CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

METHODOLOGY

In a review of the first volume of Häring's *La loi du Christ*,[1] P. Pacifique, O.F.M.Cap.,[2] expresses several rather severe criticisms of a work which he admits has been received most enthusiastically in both the German and French editions. Fr. Häring is among the most recent of those who have been advocating a reorientation of moral theology, and his book professes to construct a moral treatise whose focal point is "our real incorporation into Christ through the sacraments, through the divine life in us." The author envisions truly Christian morality in the framework of a dialogue between God and man: God calls, man responds; acceptance is our *metanoia* or conversion, refusal is sin. Fr. Pacifique terms the scriptural development of this *idée-mère* enchanting at first reading, but progressively disillusioning upon subsequent readings and reflection. As biblical theology, he submits, it is not genuine; its alleged Christocentrism is achieved merely by superimposing scriptural texts upon a garden variety of moral truths, many of which have been the target of recent criticism because of their aura of naturalism. Despite this censure and more, Fr. Pacifique concedes that the book is a significant contribution, deserving of the acclaim it has received; but while admitting its usefulness as a pastoral aid, he summarily rejects it as an eligible manual of moral theology.

It would be a mistake to interpret this last observation in a condemnatory sense. Quite obviously, suitability as a textbook is neither the unique nor the ultimate criterion of theological worth; furthermore, Fr. Häring had explicitly disavowed any intention of writing a manual for seminary use. It would also be a mistake to discount as impractical or revolutionary the attempts being made to fashion a truly complete Christian ethics which will serve a primary purpose other than the training of future confessors. Current dissatisfaction with the status of moral theology need not be interpreted as an ambition to supplant present classroom methodology with some more esoteric approach. Rather it would seem that the more thoughtful critics of our discipline recognize and lament the fact that the content of

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

[1] Bernard Häring, C.SS.R., *La loi du Christ* 1: *Théologie morale générale* (Paris: Desclée, 1955). The book was originally published in German in a single volume under the title *Das Gesetz Christi* (Freiburg: Wewel, 1955). The second volume of the French edition is now available.

[2] *Etudes franciscaines* 8 (Dec., 1957) 234–38.

our traditional system is too often transmitted to the faithful in the stark juridical form of commands and prohibitions without the supernatural motivation required to make salutary virtue out of external compliance. What is needed—and what in most instances is being recommended—is not a substitute for our present manuals or basic pedagogy, but an inspirational supplement to the same for the ultimate benefit of the laity. Much of this can be and is provided in the pastoral animadversions of a classroom professor; no small amount of it will depend on the personal asceticism of students themselves. But certainly to be welcomed are the contributions of those theologians whose purpose it is to build upon the indispensable foundation of Scholastic moral theology an even more effective instrument of personal sanctification.

It is substantially in this vein that L.-B. Gillon, O.P.,[3] discusses that trend of ethical thought which provided Fr. Häring's inspiration and which Tillmann before him had adapted from the philosophy of Scheler—the *Nachfolge Christi* or the *éthique de l'exemplarité personnelle.* Fr. Gillon summarizes the writings of the several contemporary exponents of this school, finds their prototypes in certain theologians of the nineteenth century, and compares the essence of their thinking with the theology of St. Thomas. While readily granting its unlimited potential as inspiration for genuine Christian living, Fr. Gillon not only dismisses the *Nachfolge Christi* as a substitute for our textbook moral theology, but also advises against any attempt to incorporate it into that type of manual.[4] The result, he implies, would destroy the distinctive values of both. L. Lombardi,[5] after a rather tortuous disquisition on the real and alleged ills of moral theology, comes to much the same conclusion.

SITUATION ETHICS

Noteworthy treatises on situation ethics continue to appear. One of the most informative is presented by A. Perego, S.J., in a series of four articles[6]

[3] "La théologie morale et l'éthique de l'exemplarité personnelle," *Angelicum* 34 (July–Sept., 1957) 241–59; (Oct.–Dec., 1957) 361–78.

[4] "La théologie de l'exemplarité personnelle n'est pas ordonnée à former des confesseurs. Soit. La théologie morale des 'manuels' demeure donc indispensable et le pire de tout serait un exposé hybride, cherchant à combiner les deux ou même les trois formes de théologie morale, qui ont existé dans l'Eglise depuis le Moyen-Age. On y retrouverait, en très mauvais ménage, des fragments de saint Thomas, la substance de la morale classique, tout cela assaisonné de termes empruntés à Scheler ou à l'existentialisme. Mieux vaudrait conserver la distinction des 'genres littéraires'" (p. 378).

[5] "Critica semantica della teologia morale," *Palestro del clero* 36 (July 1, 1957) 585–99; (July 15, 1957) 633–47.

[6] "L'etica dell'incontro con gli uomini," *Civiltà cattolica* 108:3 (July 20, 1957) 113–26;

which evidence the author's discerning appreciation both of the elemental errors of situationism and of the subtle shades of difference to be found in the various forms in which this fallacy finds expression. Distinguishing between what might be termed the anthropocentric and the theocentric species of the doctrine, Fr. Perego first analyzes the teaching of E. Grisebach as exemplar of the former and that of E. Michel as typical of the latter. He then proceeds to demonstrate, as all commentators invariably have done, the essential points on which situationism is at variance with traditional morality and to speculate on the moral chaos which would ensue if conscience were allowed to function as the ultimate norm of objective morality. A commentary on the three relevant pronouncements of the Holy See concludes this excellent series. Of necessity, Fr. Perego repeats much of what had previously been said on the subject both before and since the condemnation of situation ethics; but he can be thanked for a most thorough and successful attempt to clarify basic issues without erring in the direction of oversimplification.

If one reads Fr. Kuničić on the same subject,[7] it would appear that he confines himself to that extreme form of situationism which is crassly atheistic and materialistic and which disassociates itself entirely from any objective norm of morality. That such an "ethics" may be detected in the moralizations of certain non-Catholic authors must be admitted; and logically even the relatively more moderate situationists should admit that their position is ultimately reducible to moral nihilism. But one gets the uncomfortable feeling that Fr. Kuničić's treatment of the problem is a bit too facilely devastating, as he throws almost the entire epistemological and ethical book at all situationists indiscriminately. Blatant error is not nearly as pernicious as half-truth; and to occasion the impression that this "new morality" is totally but another patent form of universal skepticism would seem to risk the danger of obfuscating its more insidious elements.

By contrast R. W. Gleason, S.J.,[8] concentrates the bulk of his penetrating analysis on the theistic form of situation ethics—what Fr. Perego would term "l'etica dell'incontro con Dio." Besides establishing man in a theocentric environment, this "Christian" situationism also grants a certain pre-

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"L'etica dell'incontro con Dio," *ibid.* (Aug. 17, 1957) 350–64; "Essenza dell'etica della situazione e sua differenza da quella tradizionale," *ibid.* (Sept. 7, 1957) 449–61; "Disastrose conseguenze dell'etica della situazione e intervento del magistero ecclesiastico," *ibid.* 108:4 (Oct. 5, 1957) 3–15.

[7] J. Kuničić, O.P., "'Ethicae situationis' multiplex error," *Divus Thomas* (Piacenza) 60 (July–Sept., 1957) 305–13.

[8] "Situational Morality," *Thought* 32 (Winter, 1957–1958) 533–58.

sumptive validity to objective moral law. But it is a presumption which must yield to concrete fact, if conscience in the existential circumstances of a given moment testifies that the abstract norm is here and now irreconcilable with the unique present situation. Whereupon conscience, placing itself in an immediate I-Thou relationship with God, assumes the burden of supplying the existential deficiencies of an objective norm based solely on essential human nature. As Fr. Gleason insists, in common with all discerning commentators, one important fact to emphasize is that this dictate of conscience not only affects the subjective morality of a contemplated act, but determines its objective goodness or malice in and for the circumstances peculiar to the moment.[9]

In considerably fewer words than any of the preceding, but no less accurately, Paul H. Besanceney, S.J.,[10] also sketches the distinctive features of this child of existentialism.

Much of what has been written about situation ethics very probably strikes the casual reader in this country as so much matter for speculation in the schools, a left-bank sort of theorizing without practical impact on the American Catholic scene. In the sense that none of our Catholic theologians in this country has attempted—or even been tempted, I would presume to say—to defend any theory of situational morality, that sense of security is doubtlessly justified. But many people, and perhaps even some priests, do make practical moral decisions which seem to betray a mentality which is very close kin to situationism. There perhaps lies our particular problem.

Although this same conviction apparently inspired Paul Hilsdale, S.J, to write "The Real Threat of Situation Ethics,"[11] I would not illustrate my own thesis exactly as he does his. Fr. Hilsdale cites three examples of what he considers implicit recourse to situationist doctrine. The first involves a priest who refrains from making any overt attempt to convert an Anglican friend lest the latter's sincere good faith be disturbed. The second example concerns another priest who allows a kindly train conductor to decline his proffered fare. And finally Zoe is depicted as rebelling against an ecclesiastical law (canon 1099, §2) whereby her disastrous first marriage must be

[9] Another observation made by Fr. Gleason suggests an interesting bit of speculation. "Since," as he says (p. 555), "the ultimately decisive factor in situational ethics is the internal 'judgment' of the subject, it is easy to see that situational ethics can be exaggerated in either direction: laxity or severity. The internal personal light may be interpreted either as an exemption from the objective moral law or as an imposition of an added obligation." What provision, one might ask, would situation ethics make for the scrupulant?

[10] "'Situation Ethics' or the 'New Morality,'" *American Ecclesiastical Review* 137 (Aug., 1957) 100–104.

[11] *Homiletic and Pastoral Review* 58 (Nov., 1957) 173–78.

judged valid—a law since abrogated, but too late to solve her present problem—"clear proof, she felt, that the Catholic Church did not speak with the infallible voice of Christ." As these cases are presented, it is by no means clear that their protagonists exemplify the situationist attitude. It seems more likely to me that the recalcitrant apostle is, either prudently or imprudently, invoking excusing cause in regard to an affirmative obligation, whether real or imagined; that the itinerant clergyman illustrates ignorance, i.e., failure to advert to the fact that he is cooperating in objective theft from the railway company; and that Zoe is contemptuous of the magisterium's authority to formulate matrimonial laws.

The situationist, on the other hand, at least the less extreme species, recognizes a contemplated act as immoral in the essential order, but thereupon allows conscience to persuade him that in the existential circumstances of the moment this very same act for him is objectively in accord with God's will. This type of practical decision is not restricted to the professed situationist. It is frequently to be found in the rationalizations of non-Catholic doctors, whose moral sincerity and good faith are perhaps above reproach, when they condemn criminal abortion, for example, as immoral while defending therapeutic abortion in extreme cases as licit or even mandatory.[12] Practically every priest in the ministry has encountered the married couple who are well aware that contraception is forbidden, but who appeal to their own truly pitiable circumstances as excusing cause or as valid basis for "permission." And it is not a comforting experience to be consulted by priests who admittedly recognize a particular procedure as contraceptive sterilization, but who nonetheless submit most pathetic reasons for perhaps allowing it as a last resort in certain extreme cases.

What explains such inconsistencies as these? Not necessarily an explicit recourse to the tenets of situation ethics. To my mind the contradiction results from one's failing to grasp the ultimate practical implication of intrinsic evil as predicated of certain human acts—failure, in other words, really to appreciate the full significance of an absolute natural law prohibition. Equate it as we will with an unqualified "never under any circumstances," the notion somehow seems still to elude even some minds long conditioned to our ethical concepts and terminology. The situationist will concede that a contemplated act contravenes the essential moral order;

[12] Thus, for example, in Nicholson J. Eastman's latest (1956) edition of *Williams Obstetrics* this statement occurs (p. 1077): "*Since therapeutic abortion is homicide with respect to the fetus*, it is a grave undertaking and must never be considered unless there is imminent danger of death of the mother as the result of pregnancy, or of great bodily or mental harm" (emphasis added).

whereupon he merely denies the absoluteness of that norm and allows conscience to persuade him that the existential order must be served at the moment. This other mentality strives to find in concrete circumstances valid excuse for disregarding a natural law prohibition whose absoluteness is not denied but merely unappreciated. However fine the distinction may be, it may at very least explain why some, who would indignantly repudiate situation ethics as a moral theory, nevertheless approximate its errors in practice.

TEEN-AGE STEADY DATING

"Inherent in the use of all authority by human beings, including those in the Church, is the possibility of misuse." With this introduction Charles Connors, C.S.Sp., proceeds in the course of an article on teen-age company-keeping[13] to challenge the right of bishops and pastors to forbid their teen-age subjects the practice of "going steady" or to sanction steady dating, as some have done, with expulsion from parochial schools or exclusion from certain school privileges. Fr. Connors bases this contention on several canonical premises. His case against legislation at the parochial level rests mainly on the fact that pastors as such possess no legislative power within the Church. As for episcopal competence in this regard, he maintains that since universal Church law allows marriage at the age of sixteen for boys and fourteen for girls, there is implicit approval of courtship at that age for those who contemplate marriage in the near future, and that consequently bishops are powerless to deny a right which common law concedes. Since it is the primary right and responsibility of parents to exercise reasonable control over the dating habits of their teen-age youngsters, there the exercise of authority should be allowed to remain.

It is one thing to pass judgment on the morality or social advisability of steady and exclusive dating among teen-agers; it is distinctly another matter to doubt the wisdom of legislative sanctions on the practice; and it is still again another question to deny the very right to prohibit and penalize the custom as some pastors, and perhaps bishops, have done. All three phases of the problem receive Fr. Connors' consideration. His observations

[13] "Teen-Agers 'Going Steady': Whose Problem?", *Homiletic and Pastoral Review* 58 (Dec., 1957) 249–54. The January and February, 1958, issues of the same periodical contain an exchange of correspondence on this article between "Girls' Academy Chaplain" and Fr. Connors. Their discussion chiefly concerns the moral question of steady dating as an occasion of sin. For an excellent detailed treatment of this latter topic, cf. John R. Connery, S.J., "Steady Dating among Adolescents," THEOLOGICAL STUDIES 19 (March, 1958) 73–80.

on the first two will evoke a substantial amount of agreement; it is on the third point that he may to some extent have overstated his case.

There is no doubt whatsoever about the incompetence of pastors to formulate purely positive law which would oblige their parishioners in conscience. Neither is there doubt about the right and obligation of pastors to instruct their people in the precepts and practical applications of natural law. As Fr. Connors readily admits, an accurate statement as to the moral dangers entailed in a particular practice and as to one's consequent obligation to avoid those dangers is not a usurpation of legislative authority. However, not every pastoral pronouncement on the morality of steady dating among teen-agers has been conspicuous for theological accuracy. Should any priest, for example, so interpret natural law as to make the lone fact of company-keeping, regardless of its lack of danger in a particular case, reason for refusing absolution, he would indeed be exceeding his legitimate authority. On this point Fr. Connors' position is unassailable.

But as for excluding from parochial schools or from certain school privileges those who date steadily, it is by no means clear that this is an exercise of legislative authority in the technical sense. As Fr. Connors himself concedes, those in charge of parochial schools are entitled to make reasonable regulations for disciplinary purposes. But do they not also have the right to set certain other standards, not as productive of conscience obligations but as a *conditio sine qua non* of acceptability? For example, without by any means implying that marriage is a sinful state of life, a pastor would seem justified in excluding married students from his parochial high school. Or to use one of Fr. Connors' own examples, no pastor could oblige his teen-age parishioners to abstain from all alcoholic beverages even within the family circle. But if he should decide that certain positions of honor in the school are to be restricted to teetotalers only, who can deny the pastor that right, even while reserving judgment on the wisdom of the regulation? It is true that a pastor would be exerting a form of moral suasion by presenting students with this disjunctive choice. But it does not seem to qualify as a usurpation of legislative power.

Whatever can be said of pastors' rights in this regard applies a fortiori to local ordinaries. Moreover, since the latter possess true legislative authority, there could also arise at this level the speculative question of positive legislation in the strict sense, viz., a prohibition against steady dating based on the presumption of its universal danger and intended to bind in conscience even those teen-agers for whom the practice would be entirely devoid of personal danger. Whether such laws actually exist is to be doubted. But it is inconceivable that any bishop who might so legislate would fail to make

proper provision for those who would be seriously and legitimately planning on early marriage. Only if he did enact such a law as would equivalently make marriage impossible at an age permitted by the Code would I agree that his law would be invalid.

As mentioned previously, there is a marked difference between the authority to enact laws and the salutary exercise of that right. Putting aside all question of legislative competence, and granting for a variety of reasons the inadvisability of steady dating for the generality of high school youngsters, is legislation or penalty the most efficacious remedy or preventive at our command? Fr. Connors is certainly not alone in judging that it is not. Besides the extreme difficulty of formulating and enforcing such regulations equitably and effectively, there is the further consideration that legislation of itself is designed to achieve only external conformity, which is certainly not the ultimate objective of our moral education. If our Catholic youngsters are to be brought to a proper manner of thinking in regard to steady dating, they must be provided with something more than a moral conclusion and a precept. Illustrative to my mind of a constructive and effectual approach to this teen-age problem are the motivational ideas expressed by Fr. McGloin in his pamphlet, *You SHOULD Be Going Steady*[14]—an ironic title, of course. Where reasoned explanation and proper motivation succeed, legislation will be unnecessary; where they fail, it can be doubted that legislation will be any more successful.

LEGION OF DECENCY

Another problem relevant to the general question of positive legislation is contained in the complex issue raised by our Legion of Decency ratings. No adequate discussion of the Legion can restrict itself to an affirmation or denial of the obliging force of these ratings; but neither can that aspect of the question be entirely neglected if we hope to transmit to the faithful an intelligent appreciation of the Christian ideal which the Legion proposes. One of the most attractive features of an article written by Gerald Kelly, S.J., and John C. Ford, S.J.,[15] is the very frank appeal it makes to supererogatory virtue as distinguishing the genuine spirit of the Legion and its members. Beginning with an historical account of the organization's inception and

[14] Joseph T. McGloin, S.J., *You SHOULD Be Going Steady* (St. Louis: Queen's Work, 1957).

[15] "The Legion of Decency," THEOLOGICAL STUDIES 18 (Sept., 1957) 387–433. Fr. Kelly and Fr. Ford have also collaborated on *Questions in Fundamental Moral Theology*, just recently published by Newman Press.

development, this article then proceeds to a consideration of the principal ecclesiastical pronouncements dealing with motion pictures and with the Church's role in promoting the good and discouraging the evil of which this medium is capable. There follows a section on the Legion and Christian morality which concludes with a strong plea for a positive program of education aimed at developing within our people a genuine sense of artistic and moral values.

It is characteristic of the tone of this whole discussion that relatively brief space is devoted to the question of moral obligation deriving from the Legion's ratings of specific movies. Conspicuously first in this part of the article is the authors' proposal of the ideal attitude which, independently of any notion of sin, will easily persuade the wholesome-minded to a general policy of choosing their moving picture entertainment in accordance with the Legion's recommendations. Even this ideal makes reasonable provision for individual and exceptional circumstances in which attendance at a particular B or even C movie would not be inconsistent with an habitual policy of doing the better thing.

The further question of conscience obligation is one which the authors decline to solve with any general aprioristic rule whereby a B or C designation could be translated immediately into terms of sin, either venial or mortal. Their reasons for adopting this position are most cogent. Of the two possible sources of sin in this matter—either positive or natural law—it seems clear that, except for occasional precepts on the part of individual bishops forbidding attendance at certain C movies, there is no ecclesiastical law which prohibits any particular class of pictures according to the categories employed by the Legion or similar organizations. The Legion itself is not a lawmaking body and does not claim to be; and the same must be said of episcopal groups, at any level short of a plenary or provincial council, which officially approve such agencies. There remains then only natural law as a source of obligation in this regard, in so far as it forbids unnecessary cooperation with what is objectively evil and obliges to the avoidance of unjustifiable scandal and of proximate occasion of sin. As Frs. Kelly and Ford point out in some detail, it is only in a context of concrete circumstances that one can estimate with any degree of accuracy these elements of scandal and danger. Hence any attempt to universalize in the form of practical rules would be theologically hazardous. Even with regard to C pictures, they are convinced that prudence should discourage the statement that these are always, or almost always, a proximate occasion of mortal sin. Rather they believe it "much more in keeping with sound theology to say that they

would involve the proximate occasion of serious sin for many people, especially young people, and that any more specific statement would require a knowledge of the film itself and of its prospective audience."

Since this article was written, several related events have transpired: the publication of the Encyclical *Miranda prorsus*,[16] the subsequent release by the American hierarchy of their statement on censorship,[17] and a modification in the Legion's classification of moving pictures.[18] Would any one or more of these factors affect the conclusions presented by Frs. Ford and Kelly?

The new A-2 category ("morally unobjectionable for adults and adolescents") will now make it possible for some pictures, which would formerly have been classified as B, to be given an A-3 rating ("morally unobjectionable for adults"). Thus the fact of a B rating in the future will of itself imply a more serious moral defect than need necessarily have been inferred in every case from the same classification in the past. In other words, the B classification is no longer the "residual category" it once was, but removes a film more decisively from the unobjectionable class. In view of this fact, future moral appraisal of B pictures may be more strict in some cases than that given by Frs. Kelly and Ford.

But in every doctrinal respect, the views expressed by the same authors would appear to be eminently in accord with the teaching of *Miranda prorsus* as it applies to our Legion of Decency. As Fr. Connell observes in his first of several promised commentaries on the Encyclical,[19] it does not seem that Pius XII conferred the force of positive law upon the ratings as-

[16] *AAS* 49 (Oct. 23–26, 1957) 765–805.

[17] *Catholic Mind* 56 (Mar.–April, 1958) 180–86.

[18] Announced after the annual meeting of American bishops in Washington last November and effective December 12, the change involves the introduction of one new category ("unobjectionable for adults and adolescents") to be designated as A-2. According to a subsequent NCWC release (Boston *Pilot*, Jan. 4, 1958), "All films rated morally unobjectionable for adults under the old classification system of the National Legion of Decency have been placed in the Legion's new A-2 classification, morally unobjectionable for adults and adolescents." And quoting Msgr. Thomas F. Little, Executive Secretary of the Legion, the dispatch continues: "It can be safely said that the vast majority of the films which had been previously rated A-2, for adults, were also in fact acceptable for adolescents. If there be some exceptions to this rule, they are minimal in number and do not justify the morally impossible task of re-evaluating all the films reviewed and classified by the Legion since 1936." Hence the new A-3 category ("morally unobjectionable for adults") will be comprised largely of films which would have been classified as B under the Legion's original system.

[19] Francis J. Connell, C.SS.R., "Pope Pius XII and the Legion of Decency," *American Ecclesiastical Review* 137 (Dec., 1957) 392–99.

signed to particular films by Catholic agencies authorized to classify them. When the Pope speaks of a grave obligation on the part of the faithful to "acquaint themselves with the decisions issued by ecclesiastical authority on matters connected with motion pictures and to obey them faithfully," he is more likely referring to specific mandates issued directly by those endowed with legislative authority within the Church. Substantially the same interpretation would seem to be implicit in the statement on censorship released by the American bishops after their annual meeting last November, some weeks after the publication of the encyclical:

> The function of these agencies [the Legion of Decency and the National Office for Decent Literature] is related in character. Each evaluates and offers the evaluation to those interested. Each seeks to enlist in a proper and lawful manner the cooperation of those who can curb the evil. Each invites the help of all people in the support of its objectives. Each endeavors through positive action to form habits of artistic taste which will move people to seek out and patronize the good. In their work they reflect the moral teaching of the Church. *Neither agency exercises censorship in any true sense of the word.*[20]

An appreciation of the distinction between an agency whose sole purpose is to inform and one whose authorized function is to prohibit would very likely have prevented some of the misunderstandings apparent in Walter Kerr's *Criticism and Censorship*.[21] As Fr. Welsh[22] very pertinently notes in his comments on Mr. Kerr's book, the Legion and the NODL "intend to do on a moral level much that the art critic intends to do on the aesthetic level, i.e., indicate to the public the merits and faults of particular productions." No one denies the responsible literary or dramatic critic his right to evaluate and to communicate to an unlimited audience the artistic merits and deficiencies of a particular book or theatrical performance. Why challenge the right to appraise and inform in similar fashion from the moral viewpoint? And though Fr. Welsh is inclined to believe that the Legion's effectiveness would be enhanced by endowing its C ratings with the force of ecclesiastical law, it seems to me far preferable to reserve this exercise of legislative au-

[20] *Catholic Mind* 56 (Mar.–April, 1958) 184; emphasis added.

[21] Milwaukee: Bruce, 1957.

[22] Aloysius J. Welsh, "Criticism and Censorship—Notes on the Basic Issues," *Homiletic and Pastoral Review* 57 (July, 1957) 891–99. For further observations on the issues raised in Mr. Kerr's book, see F. J. Connell, C.SS.R., "Criticism and Censorship," *American Ecclesiastical Review* 137 (July, 1957) 9–17; Owen Bennett, O.F.M.Conv., "Art, Critics, Censors and Basic Principles," *Homiletic and Pastoral Review* 58 (Nov., 1957) 147–56, and *ibid.* (Dec., 1957) 255–65; Murray Arndt, S.D.S., "Censorship and Perspective," *Catholic World* 186 (Nov., 1957) 93–99.

thority for the rare case in which exceptional circumstances would truly require episcopal intervention.

In the course of his commentary on *Miranda prorsus*, Fr. Connell declares that he is still committed to the views he expressed some twelve years ago on the sinfulness of attending various classes of films.[23] With the substantial essence of those judgments theologians generally would very probably agree, although some would likely prefer to qualify several of his practical principles or rules. Regarding C pictures, for example, my own preference would not be to defend without some qualification the statement that "pictures [so] classified . . . must be avoided by all persons under pain of mortal sin." Without doubt Fr. Connell would readily concede as legitimate certain exceptions to this rule which could be cited; but it is the seeming absoluteness of the statement as a practical norm which could create misunderstandings. And although all would agree on our obligation as priests to urge upon the faithful the ideals proposed by the Legion of Decency, my own pastoral instincts do not take enthusiastically to Fr. Connell's suggestion in his more recent article that our Sunday announcements should each week include the advice to stay away from particular theatres, to be mentioned by name, which are showing objectionable films. Although the matter surely admits of legitimate differences of opinion, it is not to my mind certain that the reaction of the faithful to this practice would be altogether salutary.

MEDICAL PROBLEMS

A. Boschi, S.J.,[24] reports on an exchange of theological opinion which illustrates most effectively the difficulty of determining the precise limits of one's duty to preserve life. The case presented is an actual one involving a three-year-old child, one of whose eyes had already been removed surgically because of malignant tumor. The other eye later became infected in the same way, and medical prognosis offered only the dilemma of either certain death without further surgery or a "considerable probability" of saving the child's life by a second ophthalmectomy. The father at first refused to authorize the operation, but upon threat of court intervention eventually gave his consent. The aftermath is not reported by Fr. Boschi.

Commenting on the case in the *Times of Malta*, Canon E. Coleiro had expressed his opinion that the operation in the circumstances represented an extraordinary means of preserving life, since at best it would entail a lifetime of total blindness. Because death for the youngster now would mean

[23] "How Should Priests Direct People Regarding the Movies?", *American Ecclesiastical Review* 114 (April, 1946) 241–53.

[24] "Ingiusta ingerenza o legittimo intervento dello stato?", *Palestra del clero* 36 (Dec. 1, 1957) 1067–77.

her certain eternal salvation, the father had excellent reason, in the Canon's opinion, to refuse extraordinary means in the child's best interests and to permit death to ensue from natural causes. And since the exercise of this choice in such a situation is the exclusive right of parents, the intervention of civil authority was not justified.

Subsequently, as Fr. Boschi testifies, the problem came to the attention of A. Peinador, C.M.F., whose solution was quite to the contrary. According to Fr. Peinador, the proposed surgery represented an ordinary means of preserving life. Consequently the father was obliged to permit the operation, which was neither excessively difficult nor expensive, just as he would be obliged to provide food and shelter for his children. Refusal of consent transferred to civil authority the right and obligation to protect the child from an irresponsible parent.

Fr. Boschi expresses his own conviction that Canon Coleiro's conclusion is correct, and suggests that Fr. Peinador is being unduly influenced by the medical concept of ordinary and extraordinary means and is failing to take full cognizance of all that is implied in the theological definition of those terms.[25] With copious quotations from Fr. Paquin's *Morale et médecine*,[26] Fr. Boschi argues that the handicap of total blindness for lifetime is even objectively an *incommodum* of considerable gravity, and in addition can entail subjective repugnance or dread equivalent to that which is recognized by moralists as sufficient to make a particular means at least relatively extraordinary. He also underlines the medical fact that the operation does not promise certainty of success but admits of some real probability to the contrary. In view of these various considerations, Fr. Boschi interprets the operation as extraordinary means and grants the father the right to decide either for or against surgery on the basis of his sincere judgment of what is to the child's own best interests. Granted such a decision, civil authority possesses no right to intervene.[27]

There is no question about the extreme difficulty in practice of deciding

[25] On this distinction between the theological and medical notions of ordinary and extraordinary means, see John C. Ford, S.J., and J. E. Drew, M.D., "Advising Radical Surgery: A Problem in Medical Morality," *Journal of American Medical Association* 151 (Feb. 28, 1953) 711–16; John C. Ford, S.J., "The Refusal of Blood Transfusions by Jehovah's Witnesses," *Linacre Quarterly* 22 (Feb., 1955) 5–10. For a general discussion of the theological concept of ordinary and extraordinary means, cf. Gerald Kelly, S.J., "The Duty of Using Artificial Means to Preserve Life," THEOLOGICAL STUDIES 11 (June, 1950) 203–20; and "The Duty to Preserve Life," *ibid.* 12 (Dec., 1951) 550–56.

[26] Jules Paquin, S.J., *Morale et médecine* (Montreal: L'Immaculée-Conception, 1957) 411–16.

[27] For detailed treatment of parental rights and the responsibility of civil authorities in cases such as these, cf. J. C. Ford, S.J., "The Refusal of Blood Transfusions by Jehovah's Witnesses," *Linacre Quarterly* 22 (Feb., 1955) 3–10 and (May, 1955) 41–50.

many of the problems which depend for solution on the elusive distinction between ordinary and extraordinary means of preserving life. Especially troublesome are cases in which the decision either to use or to forego extraordinary means must be made by proxy. Although all theologians agree that normally no one need go beyond a certain limit of inconvenience in order to maintain life, identification of the extraordinary in the concrete is so dependent on human judgments that opinions in many individual cases are bound to differ. And when solving such problems for the theologically untrained, moralists are quite aware of the danger at times of appearing to condone a direct intention to induce death when they are actually defending only a legitimate right to allow oneself or another to die. This is particularly true in instances where death would be a welcome release. The present case is not devoid of these various hazards. But in view of the major handicap of total blindness for lifetime which surgery would necessarily inflict, and considering also what appears to be a legitimate probability that the operation will not prevent death, my own inclination would be to agree that the ophthalmectomy in this case is an extraordinary means. If that be granted, it would follow that the father of the child was fully entitled to make his original decision and that the threat of intervention by civil authority was a violation of that right.

Somewhat similar a poser is expressed in the very suppositum on which L. Bender, O.P.,[28] bases another of his arguments against the licitness of organic transplantation *inter vivos*. Fr. Bender's reasoning in this article appears to be reductively this: a father is certainly not justified in authorizing the removal of a healthy organ from his minor child for the purpose of transplantation; but if organic transplantation were not intrinsically evil, a father would be so justified; therefore organic transplantation is intrinsically evil. It is with no intention of ultimately denying the major premise that I suggest it as matter for further discussion. But because Fr. Bender presupposes it to be true and devotes his article to a development of the minor premise, that item deserves first consideration.

The author correctly stipulates that licit disposition of one's corporal members is an exclusively personal right and that, for children incapable of exercising the right in a rational way, divine natural law provides an authorized representative in the person of the father or another legitimate guardian. Thus, if surgery is necessary in order to preserve the child's life, it is the father who speaks for the child and gives requisite consent. This paternal right of proxy consent is, of course, not unrestricted, but is limited

[28] "Transplantatio organorum et personae minores," *Palestro del clero* 36 (July 1, 1957) 611–15.

to those dispositions of self which the youngster could licitly make in his own name if he were capable. Therefore, Fr. Bender concludes, if disposal of a healthy organ for another's benefit were permissible, a father would be authorized to give consent for it in the name and person of his minor child.

It seems to me that Fr. Bender does not present with complete adequacy the father's role as juridically responsible agent for his child and that he may even be equating it with the authority of parents to exact obedience from their children in matters which are licit and reasonable. While it is true to say that proxy consent may not be given for a procedure which is intrinsically evil, it would not be correct to imply that such consent may without further consideration be granted for anything and everything which may in itself be morally permissible. On the supposition that organic transplantation is not intrinsically evil, the child in this case has two legitimate choices, and therefore two rights which the father must protect to the best of his ability: the right to sacrifice an organ and the right to retain it. The father's corresponding obligation, therefore, is to make a decision in the best interests of the child—not an easy task in such circumstances. But from the mere fact that the father would not be justified in authorizing the mutilation in question, there is no necessary illation to the intrinsic malice of the procedure itself.

The further problem remains: could a father legitimately decide in favor of such an operation on his child?[29] If sacrifice of the organ involved would constitute a serious handicap (as would be true, for example, of a kidney transplant from one identical twin to the other) and if the child is incapable of making a truly informed decision for himself, my own opinion is that a transplant from the child may not be authorized. It does not seem prudent to presume on a child's willingness to be irreversibly handicapped to such a degree, or entirely just to require heroic sacrifice of a child unable to speak for itself. It is a conviction expressed without sharing Fr. Bender's assurance that none would disagree, and is not indicative of any personal doubt about the probable licitness, *servatis servandis*, of organic transplantation.

[29] One of the more recent (November, 1957) kidney transplants performed at Peter Bent Brigham Hospital in Boston involved fourteen-year-old identical twins. Before the transplant would be allowed, the prospective donor had to satisfy the State Supreme Court that he was aware of the consequences to himself and that he willingly consented to make the sacrifice. Parental consent was also required. Whether a court in this country would allow parents to authorize a transplant from an infant child has not as yet to my knowledge been decided. Although up to now the only successful kidney transplants have been from one identical twin to the other, the president of the newly-formed Foster Fund for Transplant Research at Peter Bent Brigham announced several months ago that successful transplants between non-related individuals is now "on the threshold of possibility."

Although J. Kuničić, O.P.,[30] aligns himself with those who defend organic transplantation, his position on the question is not wholly identical with that adopted by others who champion the cause. As they do, he invokes the law of charity as his final justification. But even after stipulating that it is direct mutilation for which the principle of totality makes provision in other cases, for some unstated reason he insists that the mutilation involved in transplants and sanctioned by charity is in another sense of the term indirect. To Fr. Kuničić, indirect here implies that the donor does nothing positive in the order of physical causality to deprive himself of bodily integrity but merely submits without resistance to the ministrations of a surgeon. The distinction, as I understand it, seems neither helpful nor especially pertinent. Surely the donor, by the fact of his free consent, intends directly (in the common acceptation of the term) the mutilation of self which follows. And since Fr. Kuničić explicitly denies that direct mutilation in this sense is intrinsically evil, it is difficult to understand what the change in terminology is meant to achieve.

Apropos of the current disagreement among reputable theologians as to the morality of organic transplantation, it is no spirit of nationalism or of blind loyalty to a cause which prompts the inclusion here of the following excerpt:

> As to whether one may sacrifice a member of his own body for the benefit of another—as, for example, to donate one of his eyes to a blind man—opinions do not agree. An American moralist answers in the affirmative (B. J. Cunningham, *The Morality of Organic Transplantation*, Washington, 1944), a Spaniard in the negative (P. Zalba, *Theologiae moralis summa*, Vol. 2, p. 268). The ultimate reason for this difference of opinion is this: the one maintains that God has given us each a body for his own good and for the good of all; the other that it is given for one's own good alone. The first, in good American fashion, believes that man may intervene and interfere in the plan of Providence; the second, that we must above all respect the divine order.[31]

[30] "Aliquorum organorum humani corporis licita transplantatio," *Perfice munus* 32 (Oct., 1957) 566–79.

[31] "Quant à savoir si l'on peut sacrifier une partie de son corps pour le bien d'autrui, comme par exemple, donner un de ses yeux à un aveugle, les avis ne sont plus concordants. Un moraliste américain repond affirmativement (B. J. Cunningham, *The morality of organic transplantation*, Washington, 1944), un espagnol négativement (P. Zalba, *Theologiae moralis Summa*, vol. 2, p. 268). La raison ultime de la divergence est celle-ci: l'un tient que Dieu nous a donné un corps pour notre bien et pour le bien de tous; l'autre pour notre bien seulement. Le premier, en bon américain, estime que l'homme peut intervenir et interférer dans le jeu de la Providence; le second, qu'il faut avant tout respecter l'ordre divin"; Ph. Delhaye in *L'Ami du clergé* 67 (Oct. 24, 1957) 639.

May it be respectfully suggested that allegations such as this contribute little to the cause of serious and legitimate theological discussion? Theologians who are best acquainted with Fr. Cunningham's dissertation, and with its subsequent refinements at the hands of several respected moralists, would be least inclined to caricature either. Legitimate and courteous differences of opinion have traditionally played a major role in the development of our theology. The same cannot be said of invective.

It should also be noted that in the second (1957) edition of his *Summa*, Fr. Zalba not only remarks the prudence with which the contrary of his preferred opinion has in several instances been expounded, but also admits the probability of that position and even seems to show an incipient inclination towards it.[32]

In answer to a question concerning acute hydramnios before viability, Fr. Connell[33] restates current thinking among theologians as to the licitness of draining off the excessive amniotic fluid with the realization that abortion will often result. Those who consider the procedure as a species of direct abortion, and hence forbidden, generally maintain that the amniotic membrane and fluid, if not strictly part of the fetus, at least pertain more properly to the fetus than to the mother, since they are by nature designed as an essential medium for intrauterine existence. Hence, in the estimation of many theologians, perforation of the membranes and release of the fluid would constitute a direct attack upon the unborn child. Fr. Connell cites Thomas J. O'Donnell, S.J.,[34] as one of the more recent proponents of the opinion which admits an application of the principle of double effect to this situation when the mother's life is seriously threatened. Fr. O'Donnell prefers to regard the excess of amniotic fluid as a grave maternal pathology towards the relief of which membrane puncture is immediately directed. Abortion,

[32] "Fortasse argumentum in favorem sententiae benignioris adduci possit hominem non excedere limites rectae administrationis propriae substantiae, cum propter bonum proprium spirituale cedit alteri organa huic necessaria. Deus enim, qui ei praescripsit administrationem virium corporalium in utilitatem totius personae, non videtur clare invitus quod ille disponat de organis suis directe pro bono superiore totius personae per operationem sibi quidem haud necessariam, sed intra ordinem rerum a Deo permissum utique convenientem"; *Theologiae moralis summa* 2 (2nd ed.) § 162. See also § 157: "... probabilitas intrinseca [opinionis negativae] non evincit falsitatem contrariae opinionis; et probabilitas extrinseca huius minime potest parvipenderi, cum sustineatur ex motivis sibi saltem probabilibus a multis recentioribus." Fr. Zalba thereupon cites in a footnote fourteen theologians who have defended the licitness of organic transplantation *inter vivos*.

[33] F. J. Connell, C.SS.R., "Release of the Amniotic Fluid," *American Ecclesiastical Review* 137 (Dec., 1957) 423–25.

[34] *Morals in Medicine* (Westminster, Md.: Newman, 1957) 137–44.

if it occurs, can consequently qualify as indirect. In the estimation of Fr. Connell, this opinion is "sufficiently probable to follow in practice, even when it is certain that the abortion of a non-viable fetus will follow."

It is important to note that all who defend this position (Frs. Connell and O'Donnell, of course, included) insist that, given a choice of methods, the procedure most likely to protect both mother and child is the one which must be employed. In his discussion of hydramnios, Fr. O'Donnell describes three methods of membranal puncture whose medical practicality may vary according to the obstetrical facts of individual cases. The open cervical route, with rupture of the membrane within the radius of the dilated cervix, he considers least desirable, since it offers no chance of preventing abortion. Abdominal puncture, although somewhat less likely to result in immediate abortion, presents other hazards which discourage many doctors from using or recommending it. Still another possibility is thus described by Fr. O'Donnell:

> A third method is what might be described as the concealed cervical puncture. It consists of entering by way of the somewhat dilated cervix and gently peeling the membrane away from the uterine wall for several inches back from the edge of the cervix. The needle is then carefully inserted some inches back from the dilated cervix, and the flow is carefully controlled, in the hope of avoiding further membrane rupture. When the fluid is reduced to the desired amount the needle is withdrawn and there is then hope that the site of the puncture will be opposed to the uterine wall with sufficient pressure to avert further membrane rupture and fluid release. The chance of avoiding abortion is slim, but real.[35]

In practice, of course, the medical evaluation of alternate obstetrical procedures is strictly the doctor's decision, but one which must be made conscientiously in the best interests of both mother and child. Physicians who are informed of the conclusion defended by Fr. O'Donnell and others should not be allowed to overlook the practical precautions which they also indicate.

Fr. O'Donnell likewise writes briefly in defense of the Falk procedure as an instance of sterilization which need not be direct.[36] The operation entails cornual resection of infected Fallopian tubes in order to break the pathway of infection recurring from below. The tubes are left *in situ* to conserve the ovarian blood supply, but sterility is, of course, unavoidable as a concomitant effect. At least at the speculative level, moralists would doubtless agree with Fr. O'Donnell's line of reasoning and with his final conclusion. The factual question as to medical necessity for the procedure, especially in view

[35] *Ibid.*, p. 144.

[36] "The Falk Procedure," *Linacre Quarterly* 24 (Aug., 1957) 90–91.

of available antibiotic therapy, would seem to be still controverted among doctors themselves—another medical decision which the theologian as such cannot presume to make.

With its December 1957 issue, *Hospital Progress* resumed operations in the department of medico-morality, a feature unavoidably missing from its pages for some months previously. Most appropriately, the first in a projected series of bimonthly articles is a discussion by Gerald Kelly, S.J., on the current status of hypnosis as an anesthetic agent.[37] Since this is another instance of a problem whose moral solution depends largely on proper medical data, Fr. Kelly devotes much of his space to the pertinent testimony of several physicians whose competence in the field is well established. The result will be no surprise to anyone who has been able to follow the serious literature on the subject in recent years. Without overstating its advantages or glossing over its limitations, these men attest to the genuine medical value of hypnoanesthesia in certain selected cases and at the hands of capable and responsible physicians. Fr. Kelly's conclusion is the moral counterpart: although it is too early for a final and comprehensive statement, it is clear from the teaching of Pius XII and from the principles governing the use of any anesthetic that hypnoanesthesia, in accordance with accepted medical standards, can certainly be approved.

MODESTY IN DRESS

Of the priests in this country who have expressed themselves on the subject of modesty in feminine dress, not all are convinced that this cause is best advanced by proposing norms of modest fashions in more or less mathematical terms of body coverage. This honest doubt as to the efficacy or advisability of a particular means to an end does not in any sense of the word indicate disinterest in the end itself. And it would be an even more serious misinterpretation to infer that the doubt bespeaks indifference to the very virtue of modesty. Certainly we are all unhappily aware of the flagrant disregard of decency so often exhibited in feminine fashions. And there is no priest worthy of the name who is not eminently in favor of devising ways and means not only to correct this external abuse but to inculcate the interior virtue of modesty to the highest possible degree. If we differ in our carefully considered estimates of one technique or another, it should be only

[37] "Hypnosis as Anesthesia," *Hospital Progress* 38 (Dec., 1957) 54–55. *Hospital Progress* is the official monthly journal of the Catholic Hospital Assoc., 1438 So. Grand Blvd., St. Louis 4, Mo. CHA has also announced publication of a one-volume edition of Fr. Kelly's *Medico-Moral Problems* in which the material contained in the original five booklets has been rearranged, supplemented, and in other ways also considerably revised.

because the ultimate end to be achieved is too important to all of us to be jeopardized by using any means but the most effective.

It is the belief of "Pater Sine Nomine"[38] that, due to an inherent characteristic of female human nature, girls are seriously handicapped in their attempts to distinguish between the modest and the immodest in feminine fashions. The handicap referred to is the commonly recognized fact that women as a rule are relatively immune (some even to the point of frigidity) to the sexual stimuli which ordinarily evoke immediate and highly pronounced physical and emotional response in men. Lacking in themselves this sensitivity to sexual stimulation, which the author identifies with "a warning to cover up," women are chronically unable to appreciate the sexual responsiveness of men and therefore cannot determine what is modest or immodest in the matter of their own dress. The result, our nameless Father maintains, is that many actually make erroneous judgments and in all innocence wear clothing which is immodest. On this premise, and on the precedent of a 1928 letter from the Congregation of Religious to teaching sisters in Rome, the author concludes that only by providing a set of measured norms can we supply for a common inability among girls to judge modesty in concrete styles of feminine attire. The article more than implies that the failure of some priests to agree on this last point is obstructing the cause of modesty and is therefore a dereliction of their pastoral duty.

It simply cannot be that the author means to infer that a natural sense of modesty depends essentially on the actual experiencing within oneself of physical sex reaction. The exquisite instinct to modesty exhibited by so many entirely inexperienced in this regard is too obvious to need proof. It is true that girls may be for a long time unaware of male sensitivity to sexual stimulation and be unable to fathom it, once it is realized, in the light of what they know about themselves. But does this deprive them of the basic ability to sense with a considerable degree of accuracy what is modest and immodest in fashions? My own experience tells me no. The average American Catholic girl, at an age level to which this problem pertains, is surely capable of recognizing as modest or immodest those fashions which would be unhesitatingly and with virtual unanimity so designated by a representative group of decent adults. At the point where style begins to verge towards the risqué, she may become uncertain or even in her innocence fail to sense the incipient trend. In this area, all would agree, guidance of some sort is needed—not in order to designate a line where virtue ends

[38] "Measures and Modesty," *Homiletic and Pastoral Review* 58 (Nov., 1957) 164–72. An editorial note prefixed to this article apologizes for the anonymity but explains that the priest-author advanced very good reasons for not identifying himself.

and sin begins, but in order to educate and win her to an ideal of modesty which will be conspicuous.

It would be universally conceded that any rational program of education and inspiration to modesty must be basically designed to communicate correct notions of the virtue itself, an appreciation of the principles and facts pertaining to occasions of sin, and effective motivation along positive lines. The only legitimate point of debate is whether mathematical standards of dress are a necessary or useful adjunct to this indispensable phase of the project. If some theologians have reacted with less than enthusiasm to particular programs already inaugurated and widely publicized, it is only because they perceive certain risks inherent in some of the tactics employed.

There is, first of all, the proven danger of presenting ideals in a doctrinally false context. The following preamble to the specific directives proposed by one organization simply would not sustain theological scrutiny:

> At Fatima, Portugal in 1917, the Blessed Virgin Mary condemned in advance the pagan fashions of our day, warning us: *"Certain fashions will be introduced that will offend Our Lord very much."* At a later date, Our Blessed Mother made known what standards of modesty in dress she requires, through the Holy Father, Pope Pius XI, her Divine Son's Vicar, who set this guide:
>
> *"A dress cannot be called decent which is cut deeper than two fingers' breadth under the pit of the throat, which does not cover the arms at least to the elbows, and scarcely reaches a bit beyond the knees. Furthermore, dresses of transparent materials are improper . . ."* By Donato, Cardinal Sbaretti, Pref. of Congregation of the Council; Feast of Holy Family, Jan. 12, 1930.
>
> Until this mandate of the Holy See, as to what constitutes modesty in dress, is revised, modified or rescinded by the Holy See itself, these minimum standards are binding on everyone, regardless of any opinions to the contrary held by so many people these days—even within the Church.
>
> To further confirm this, Pope Pius XII stated very recently: *"Our Divine Saviour entrusted the deposit of faith not to theologians, but to the magisterium of the Church for its authentic interpretation. Hence, the 'sensus ecclesiae' (the mind of the Church) is decisive for the knowledge of truth; not the 'opinio theologorum' (the personal views of individual theologians). Otherwise, theologians would be the magisterii* [sic], *which is evidently erroneous."* (Sept., 1956). [39]

Even if the statement attributed above to the Congregation of the Council were authentic, the theology of this preamble would still be open to serious criticism. But the truth of the matter is that those words are not to be found

[39] "The Marylike Standards for Modesty in Dress" as reproduced in *Divine Love* 1 (July–Sept., 1957) 17.

in the Instruction cited.[40] According to S. Woywod, O.F.M.,[41] whose acknowledged source was a leaflet published by the Central Bureau of the Catholic Central Verein, they are contained in an earlier document to which the Instruction makes passing reference, viz., a letter from the Congregation of Religious (Aug. 23, 1928) to teaching sisters in Rome. A careful reading of that letter reveals nothing of the kind[42]—literally not a word which could possibly be construed as an attempt to define in concrete terms what is modest or immodest in feminine dress. What the origin of the interpolation may have been, one can only conjecture. But until more reliable evidence to the contrary is adduced, the passage in question would appear to qualify as a theological facsimile of Topsy.

The example serves at very least to illustrate one reason why many priests are reluctant to subscribe unreservedly to these crusades in their every detail. It is far from unreasonable to fear that false consciences could result from such misrepresentations of theological fact, unwitting though they may be. And it is no lack of zeal which prompts a demurrer against that danger.

Furthermore, as Pater Sine Nomine concedes, "we could not set up a plaster statue, draw two sets of lines on it, and say: 'At this line begins venial sin; at that line begins mortal sin.' " Presumably this is not what is intended when specific measurements are proposed as practical norms of an ideal in modesty. But some of the formulae in which these criteria have been expressed are objectively open to that interpretation, as is certainly true of the preamble quoted above. And such are the psychological quirks of human nature—or perhaps such is the nature of the matter itself—that this is the impression too often taken, especially from the printed word, despite all precautions against it. The proponent of the mathematical standard can easily find himself in the awkward position of *appearing* to measure modesty in absurd mathematical absolutes, and of being forced to explain the why of a thesis he actually does not defend, namely, that precisely so many inches from a given point lies the last frontier of virtue.

There are those who deny that mathematical criteria actually do result in misunderstandings, ridicule, confused consciences, and the like, on the part of girls to whom they are proposed. But there are also others, no less zealous and experienced in the same apostolate, who in total sincerity testify to the contrary. Granted this difference of opinion on the point, the following ques-

[40] "Instructio ad ordinarios diocesanos: De inhonesto feminarum vestiendi more," *AAS* 22 (1930) 26–28; cf. also T. L. Bouscaren, *Canon Law Digest* 1, 212–14.

[41] *Homiletic and Pastoral Review* 30 (Sept., 1930) 1328.

[42] The complete Italian text of the letter may be found in *Commentarium pro religiosis* 9 (1928) 414–15. An editorial note cites *Monitore ecclesiastico*, 1928, pp. 298–99, as *CPR*'s source.

tions would make for most interesting discussion, at the dispassionate level, at an imaginary meeting of all priests truly experienced in this phase of the ministry: (1) Of those girls committed to a policy of modesty in dress, how many perhaps have been won to the cause precisely through the effectiveness of mathematical criteria? (2) Of those who disregard or are indifferent to modesty in dress, how many perhaps have been alienated because of misunderstandings occasioned by mathematical criteria? (3) All things considered, are mathematical criteria a necessary or beneficial adjunct to an effective crusade for modest fashions?

The preceding comments do not imply that we should content ourselves as counselors with vague and platitudinous exhortations to modest fashions. Besides inculcating the genuine meaning and beauties of the virtue, we should give a reasoned explanation of the scandal involved not only in immodest dress but, even more important, in immodest behavior. (It would be a mistake to give the impression that modesty consists exclusively or even primarily in what one wears, since a girl's posture, gestures, and general comportment are far more indicative of modesty, or the lack of it, than is the total yardage of her costume.) Finally, we should specify to some degree what can constitute suggestive or provocative attire in girls and women: form-fitting slacks and jeans, skimpy shorts, plunging necklines, snug sweaters, and the like. Any attempt to define with further exactitude the criteria of modest dress is, in the considered opinion of many, unnecessary and perhaps inimical to the effectiveness of such a crusade. And when we shall have devised the perfect syllabus for decency in feminine apparel, it would still be colossal conceit on our part to forget the multitudes of the impeccably modest who are what they are due to the grace of God, their own wholesomeness, and the example and training of conscientious parents no less wise than ourselves in the ways of modesty.

RIGHTS OF THE CRIMINALLY ACCUSED

It is very doubtful that any theologian at present would hesitate to condemn the torturing of the criminally accused in order to obtain a confession of crime. That the practice was once defended to an extent by some theologians is no secret to anyone who reads the standard treatises *De reis*, where quite commonly is found reference to an opinion—relic supposedly of the Middle Ages—that the accused whose guilt has by judicial process been more or less satisfactorily established ("post semiplenam probationem") is in conscience obliged to confess, and may licitly be subjected to torture if he persists in denying his guilt. What is somewhat surprising in modern manuals is that the total question, including the element of torture, is

usually dismissed with the admission that civil and ecclesiastical codes of law explicitly acknowledge the legitimacy of a defendant's declining to convict himself by his own testimony. But there seems to be a reluctance on the part of authors even now to discuss the question on a basis of natural law.[43] Perhaps they feel that the problem is no longer sufficiently practical to justify the time and space required to treat it.

This last conviction, understandably enough, is not shared by Ph. Delhaye,[44] whose brief against judicial torture cites extrinsic authorities as far back as the patristic era. As representative of the modern theologian's view, Fr. Delhaye cites an article by P. Palazzini[45] in the course of which the latter invokes "the human right to the inviolability of body and soul." Evidently it is likewise Fr. Delhaye's belief that the problem is a matter of natural law rights, for he also quotes Pius XII[46] to the effect that "judicial investigation must exclude physical and psychic torture and narcoanalysis; first of all, because these methods violate a natural right, even if the accused is really guilty, and, secondly, because they too often give erroneous results."

Especially in view of this explicit teaching on the part of Pius XII, there would seem to be little question about the legitimacy of invoking natural law in condemnation of torture, either physical or mental, as a means employed to ascertain criminal guilt. More specifically, it would appear to be the right to bodily integrity which is involved, in so far as that right makes morally inviolable not only the corporal *esse* but also the *bene esse* of the juridically innocent. Only on proven malefactors may civil authority inflict corporal punishment. Hence, as a means even to a legitimate end, torture of the technically innocent would be morally reprehensible by reason of natural law alone.

But in addition to the immoral means employed when confessions are extorted by torture, is there still another essential injustice involved in the very purpose intended? In other words, does natural law itself exempt the individual from self-incriminating testimony or is that immunity merely a concession of positive law? In his discussion of judicial torture mentioned above, Msgr. Palazzini makes oblique reference to a limited right from natural law based on the claim one has to even a false reputation. Moreover,

[43] Prümmer, however, explicitly denies that it would be contrary to natural law to extort by torture a confession from one whose crime is "semiplene probatum"; *Manuale theologiae moralis* 2 (1953 ed.) § 163.

[44] "Que faut-il penser de la torture judiciaire?", *L'Ami du clergé* 67 (Sept. 26, 1957) 573–76.

[45] "Tortura: Aspetto morale," *Enciclopedia cattolica* 12, 342–43.

[46] Allocution to the 6th International Congress on Penal Law, Oct. 3, 1953; *AAS* 45 (1953) 730–44.

he submits, to require self-incrimination or admission of guilt would be to oblige to the heroic, which in the vast majority of cases is beyond the limits of duty. But because it is from the requirements of the common good that the right to unmerited reputation derives, and since the greater good may on occasion prevail against that right, the Monsignor acknowledges the limitations of that argument and restricts his remarks principally to the methods employed in forcing confessions from the accused.

However, does the right to a false reputation comprise the sole or essential reason why a defendant need not testify against himself? We usually invoke this right in order to protect one from the revelation of his faults on the part of others, and we necessarily emerge with a right which is decidedly vulnerable to certain other prevailing claims. The present question, however, looks to a right which would protect one from forced self-revelation, i.e., free him of obligation to testify against himself and prevent others from extorting from him evidence of guilt which otherwise would not be demonstrable in the juridical forum. And it seems to me that the law of charity to self provides for such an immunity, and that this may be implicit in the "inviolabilità nell'anima" of which Msgr. Palazzini speaks. De Lugo[47] also makes implicit appeal to this legitimate love of self when he presents the arguments against the alleged obligation of the guilty to confess "post semiplenam probationem." Among the parallels he draws is one's natural exemption from testifying against any other at the risk of serious detriment to self or against one's closest relatives. These are appeals to charity, both to self and to others, and it would seem entirely consistent with the same law to say that legitimate preferential love of self provides immunity from compulsory self-incrimination.

Perhaps some such principle as this has application to a case already discussed by John R. Connery, S.J.,[48] from the moral viewpoint and by Robert F. Drinan, S.J.,[49] at the legal level. The case is the now familiar one of the blood sample taken from an unconscious person after a traffic accident and used to provide evidence of drunken driving on his part. Despite the defendant's protests, this evidence was admitted to trial and contributed to his conviction for manslaughter, a decision later confirmed by the Supreme Court. Fr. Connery terms the blood sampling a violation of bodily integrity, though admittedly not a serious one, and it is not likely that moralists would disagree. He also considers illegitimate the subsequent use of that evidence over the protests of the defendant. Again my own instinct is to

[47] *De iustitia*, disp. 40, n. 15.

[48] THEOLOGICAL STUDIES 18 (Dec., 1957) 580–81.

[49] "Invasion of the Body," *Catholic World* 185 (Aug., 1957) 335–39.

agree, even to the extent of understanding "illegitimate" as implying a violation of natural law, although it is by no means apparent that Fr. Connery intends the word in that sense. For if it is true that charity to self usually exempts one from obligatory self-incrimination, this type of extorted evidence seems to violate that immunity in a serious way.

Although Fr. Drinan also obviously disagrees with the legal decision reached in this case, he declares himself uncertain as to what moral principle may be adduced against it:

> It does not seem certain to this writer that one could prove that an "invasion of the body" by an extraction of blood for law-enforcement purposes is necessarily and always against the natural moral law. To prove such a contention one would have to be certain that there is a right to be free from any non-consensual violation of the body. What would be the basis of such a right? The threat that the allowance of such an invasion would lead to most undesirable results? Or the integrity or sanctity of the body?[50]

Particularly in the light of Pius XII's repeated statements on the sanctity of bodily rights, it scarcely seems necessary to prove that the innocent do have "a right to be free from any non-consensual violation of the body." Perhaps what Fr. Drinan's doubt actually concerns is the difficulty at times of defining exactly what constitutes invasion of the body—or, as he puts it, "to concretize what 'the integrity of the body' should mean in the situation where the state claims the right to perform an ordinarily harmless test." Theologians would be forced to admit a limited area of uncertainty in this regard, but they would very probably, because of the principle of bodily integrity, subscribe with Fr. Drinan to Chief Justice Warren's opinion that "law-enforcement officers in their efforts to obtain evidence from persons suspected of crime must stop short of bruising the body, breaking the skin, puncturing tissue or extracting bodily fluids, whether they contemplate doing it by force or by stealth." By the same token moralists would not be inclined to object to such procedures as fingerprinting, photographs, measurements, etc., to which a suspect may be forced to submit, for these methods of identification do not entail mutilation in any sense of the word.

Whatever may be said about a right in natural law, our own Federal Constitution includes the guarantee that "No person . . . shall be compelled to be a witness against himself." While we may point with pride to that provision of our law, we are more likely at present to point with scorn or suspicion at any who may invoke it. It is with the hope, no doubt, of restoring a proper perspective that William J. Kenealy, S.J., writes as he does on the

[50] *Ibid.*, p. 339.

Fifth Amendment.[51] Fr. Kenealy devotes a good portion of his article to the history of the legal privilege against self-incrimination and to a most informative commentary on our own Fifth Amendment, whose purpose, he assures us, is to protect neither the actually guilty nor the actually innocent but the actually or potentially accused. Although legitimate recourse to the privilege is altogether consistent with innocence of any crime, Fr. Kenealy explains well how the doctrine of "waiver" can easily occasion the contrary impression. The remainder of the article discusses an actual case which not only illustrates most graphically the preceding commentary but also provides a provocative moral problem.

Fr. Kenealy's case deals with an idealistic young man who some time ago in sincere good faith joined the Communistic Party and for several years as a Party member, totally unaware of the organization's subversive tactics, was engaged exclusively in social work with and for the Negro people. During this period he was instrumental in recruiting several equally innocent friends to Party membership. Eventually disillusioned within a few years, he and his friends severed all Communistic connections. The young man subsequently completed his professional education and frankly admitted his earlier mistake to the licensing authorities of his profession and to his employers. Now he is summoned to testify at a televised hearing of an investigating committee and finds himself faced with three alternatives. He can invoke the Fifth Amendment and thus protect his friends but suffer the obvious social and professional consequences. Or he may waive the privilege and expose his friends for whose plight he feels personally responsible. Or he may again waive the privilege but—sincerely convinced that the information would be of no value whatsoever to the cause against Communism—refuse to name his friends, thereby risking citation and possible conviction for contempt. Fr. Kenealy supposes that the third course is actually chosen and asks whether the refusal to identify his associates, after waiver of privilege, is morally justifiable and on what grounds.

In proposing his own tentative solution, Fr. Kenealy first defends as just legislation the law which creates the trilemma, and also presents reasons why epikeia cannot be invoked by way of solution. Then, adopting the Suarezian in preference to the Thomistic position with regard to penal law, the author concludes that his witness can without moral fault refuse to expose his friends and that a court could in good conscience subsequently punish him for contempt after due process.

The ultimate solution given, as well as the reasoning behind it, appears to be quite valid and could in my opinion be challenged only by those who

[51] "Fifth Amendment Morals," *Catholic Lawyer* 3 (Autumn 1957) 340–55.

deny the concept of purely penal law. But Fr. Kenealy's absolute exclusion of a solution based on epikeia does not seem totally without flaw. Without implying any predilection for a solution by recourse to this principle, I simply am puzzled by the contrast between Fr. Kenealy's initial willingness to define legitimate epikeia in terms of a "private judgment" (p. 351) and his later statement that "public law cannot allow private judgment, however sincere and sound" relative to the legislation in question (p. 352). However, that point is admittedly extraneous to the main issue.

SACRAMENTS

A rather surprising amount of concern has been manifested in recent months over the question of permitting the reception of Holy Communion in the evening independently of Mass. Practically all who have expressed themselves on the subject consider that it may be allowed in individual cases for a reasonable cause.[52] Their judgment is unanimously based on canon 867, § 4, and does not appeal to any alleged provision in either the *Christus Dominus* or the *Sacram communionem*. This fact explains satisfactorily, it would seem, why these answers are in apparent contradiction of Cardinal Ottaviani's negative response to the question: "Is it allowed to distribute Holy Communion in the afternoon, even outside Mass, according to can. 867 §4?"[53] J. Sanders, S.J., gives a thoroughly reasonable interpretation of the Cardinal's words:

> The answer given by the Cardinal clearly shows that the meaning of the question was this: According to can. 867 §4, holy Communion may regularly be distributed at those hours when holy Mass may be celebrated. At present Mass may be celebrated in the afternoon according to the rules of the *Motu proprio*. May we then conclude that Communion may be regularly distributed in the afternoon, whether Mass be said or not?
>
> The Cardinal's answer is a clear negative. He proposes his reasons as follows: With regard to the time for afternoon Communion the *Motu proprio* grants nothing more than the Const. *Christus Dominus* which granted afternoon Communion

[52] F. J. Connell, C.SS.R., *American Ecclesiastical Review* 137 (July, 1957) 53–54; M. da Coronata, O.F.M.Cap., *Palestro del clero* 36 (Sept. 15, 1957) 857–58; J. G. Kelly, *Clergy Review* 42 (Oct., 1957) 594–97; James Madden, *Australasian Catholic Record* 34 (Oct., 1957) 315–18; L. L. McReavy, *Clergy Review* 42 (June, 1957) 321–32; (Oct., 1957) 602; (Nov., 1957) 685–88; and 43 (Feb., 1958) 102–6; J. Sanders, S.J., *Clergy Monthly* 21 (July, 1957) 228–32; (Sept., 1957) 311–12; (Oct., 1957) 341–43.

[53] From secondary sources I gather that the response (private) to this question first appeared in the new Italian journal *Studi cattolici* 1 (June, 1957). References to it have since been frequent in the literature. *American Ecclesiastical Review* 137 (Aug., 1957) 73–74 contains an English version of the Cardinal's answer to this and to two other questions concerning Eucharistic legislation.

only during, just before or just after Mass.—*By law* Mass is allowed to be said only at the times indicated in can. 821 §1; the new provision for *afternoon* Mass is not law in the ordinary meaning, it is a faculty granted to local Ordinaries to allow evening Mass under certain conditions. No change, therefore, is introduced either in can. 821 §1 or in can. 867 §4.[54]

What cannot be justified, according to Fr. Sanders' understanding of the Cardinal's response, is any interpretation of the *Sacram communionem* which would abrogate the requirement of canon 867, § 4 that there be *reasonable cause* for distributing Communion outside of Mass at a time when Mass is not allowed by virtue of common law. But the response should not be interpreted as nullifying the permissive force which the same canon has always had.

This would seem also to be Fr. Hürth's ultimate conclusion,[55] although it would not be difficult to get the contrary impression if his article were read hastily or only in part. In conjunction with the *Motu proprio* and Cardinal Ottaviani's response, Fr. Hürth likewise discusses a pertinent letter from the Holy Office which was communicated to the professors at the Gregorian University in Rome.[56] Some apparently in that city had argued that, since Mass may now be licitly celebrated beyond the hours specified in canon 821, § 1, there need be only reasonable cause to justify even general and regular distribution of Communion in the afternoon or evening outside of Mass. According to this opinion, for example, a pastor would now be entitled to schedule, independently of any Mass, regular evening hours for the distribution of Communion for the benefit of home-coming workers, just as he might legitimately provide the same service of convenience in the morning hours. None of the authors referred to above has expressed any such opinion as this. They have simply maintained that nothing has been changed with regard to the legislation governing Communion outside of Mass. The Code allows it from one hour before dawn to one hour after noon

[54] "Communion in the Afternoon," *Clergy Monthly* 21 (Oct., 1957) 342–43.

[55] F. X. Hürth, S.J., "Annotationes in M.P. super ieiunio eucharistico," *Periodica* 46 (Sept., 1957) 259–89. This is the "Pars iuridica" and second installment of a two-part commentary whose "pars moralis-pastoralis" appeared *ibid.* (June, 1957) 220–42.

[56] "Ad Professores Universitatis. Cum in Urbe circumferantur laxiores sententiae de horis quibus S. Communionem fidelibus distribuere licet, Rectori Universitatis auctoritative communicatum fuit, ut omnibus Professoribus notum redderet, iuxta mentem S. S. Congregationis S. Officii, nihil per MOTU PROPRIO 'Sacram Communionem' d. d. 19 Martii 1957 hanc circa rem mutatum fuisse relate ad ea quae in INSTRUCTIONE eiusdem S. S. Congregationis d. d. 6 Januarii 1953 proponebantur. Sic ergo cum agitur de tempore vespertino, Communio distribui potest tantum '*intra* Missam vel proxime *ante* vel *statim* post' (N. 15). *AAS.*, 1953, p. 50.—Romae 13 Aprilis 1957." Text in *Periodica* 46 (Sept., 1957) 280.

as the ordinary rule. In individual cases where reasonable cause can be verified, canon law has allowed and still allows for an exception to this general norm. As Fr. Hürth concludes, legitimate interpretation cannot provide for afternoon or evening Communion outside of Mass "in millibus millibusque casibus." But the concessive clause of canon 867, § 4 has not been abrogated and has neither more nor less force now than previously. It could, however, admit of practical application in more cases inasmuch as the time requirements for the Eucharistic fast can be more easily fulfilled.

While discussing *causa rationabilis* in this context, Fr. Connell[57] suggests that "the mere fact that a person wishes to receive Holy Communion out of devotion would not be a sufficient exception" to the general requirement that Communion in the afternoon or evening be received only in immediate conjunction with Mass. It is not likely that this statement was intended to imply that sincere devotion as a motive for receiving the Eucharist is a negligible item, for Fr. Connell did *not* say "mere devotion." Certainly the nun, for example, who has been traveling until late in the day without opportunity to receive Communion earlier would have reasonable cause in her devotion for requesting that sacrament outside of Mass. Add to the lone fact of her sincere piety the exceptional circumstances in which she finds herself and the inconvenience to which she goes in her effort to obtain her daily Communion, and we have an instance surely in which the request may be granted. The example doubtlessly cites details in addition to the "mere fact" to which Fr. Connell alludes as insufficient reason for making an exception to the ordinary rule.

To a question about the minimum requirements for Mass in such extraordinary circumstances as might obtain in time of persecution or in concentration camps, L. L. McReavy[58] gives an answer which should appeal to the humanitarian no less than to the theologian. After first disclaiming the ability to give a definitive solution in detail, Fr. McReavy summarizes the minimum requisites for a valid sacrifice and further suggests that integrity would demand at least those parts of the Mass between the Offertory and Communion inclusive. As for other rubrical requirements which ordinarily apply, he admits that extrinsic authority can be cited for various individual omissions according to circumstances but denies the possibility of deriving a universal rule from any compilation of such opinions. Can we justify objectively such practices, attributed to certain priests in dire circumstances,

[57] F. J. Connell, C.SS.R., "Some Problems on the Eucharistic Fast," *American Ecclesiastical Review* 137 (July, 1957) 51–54.

[58] "Celebration of Mass in Exceptional Circumstances," *Clergy Review* 42 (Dec., 1957) 749–52.

as "saying Mass lying prone in their bunks, without vestments, altar stone, missal or candles, and with only an ordinary cup for a chalice"? Fr. McReavy declines to answer except for the observation that the faithful seem to have reacted to such tales with admiration rather than with *admiratio*, and that, failing a contrary decision from the Holy See, the matter is best left to the conscience of the victim priest.

"Con tutta tranquillità" G. Rossino maintains that, when married penitents confess the practice of contraception, the confessor need not and should not be concerned about numerical integrity beyond discovering the length of time since the penitent's last worthy confession.[59] His argument first alleges that the confessor may legitimately presume in such cases that all intercourse in the interim has been onanistic; and at least by implication it seems further to assume that the frequency of conjugal relations is more or less the same for all married couples. What the average incidence may be, Canon Rossino does not say. One parallel which the Canon invokes in confirmation of his opinion is the confession of a sin of impurity by one who is in a position to know that his status as priest or religious is apparent to the confessor. Just as the mere confession of unchastity in these circumstances necessarily includes the admission of a sin against religion, so in the case of the onanistic husband or wife, in Canon Rossino's estimation, the number of contraceptive acts is implicit in the known factor of the time span between confessions.

It is extremely doubtful that other moralists would entertain this proposition with the Canon's own tranquillity.[60] One can readily grant that in many of these cases numerical exactitude is impossible to achieve and that tentative questions in that direction should be restricted to a minimum and prudently worded so as not to be offensive. But it scarcely can be admitted that the confessor need make no attempt to determine at least the approximate number of sinful acts involved. And it is totally unrealistic to imagine that even this approximation can be made intelligently on the sole basis of the time span entailed. Even conceding that for confessed onanists all intercourse in a given interval has been contraceptive (and this actually is not valid as a universal presumption), so many variables affect the frequency with which even one and the same couple indulge in marital relations that any average incidence which a confessor might preconceive would be useless

[59] "Numero dei peccati e abuso del matrimonio," *Perfice munus* 32 (Dec., 1957) 691–93.

[60] Leone Babbini, O.F.M., is probably the first to challenge Canon Rossino's position on this question. Writing in *Palestro del clero* 37 (Jan. 15, 1958) 109–11, Fr. Babbini maintains that a confessor should make some further prudent attempt to obtain numerical integrity in this type of case. His objections to Canon Rossino's solution are practically identical with my own.

as a numerical norm for any given instance. In the absence of this normative factor, there is simply no parallel between this case and the implicit confession of a sacrilegious species of unchastity.

Several times previously in these surveys occasion has arisen to comment on the problem of administering the sacraments to the unconscious dying whose dispositions to receive them have not previously been evidenced by any positive sign.[61] The more benign doctrine on this point, a teaching defended by theologians of unquestionably high repute, maintains that all three sacraments—baptism (if not certainly conferred previously), penance, and extreme unction—may be administered conditionally to the unconscious dying, regardless of their prior dispositions, provided always that scandal can be avoided. The opinion is founded on the solid probability that canon law does not forbid it and on the admittedly tenuous probability, or even possibility, that proper dispositions were actually achieved by the subject before lapsing into unconsciousness. How many sacraments so administered are de facto validly received, no one this side of the beatific vision would presume to conjecture; but neither can it be established with absolute certainty that no souls can thereby be saved. And *in extremis*, according to the proponents of this doctrine, even that degree of probable efficacy justifies the conditional administration of the sacraments *secluso scandalo*.

The reason for introducing the subject again is not an academic one, since within only the last year I heard this opinion referred to publicly as illustrative of laxism. Furthermore, several more written statements have appeared in support of this doctrine.

C. L. Parres, C.M., considers the case of a public sinner, known to be a Catholic, who suddenly lapses into unconsciousness and is in danger of death.[62] The questioner presupposes that conditional absolution would be given by the priest summoned but expresses doubt as to the advisability of anointing, since in the minds of some the administration of extreme unction entitles one to ecclesiastical burial, which in certain cases may not be warranted. What advantage relative to salvation, the question continues, does extreme unction have and penance lack?

Fr. Parres first considers the two factors which may serve to invalidate the absolution given: the subject's probable lack of interior attrition (which *juxta suppositum* has never been evidenced) and his inability at this moment to manifest that disposition if present. It is the first point which touches on

[61] Cf. especially THEOLOGICAL STUDIES 13 (1952) 94–97, and for references to additional authorities, *ibid.* 17 (1956) 195–96.

[62] "Extreme Unction and Unconscious Public Sinner," *Homiletic and Pastoral Review* 58 (Dec., 1957) 300–308.

our precise problem, while the latter refers to the speculative dispute regarding the necessity of externalizing the *materia ex qua sacramenti.*[63] After conceding that the probability of proper disposition in the subject may be extremely slight, Fr. Parres nonetheless appeals to the possibility of its presence and concludes that absolution should be given to a Catholic "whose previous life makes the existence of even internal sorrow very doubtful." He insists, of course, on the necessity of evoking an act of sorrow if this is at all possible.

As for subsequent extreme unction, Fr. Parres explains clearly why it offers even a better chance for the infusion of grace. Since external manifestation of sorrow is certainly not required for the reception of this sacrament, the unconscious person who has at least an habitual implicit intention of receiving it will be anointed validly and fruitfully, provided only that he has internal attrition for sin. In circumstances where perfect contrition or reception of the sacrament of penance is impossible, the effect will be the total remission of sin. Furthermore, if at the moment of receiving extreme unction attrition is lacking, this sacrament will very probably "revive" if in a later moment of consciousness such an act is elicited. It is altogether clear that in the opinion of Fr. Parres the same probability of proper dispositions justifies the conditional administration of both penance and extreme unction to a known Catholic dying in these circumstances.

Finally, with regard to granting or refusing Christian burial to such Catholics, Fr. Parres very correctly observes that this is a problem entirely distinct from the administration of extreme unction:

> ... The mere fact that Extreme Unction was administered to an unconscious person does not furnish a title to ecclesiastical burial. It may happen that a person whose salvation was perhaps secured only through the administration of Extreme Unction must be classed, as far as the external forum is concerned, a public and manifest sinner who did not give any sign of repentance before death. The difficulties which may arise should be met by other means than a refusal of Extreme Unction in the case of an unconscious and dying Catholic.[64]

The case considered by F. J. Connell, C.SS.R.,[65] and S. Manzoni, O.F.M.,[66]

[63] For a discussion of this question, cf. Paul E. McKeever, *The Necessity of Confession for the Sacrament of Penance* (Washington, D.C.: Catholic University, 1953).

[64] *Art. cit.*, p. 308.

[65] "Care for the Apparently Dead," *American Ecclesiastical Review* 137 (Nov., 1957) 345–46.

[66] "Il battesimo ad un infedele destituito dei sensi," *Palestro del clero* 36 (Dec. 1, 1957) 1103–4.

goes one step further and admits the licitness of conditional baptism, absolution, and extreme unction for the unconscious dying whose religious affiliation is either known to be other than Catholic or simply unknown.

A discussion of Anglican orders, occasioned by the Church of England's ratification in 1955 of orders administered in the newly established Church of South India, provides L. Renwart, S.J.,[67] with the opportunity to return again to the complex question of ministerial intention in the confection of the sacraments. His very informative article is substantially a commentary on some of the more recent literature pertaining to sacramental intention. Francis Clark, S.J.,[68] is singled out especially for commendation on several points, among them his defense of the opinion that in Leo XIII's pronouncement on Anglican orders defective intention is cited as an invalidating factor entirely distinct from, and not merely as a complementary aspect of, defective form. On the further question of internal versus external intention, both Bernard Leeming, S.J.,[69] and Fr. Clark share the honors for making what Fr. Renwart considers notable contributions—the latter by the formulation of his "principle of exclusion" and the former for his suggestion that requisite ministerial intention would be best expressed in an adapted version of canon 1086. For those who are inclined to the speculative in sacramental theology, Fr. Renwart's article provides leads for most fruitful discussion.

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[67] "Ordinations anglicanes et intention du ministre," *Nouvelle revue théologique* 79 (Dec., 1957) 1029–53. For the same author's previous treatment of ministerial intention, cf. "Intention du ministre et validité des sacrements," *ibid.* 77 (Sept.–Oct., 1955) 800–821.

[68] *Anglican Orders and Defect of Intention* (London: Longmans, Green, 1956).

[69] *Principles of Sacramental Theology* (London: Longmans, Green, 1956); "Presumption of Intention," *Irish Theological Quarterly* 23 (1956) 325–49.