation to intercourse: methods for obtaining semen outside of intercourse are direct; methods for obtaining it in intercourse are indirect.