

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

PSYCHOLOGICAL PROBLEMS

No charismatic gift of intelligence is required to realize that there are two extremes of attitude to be avoided by priest-counselors in respect to modern psychology. One is that excess of enthusiasm which would accept without question all that this "new" science proposes by way of hypothesis or theory or alleged fact, even to the prejudice of certain traditional elements of our moral theology.¹ So gullible a disposition of mind would be as unscientific as it would be theologically heterodox. Its antithesis, however, is equally shocking. Nonetheless one still encounters it occasionally in such unfortunate statements as this one attributable to a priest in the ministry: "We can get along very well without Freud and his 'id' and other confused jargon. I should think offhand that a priest can get out of Genicot all the ability he needs to counsel Catholics."² As is tritely true of any virtuous endeavor, only the *via media* will bring into true perspective the proper relationship between depth psychology and theology. That the relationship is, within rather generous limits, one of mutually beneficial alliance is the thoughtful conviction of those authorities whose knowledge of and respect for both sciences is a matter of record.

One such witness in defense of what is soundly helpful in contemporary psychological theory and practice is A. Godin, S.J., whose writings on the subject in recent years have been consistently impressive.³ In his most recent venture along this line, Fr. Godin describes for the guidance of priests certain specific traits of behavior which are symptomatic of a neurotic or psychotic personality.⁴ Anyone who has dealt with the psychologically maladjusted

EDITOR'S NOTE.—The present survey covers the period from July to December, 1960.

¹ It is only ten years since J. C. Ford, S.J., published *Depth Psychology, Morality and Alcoholism* (Weston, Mass.: Weston College, 1951), a substantial portion of which is devoted to the purpose of demonstrating that our treatise *De actibus humanis*, despite the fears and predictions of some to the contrary, need not be rewritten because of any data submitted by depth psychologists.

² *Priest* 16 (Nov., 1960) 1027.

³ For an appreciation of some of Fr. Godin's previous publications, cf. *THEOLOGICAL STUDIES* 20 (Dec., 1959) 597-98; (June, 1959) 232; 19 (Dec., 1958) 537-40.

⁴ "Guide à l'usage du clergé pour discerner les troubles mentaux," *Nouvelle revue théologique* 82 (June, 1960) 589-605; (Dec., 1960) 1063-81. For the first installment of this article, Fr. Godin acknowledges his indebtedness to *Clergyman's Guide to Recognising Serious Mental Illness*, published by the National Association for Mental Health, 10 Columbus Circle, New York 19, N.Y.

will recognize the syndromes, at least by hindsight. It is not Fr. Godin's ambition to make diagnosticians or therapists out of the clinically untrained, and he several times underlines the warning that the priest as such is not qualified in either regard. What he hopes to accomplish is the transmission of that amount of knowledge which will enable the average priest to recognize those departures from normal comportment which suggest the likelihood of genuine psychological malady, whether of the relatively minor neurotic variety or of the far more serious psychotic kind. In addition he includes a number of practical directions for the priest-counselor. While the majority of these are negative—what not to do—some also answer in a positive way the question which bothers many a priest when confronted with this type of consultant: How should I react to this disturbed person so as not to complicate further his mental unrest? For example, Fr. Godin considers disastrous as a general rule the attempt to convince a neurotic that he is incapable of sin of that moral species which preoccupies his neurosis. Total release from moral responsibility is not to his advantage. Rather should one help such a client to distinguish as clearly as possible between the psychic phenomena of which he is unwilling and passive victim (e.g., "feelings" of jealousy) and the voluntary affections of the will for which he is actually responsible (e.g., deliberate courting of jealousy). In other words, by assisting such a person to discern and to face whatever measure of genuine moral guilt he may have incurred, we afford him more help in the psychic order than we would by encouraging escape from moral responsibility. The example is chosen for the obvious purpose of disillusioning any who might equate to the amoral or worse all psychological techniques.

R. Galen takes a decidedly dimmer view of today's psychological methods, as his choice of title would in part indicate.⁵ The same title, however, is in another respect grossly misleading—or else its author must plead guilty of the *faux pas* of indicting an entire science because of the sins of some of its representatives. The burden of his plaint is the commonly recognized fact that many psychologists, a renowned seven of whom he quotes *ad rem*, have expressed themselves in terms which are irreconcilable with Catholic theology. Galen eventually concludes that "only the psychiatrist who subscribes wholeheartedly to the teachings of Christianity can be trusted with the soul of a Christian patient." But this lone concession is made in but one brief paragraph obscured fore and aft by severest criticism of individual delinquent psychotherapists.

Even while acknowledging the theological aberrations of any number of

⁵ " 'Mental Health' v. Religion," *Priest* 16 (July, 1960) 604-12.

practicing psychiatrists, and while most readily endorsing the long-accepted thesis that a Catholic conscience should not be exposed to anti-Christian infection, one may nonetheless strenuously deny any essential antipathy between orthodox religious tenets and the achievement of mental health through various forms of thoroughly acceptable psychotherapy. Perhaps it was not Galen's intention to create the contrary impression. But it is more than possible that many of his readers would develop from this article an animosity towards psychiatrists and psychotherapy in general which would be markedly at variance with the amicable sentiments expressed more than once by Pius XII.⁶

It is this latter, more amenable attitude which E. O'Doherty assumes in his treatment of what he prefers to call dynamic psychology.⁷ The term as used is synonymous with analytic theory or that "body of psychological knowledge, mixed with error, which has arisen from this . . . process [of analyzing the psyche]." After reviewing the speculative fallacies which characterize Freudian philosophy, Fr. O'Doherty endeavors to demonstrate that what there remains of truth, based on objective clinical observation, begs to be incorporated into a Thomistic dynamic psychology whose avowed purpose would be more salutary knowledge of one's normal self. Discovery in oneself of hitherto unconscious motivations, rationalizations, obsessions, compulsions, and the like,⁸ is the first step in the process of liberating self from forces which, even while leaving mental equilibrium and freedom of choice substantially intact, nevertheless do impede moral and spiritual progress. Even genuine contrition may at times be tinged to an unhealthy degree with an emotionalism which verges on neurotic anxiety. Unless

⁶ "... be assured that the Church follows your research and your medical practice with her warm interest and her best wishes. You labor on a terrain that is very difficult. But your activity is capable of achieving precious results for medicine, for the knowledge of the soul in general, for the religious dispositions of man and for their development." Allocation to the Fifth International Congress of Psychotherapy and Clinical Psychology, April 13, 1953; *AAS* 45 (1953) 278-86; *Catholic Mind* 51 (1953) 428-35.

"It is Our wholehearted wish that your work may ever increasingly penetrate into the complexities of the human personality, that it may help it remedy its weaknesses and meet more faithfully the sublime designs which God, its Creator and Redeemer, formulates for it and proposes to it as its ideal." Allocation to the Congress of the International Association of Applied Psychology, April 10, 1958; *AAS* 50 (1958) 268-82; *Catholic Mind* 56 (1958) 353-68.

⁷ "Toward a Dynamic Psychology: Freud and St. Thomas," *Studies* 49 (Winter, 1960) 341-54.

⁸ As J. Nolan observes (cf. n. 11 infra), "To say a person has an obsessional personality does not imply that he is mentally ill. . . . We are all a little queer."

recognized for what it truly is and treated accordingly, this nascent guilt complex can also at very best retard spiritual growth.

Those who complain about the "jargon" employed by modern psychologists⁹ might be to some extent mollified, if not mortified, by Fr. O'Doherty's demonstration of the fact that many of the concepts underlying this idiom are to be found in the Thomistic treatise on concupiscible and irascible appetites. It would be the ultimate in intellectual prodigality if, out of impatience with the native dialect of psychologists, we should discard or overlook these latent concepts.

Perhaps the commonest and most readily recognized of neuroses encountered by priests is that of scrupulosity. Much has been written on the subject, although authors are far from total agreement as to the etiology of scruples or their cure. Often enough scrupulosity is the result and a symptom of mental illness; but sometimes, too, if we may believe the classical theologians, one becomes scrupulous as a result of pride.¹⁰ J. Nolan¹¹ proposes to show, in the light of modern psychology, how this latter explanation is true. Fr. Nolan postulates in all of us what he terms a subrational and pre-rational conscience, i.e., an emotional reaction to one's own conduct which is beneath the level of intellectual judgment and which begins to develop shortly after birth, as soon as a child's training in socially acceptable behavior commences and long before it achieves the use of reason. Because verbal instruction at this stage is useless, training invariably is conducted according to a system of rewards and punishments, consisting often in the manifestation or temporary withdrawal of parental affection. Gradually the child adopts as his own these parental attitudes towards his own comportment, and there develops within the youngster an emotional sort of conditioned reflex of self-approbation or reproval corresponding to parental reactions. "The psyche," as Fr. Nolan puts it, "becomes self-rewarding and self-punishing." The tenor of this subrational conscience will vary according to individual education, experience, and environment; and the more cold, reserved, and demanding one's parents have been, the more exacting as a rule will be this psychic conscience engendered and forever thereafter operative within the child. Eventually, of course, rational conscience begins to evolve and assumes intellectual control of judging moral good and evil. But even in the most normal of individuals, its functioning is influenced to at least some small degree by its subrational counterpart.

⁹ Cf., for example, M. Gounley, C.S.S.R., "Needed: A Scholastic Psychiatry," *Priest* 16 (Aug., 1960) 686-91.

¹⁰ A. Liguori, *Theologia moralis* (Gaudé ed.) 1, lib. 1, tract. 1, §12.

¹¹ "The Problem of Scruples," *Studies* 49 (Winter, 1960) 353-62.

Fr. Nolan goes on to exemplify various ways in which the adult individual may come to reject his rational conscience in unconscious reversion to the subrational. As illustrative of pride's role in such a process, he cites the example of the young religious who sets for himself most lofty ascetical standards to which for a while he faithfully adheres. But because he has overestimated his spiritual stamina, he finds himself eventually measuring short of his own ideals. There follow depression, self-recrimination, and morbid feelings of guilt which transform imperfections into imagined serious sins. These emotions derive not from any rational judgment, but from subrational conscience which set the immediate standard too high in the first place and now voices its reproach when that ideal is not realized in fact. What the young man has been seeking, according to Fr. Nolan, is not perfection but unconscious aggrandizement of self, "a gentle form of the vice [of pride], meriting sympathy rather than severe condemnation."

When dealing with a scrupulant, Fr. Nolan would advise, it is important to persuade him, if necessary, of the pathological element in his personality whereby rational conscience has been denied its proper dominance over the emotional. To this end Fr. Nolan is not entirely adverse to obedience therapy, i.e., temporary substitution of the director's conscience for the malfunctioning moral conscience of his client.¹² But he insists that one should employ this technique on an exclusively didactic or intellectual level and not vie with the scrupulant's subrational conscience by indulging in emotional chidings and reproofs. "The difficulty with the obedience-therapy," he concludes, "is that, if it is inadequate, it can never be known to be inadequate, for its failure will be attributed to the disobedience of the penitent."

Fr. Nolan's analysis of the phenomenon of scruples does not profess to be altogether novel, nor will it obviate subsequent differences of opinion as to the causes or cure of scrupulosity. But those who have experienced any success in dealing with this most vexing problem will very probably find much in his discussion which will confirm or clarify their own convictions on the subject. Others who may have realized their failure in the same regard may discover a reason or two in explanation of that deficiency. But may it be suggested that, for a priest as such, success in this matter should mean no more than aiding the scrupulant to live spiritually in tolerable peace despite

¹² In *Counselling the Catholic* (New York: Sheed & Ward, 1959), G. Hagmaier, C.S.P., reveals himself as being decidedly skeptical of obedience therapy as an effective means of dealing with scrupulants. Without any intention of defending the technique as a panacea, it can be safely said that many experienced directors would be most unwilling to abandon this device altogether. It must, of course, be employed judiciously and not made a substitute for patience and sympathetic understanding.

his persistent psychological handicap? The extirpation of the scruples themselves would appear to be the proper function either of the psychotherapist or of divine providence.

Looming speculatively even larger among the conundrums which reputable psychologists have dropped into the moralist's workbasket is the highly convoluted issue of moral responsibility under stress of certain impediments to fully voluntary choice. Traditionally these obstacles to freedom of act have been enumerated as ignorance, passion, fear, and violence; and only in relatively recent years have these generic categories been specified in psychological language which was at first foreign to the generality of Scholastic theologians. But those moralists who have conscientiously familiarized themselves with the strange tongue have succeeded in injecting a new and significant realism into the rather drab tract *De actibus humanis*. And this has been accomplished without compromising in the slightest way any established principle governing human freedom or the imputability of human acts.

One such recent contribution is a penetrating study of human freedom by J. S. Duhamel, S.J.¹⁸ What Fr. Duhamel successfully accomplishes in this article is perhaps best summarized in his own preliminary proposal of intent:

We can analyze . . . some special aspects of the cognitional and volitional elements necessary for freedom. We can indicate the manner in which these two faculties of the soul can be impeded in their functioning with consequent diminution of psychological freedom, of subjective imputability, and of moral guilt. We can decide whether and how the established claims of the modern schools of psychology and psychiatry can be integrated into the traditional doctrinal framework of moral theology to help us in our task. We can propose those norms and standards for judging subjective responsibility that are commonly admitted in moral theology under the guidance of the official teaching of the Church. And we can indicate some lines of research that are still open for a clearer understanding of the problem itself and for a possibly more satisfying solution.

There follows a most discriminating discussion of conceptual and evaluative cognition; of the vulnerability of the will to direct interference from the sensitive appetites; of unconscious motivation and pseudo virtues. Fr. Duhamel's concluding observations on the interrelationship between moral theology and psychology should leave the discerning reader no valid cause to question either theology's ability and willingness to face up to scientific reality or the undeviating fidelity of its responsible exponents to established moral principle.

¹⁸ "Moral and Psychological Aspects of Freedom," *Thought* 35 (Summer, 1960) 179-203. For a more summary treatment of some of this same matter, cf. J. Marshall, "Morals and Psychology," *Month* 210 (Dec., 1960) 354-65.

MORAL LAW AND CIVIL LEGISLATION

As this is being written, the United States Supreme Court is engaged in hearing arguments for and against the constitutionality of Connecticut's law against contraception. It is not unlikely as a consequence that our domestic theologians are currently more than ordinarily alert to the multiplicity of thorny problems which arise in relation to civil authority's competence to confirm natural-law morality with positive legislation and sanction. An excellent point of departure for reflections of this sort would be the studious speculations of J. V. Dolan, S.J., in his article "Natural Law and Legislation."¹⁴ It is Fr. Dolan's purpose in this study to indicate and explain the reasons why the legitimate scope of civil legislation is not coextensive with the range of natural law—why, in other words, there are certain prescriptions of natural law which are beyond the right of the state to sanction by positive statute. This he endeavors to do by stipulating two generic fonts of limitation upon the power of the state to legislate: consent of the governed and the restricted essential purpose of positive law in the hands of civil authority.

Actually, Fr. Dolan is not at his absolute best when treating the first of these two items. Although he certainly seems to imply it as a proposition, he does not prove (perhaps because it would appear to be incorrect as a universal and consequently unprovable) that consent of the people is an essential requisite for the validity of all civil law, irrespective of specific forms of government. Fr. Dolan does establish three cognate points: (1) that there is remotely a "consent" to all laws in the sense that authority comes to legislators originally through the people; (2) that in any political community it might reasonably be agreed to restrict in one or another respect the legislative authority of the government; and (3) that a democracy in which the people themselves would formulate all their own laws is a legitimate form of civil society. But in a democracy such as ours, for example, consent of the governed affects legislative authority only in the radical and very remote sense that the people designate their legislators and have it within their power to replace them if their legislation does not reflect the will of the majority. Otherwise the *vox populi* is not an element essential to the validity of our civil law. And how, for instance, in an absolute monarchy would the legitimacy of law depend in any genuine sense upon popular ratification?

¹⁴ *Laval théologique et philosophique* 16 (1960) 237–64. This article is the third of a trilogy of which the two preceding are "Natural Law and Modern Jurisprudence," *ibid.* 15 (1959) 32–63, and "Natural Law and the Judicial Function," *ibid.* 16 (1960) 94–141. All three might be more or less accurately classified as further ruminations upon the same author's doctoral dissertation, *Natural Law and Modern Jurisprudence* (Quebec: Dayon, 1958).

In this section, too, in an attempt to prove his point, Fr. Dolan's interpretation of St. Thomas is sometimes strained. In fact, one bit of exegesis lends a Kantian flavor to the Thomistic text. Apropos of *Sum. theol.* 1-2, q. 90, a. 3, ad 2m, he remarks: "Only a public person, the vicar of the people (*gerens vicem totius multitudinis*) can make law because law requires coercive power which only the multitude as such possesses." Apart from the fact that Fr. Dolan's *gerens vicem totius multitudinis* is an interpolation,¹⁵ the *virtus coactiva* to which St. Thomas refers is the *moral right* of using force which belongs by virtue of his office to whatever person legitimately possesses public authority.¹⁶ It is not a physical power, as could be inferred from the phrase "which only the multitude as such possesses"; nor do subjects themselves exercise it except in a most indirect way.

In the remainder of his article, however, Fr. Dolan is considerably more satisfying as he reviews the more familiar doctrine that the restricted purpose of civil law is the public good as opposed to the moral perfection of individual members of society.¹⁷ It is for this reason that civil authority is limited in its legislative function to but one area of the moral order, "the good of justice, whereby is furthered the good of political society." True it is that civil government has the responsibility of providing a general atmosphere favorable to individual moral integrity, and for that reason may and should protect the citizenry in various ways from those who, if not restrained by legal sanction, would entice others to moral evil. But it is reserved to ecclesiastical society to formulate laws designed to prevent personal sin, as opposed to public crime, and to promote the personal sanctification of its individual members.

Since it cannot be proven that the private act of contraception, always a serious objective violation of the moral law, is also necessarily a threat to

¹⁵ The text on which he is commenting reads: "... persona privata non potest inducere efficaciter ad virtutem. Potest enim solum monere, sed si sua monitio non recipiatur, non habet vim coactivam; quam debet habere lex, ad hoc quod efficaciter inducat ad virtutem. . . . Hanc autem virtutem coactivam habet multitudo vel persona publica, ad quam pertinet poenas infligere. . . . Et ideo solius eius est leges facere."

¹⁶ This is clear from the reference to *Sum. theol.* 2-2, q. 64, a. 3, cited in the very text on which Fr. Dolan's comment is made: "... occidere malefactorem licitum est in quantum ordinatur ad salutem totius communitatis. Et ideo ad illum solum pertinet cui committitur cura communitatis conservandae. . . . Cura autem communis boni commissae est principibus habentibus publicam auctoritatem. Et ideo eis solum licet malefactores occidere, non autem privatis personis."

¹⁷ The subtitle of this section, "Possibility," is something of a puzzler. Most commonly the possibility of law is understood as the possibility of its being observed and/or enforced. But the content of this portion of the article deals rather with the restriction of civil law to the achievement of the common good.

the common good,¹⁸ it is difficult to see jurisprudential justification for that portion of Connecticut's law which forbids and sanctions with punishment either the contraceptive act as indulged in by husband and wife or a doctor's transmission of contraceptive instruction upon request from his patient.¹⁹ On the other hand, that the distribution of contraceptive devices should be legally restricted to some considerable extent is every bit as reasonable as restraints imposed upon the sale of narcotics or alcoholic beverages. Here the common good is clearly at stake. But total prohibition of the sale of contraceptives is highly questionable as a proper object of civil legislation. Furthermore, this last phase of the law has in practice been consistently flouted over the years without any effective sanction; and a law which is not and cannot be enforced is essentially and dangerously defective. For it is to defeat the very purpose of civil legislation, viz., the common good, to formulate statutes which are doomed to ineffectiveness because of either the inability or the unwillingness of civil authority to enforce them and to penalize their violation. Especially is this true of prescriptions which positively provoke to violation because of the fact that they outrage the sincere consciences of a large segment of the populace.²⁰

A year ago in these Notes the fear was expressed that scandal through misunderstanding might be occasioned by communication to the general laity of this distinction between the demands of natural law as regards contraception and the possible inexpediency of positive civil legislation as added sanction. Subsequent events suggest that perhaps this fear was unfounded,

¹⁸ Those who might defend the contrary would find it quite difficult to justify either virginal marriage or the practice of rhythm even under the conditions ratified by the explicit concessions of Pius XII and the common teaching of theologians. In addition it might be noted that contraception is frequently practiced not in order to avoid parenthood altogether but rather as a means of limiting the size of a family to reasonable proportions. Cf. n. 76 *infra* and corresponding text.

¹⁹ The Connecticut law reads as follows: "Any person who shall use any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned." A subsequent section of the *Statutes* is likewise pertinent: "Any person who shall assist, abet, counsel, cause, hire or command another to commit any offense may be prosecuted and punished as if he were the principal offender." Both statutes are quoted by N. St. John-Stevás, *Birth Control and Public Policy* (Santa Barbara, Calif.: Center for the Study of Democratic Institutions, 1960). This booklet is an invaluable source of information and critical comment relative to the question of civil legislation against contraception. Single copies available upon request to the Center, P.O. Box 4068.

²⁰ Cf. n. 76 *infra* and corresponding text.

at least as far as the country at large is concerned.²¹ In several publications intended principally for lay people, the substance of this doctrine has since been proposed in terms which seem to preclude all reasonable misinterpretation.²² (Even the Planned Parenthood Federation prefaced with this statement its survey of Catholic opinion on the point as culled from the current literature: "In order to avoid confusion, it should be noted clearly at the outset that all of the writers quoted here affirm their adherence to the traditional Catholic doctrine on medical birth control."²³) If any untoward reaction has greeted the presentation of this thesis to the public, it has not come to attention here.

Contextually not too disparate a consideration is the current squabble over the constitutionality of various state laws which drastically restrict retail sales on Sunday. It is the expressed conviction of Sabbatarians particularly that, by designating Sunday as a day of obligatory abstinence from most commercial enterprises, state governments are depriving a minority group of the religious guarantees of the Federal Constitution. Those whose religious creed includes the belief that Saturday is more properly the weekly day of rest must either violate their consciences by commercializing the seventh day or else suffer the economic penalty of an enforced two-day weekly vacation from business. To question the sincerity of their complaint would be a contemptible evasion of a legitimate legal and moral issue.

R. J. Regan, S.J.,²⁴ discusses this dilemma from a legal point of view and proposes an answer which would seem to be altogether acceptable but which still leaves the conscientious Sabbatarian at something of a practical disad-

²¹ There still remains perhaps a peculiar local problem for the New England area, where still green is the memory of the very strong and successful opposition to which Catholics as a group were encouraged as recently as 1948 when the popular ballot last carried a referendum urging repeal of the Massachusetts law against the dissemination of contraceptive advice and the sale of contraceptives.

²² "Banning Contraception by Law," *Signs* 40 (Sept., 1960) 8; J. Maguire, C.S.C., "Those Anticontraceptive Laws," *Catholic Mind* 58 (Sept.-Oct., 1960) 432-33 (reprinted from *Ave Maria*, June 11, 1960); R. G. Peters, "Birth Control Cases Not 'Catholic Problem,'" *Register* (Denver) 37 (Jan. 1, 1961) 4; N. St. John-Stewas, *op. cit.* (supra n. 19) pp. 53-59. Cf. also J. C. Murray, S.J., "America's Four Conspiracies," in *Religion in America* (New York: Meridian, 1958) pp. 32-33; D. J. Bradley, M.D., "Medico-Moral Problems and the American Public," *Catholic World* 189 (Sept., 1959) 417-20; J. V. Dolan, S.J., "Natural Law and Legislation" (supra n. 14) 240, note 2.

²³ "Catholics Discuss Birth Control and Public Policy," *Planned Parenthood News*, n. 28 (Fall, 1960) 4-6.

²⁴ "Do Sunday Laws Restrict Religious Freedom?" *Catholic World* 192 (Dec., 1960) 143-48.

vantage. Fr. Regan first reviews the legal history of Sunday laws as they have been challenged in several jurisdictions. Some ten years ago the Supreme Court had refused, "for want of substantial Federal question," to review a conviction obtained under New York's statute. More recently, however, in April of 1960, the same judicial body agreed to hear arguments on the Sunday-law question. This reversal of decision was prompted by conflicting judgments handed down during the previous year by two inferior federal courts. In May, 1959, in a split decision, a three-judge federal court of the First Circuit had declared unconstitutional the Sunday law in Massachusetts. Seven months later the court of the Third Circuit upheld Pennsylvania's statute, and in the person of Judge William Hastie discounted the Massachusetts opinion as "not elaborate enough to make the court's reasoning clear to us."

While conceding that Sunday laws were religious in origin and in phraseology, Fr. Regan maintains that "today the legislative basis for restriction of work on Sunday is economic, namely, to preserve salutary conditions of employment and competition." It is this interpretation of such legislation, he asserts, that has induced the New York Court of Appeals and the Supreme Judicial Court of Massachusetts to sustain the legitimacy of their respective statutes. Recognizing as socially detrimental any tendency to promote work and competition throughout the entire week, a legislature simply accommodates its prohibitive law to the day of rest preferred by the majority of the citizenry. The economic penalty thereby indirectly imposed upon conscientious Sabbatarians is not the result of religious law but of a measure which is necessary to safeguard the common temporal good. Contrary to the allegation of its opponents, the legislation violates neither the First nor the Fourteenth Amendment, since it neither establishes a state religion nor requires of the Sabbatarian anything at variance with his conscience.

On exclusively prudential grounds, Fr. Regan insinuates that Massachusetts and Pennsylvania might prove wiser to emulate twelve of their sister states which exempt from Sunday closing those who conscientiously observe Saturday as the day of commercial rest. But he insists—and his point seems to be well taken—that a certain lack of wisdom in legislation does not make the law unconstitutional.

MISCELLANEA

In a thoughtful and challenging article on the need of an explicit moral code of business practices, Msgr. George G. Higgins²⁵ introduces his remarks

²⁵ "Morals and Economic Life," *Social Order* 10 (Sept., 1960) 304-17; adapted from a paper originally prepared for the Danforth Seminar on Religion and Morality at the Harvard Graduate School of Business Administration.

with a gently reproachful reference to Mr. John Cogley's chronic choler ("slightly exaggerated," in the Monsignor's opinion) over the failure of theologians generally to provide realistic ethical solutions to the urgent practical problems of modern life. Mr. Cogley's express complaints have for some time now been directed against the moralists' alleged ineptitude when confronted with the specifics of Church-State relations, nuclear warfare, and business ethics. Typical of his indictments is the charge that "theologians so rarely venture into the muddy waters of contemporary conditions that most of their writings seem irrelevant."²⁶ It may be unkind to an unpardonable extreme to suggest that this seeming irrelevance may in part be due to Mr. Cogley's own theological naïveté, which betrays itself periodically in an unseemly petulance when theologians, out of respect for the principles to which they are committed, find it impossible to bless with their approbation his own preconceived notions of how things ought to be.

However, precious few theologians worthy of the name are so unconscionably smug as to be blind to their own limitations, some of which are as inescapable as is human nature itself. Because literally every conceivable human activity is legitimate grist for the moralist's mill, the theologian is often asked to formulate ethical opinions upon matters in which he himself is neither professionally qualified nor technically skilled. Whether it be a question of political science, economics, psychology, medicine, literature, or any other of thousands of academic specialties, the theologian, if he is even inchoatively prudent, will refrain from expressing a moral opinion unless or until he is adequately informed and intelligently aware of pertinent factual data. Consequently, it should not be difficult to understand that the truly complete moral theologian would have to be a universal genius and therefore is simply nonexistent.

In an attempt to supply partially for this deficiency, the professional theologian who is conscientious is constantly endeavoring to broaden his own knowledge of secular disciplines.²⁷ If he ever pauses to reflect upon the interminable nature of the task, he may be prompted to ask himself some such question as this: Instead of requiring of the moral theologian that he become also a journeyman Jack-of-all-intellectual-trades, why not distribute the burden and expect that theologically educated experts in other specialties

²⁶ "Wanted, Theologians," *Commonweal* 70 (May 22, 1959) 204. Cf. also the same author's "Nuclear War and the Theologians," *ibid.* 67 (Dec. 13, 1957) 291.

²⁷ If proof be needed that such effort is made, a review of the footnote references cited in these Notes alone over the past twenty years would uncover considerable pertinent evidence—and the Notes have never pretended to exhaust even the most significant periodical literature of a given interval.

will qualify themselves—as some indeed have done—as capable moralists for their respective professions? Many a priest at the present time ranks as a competent and respected authority in one or another secular branch of learning. Every priest has been exposed to at least a basic training in moral theology and presumably, if he can attain eminence in his own intellectual specialty, is capable of supplementing his theological education to a point of average adeptness in applying moral principles to his own professional problems. At very least he should be able to translate the moral problems of his own field of special competence into the theological language with which the moralist is more familiar, and thus make the latter's task the easier if consultation is indicated. When this sort of reciprocity is practiced, more realistic ethical solutions are the consequence.

A good instance of this co-operative spirit is the contribution of Msgr. Higgins mentioned several paragraphs ago. It must be admitted that many of the problems of economic life have thus far eluded the moral theologians. The reasons for this are various, and if part of the blame is imputable to the tardiness of moralists to inform themselves adequately in this area, then a collective *mea culpa* may rightfully be expected as a first step towards proper amendment. But as Msgr. Higgins in fairness points out, the line of communication between businessmen and churchmen must be a two-way channel. "I think the time has come," says the Monsignor, "for American management to start drawing up its codes of ethics, with the advice and counsel of theologians, to be sure, but without waiting for theologians to lead them into the church by the hand." It might be noted in addition that there is little or nothing more that theologians can in conscience offer when, for instance, in answer to their considered opinion that one or another business practice is objectively immoral, they are told pragmatically that, because everybody does it, abandonment of the custom by a relative few would be economic suicide. Compilation of a code of business ethics would be a proportionately simple achievement as compared to the task—which is not the theologian's—of procuring its acceptance and enforcing its observance.

Included in Msgr. Higgins' discussion is a review of and brief commentary on the eight principles agreed upon almost fifteen years ago by representatives of the Catholic, Protestant, and Jewish faiths as being a mutually acceptable basis for an ethics of economic life.²⁸ These propositions are quite generic, as might be expected, but from them might be derived a number of more explicit directives which would not only be theologically sound but would also meet the approval of all businessmen of good will, regardless of individual religious differences. But unless the initiative is taken and sincere

²⁸ Cf. *New York Times*, Oct. 17, 1946.

interest maintained by the influential leaders of labor and management, it is not likely that a moral code of economic practices would ever amount to more than an academic exercise.

Another example of welcome assistance from specialists in fields other than moral theology is discernible in a consideration of the morality of warfare by J. C. McKenna, S.J.²⁹ Structurally this article is a scholarly presentation of standard Scholastic theory on the subject, with particular emphasis, of course, upon the nuclear type of war which the modern world must now expect if hostilities between nations ever again erupt into armed conflict. Incidentally—for to my mind this does not represent the most significant aspect of his contribution—Fr. McKenna allies himself with those theologians who argue most suavisely against the licitness of using high-yield nuclear weapons against cities or other predominantly civilian areas. But where Fr. McKenna's treatment chiefly differs from and implements most such treatises is in his knowledgeable analysis of today's political actualities. He summarizes, for example, the several possible generic *casus belli*, any one of which might even tomorrow turn cold-war controversies into physical violence, and shows plausible reason to doubt the right of this country to instigate "liberative" action within a Russian satellite nation. Likewise with regard to the standard postulate that there be reasonable hope of success before recourse is had to war, Fr. McKenna maintains that "virtually no imaginable hostilities among 'neutrals' would justify partisan military intervention by the United States":

War between the Arabs and Israel would not directly impinge on American security. Participation of this kind would divert energies from the principal diplomatic adversary, and—in the Middle East, at least—would provide that adversary with a tempting opportunity to increase its political influence. Contrariwise, mediatory action of some type by the American government would contribute more to peace than would involvement.

These and similar concretions from a political scientist—the accuracy of whose political judgments can be assessed only by his professional colleagues—are what make Fr. McKenna's observations on the morality of warfare more than ordinarily valuable.

Sometimes, as can easily be imagined, the peculiar technical skill and experience of the theological expert is required to guarantee total accuracy in the application of moral or canonical principles to contemporary problems. This was rather graphically illustrated in certain varied reactions to the

²⁹ "Ethics and War: A Catholic View," *American Political Science Review* 54 (Sept., 1960) 647-58.

letter written for Pope John XXIII by his Cardinal Secretary of State and communicated to the Semaine Sociale at Grenoble last July.³⁰ An editorial in the *Priest*³¹ makes the assertion that "if his message does not outlaw compulsory unionism, it seems hard to know what different language the Pope could have chosen to accomplish that purpose." So also J. E. Coogan, S.J.,³² had reached the conclusion that the right-to-work principle now stands vindicated and "the dispute settled for Catholics, by their highest authority." That this is a rather precipitant and hazardous interpretation of a document of this nature can be best appreciated by those whose professional qualifications are those of the ecclesiologist or the canonical exegete. These latter in all likelihood would be more inclined to endorse the opinion of J. F. Cronin, S.S.,³³ that the Vatican in this communication was exclusively concerned with union conditions peculiar to the European scene and had no intention either of deciding the right-to-work controversy as it exists among Americans or of rebuking those bishops in this country who have opposed right-to-work laws in their respective localities. At least one canonist of proven competence has equivalently so expressed himself. After pointing out that objective doubts exist regarding (1) the degree of authority with which His Holiness intended to endow his statement and (2) the applicability of the Pope's observations to our right-to-work dispute, J. J. Reed, S.J., remarks in summary:

... I believe that the letter of the Cardinal Secretary of State may possibly furnish material and authority for a good argument against any form of compulsory membership in a union, but that this letter by itself has not clearly and certainly decided the issue among Catholics as to the morality of right-to-work legislation. And if the matter has not been decided clearly and certainly, then it has not been decided at all.³⁴

MEDICO-MORAL

Because of their limited sources of necessary information regarding matters medical, seminarians could all too easily develop the misconception, and retain it later even as confessors, that the term "pessary" is altogether synonymous with a female contraceptive contrivance. It is not difficult to imagine the egregious pastoral mistakes which could result from so erroneous an assumption. Principally for this reason it is a valuable service which T. J. O'Donnell, S.J.,³⁵ performs in summarizing the functions of those various

³⁰ *Osservatore romano*, July 13, 1960.

³¹ "Pope John and the Right to Work," *Priest* 16 (Dec., 1960) 1042-46.

³² *America* 104 (Oct. 15, 1960) 84.

³³ *Ibid.*

³⁴ *Ibid.*, p. 85.

³⁵ "Intravaginal Instruments: A Medico-Moral Evaluation," *THEOLOGICAL STUDIES* 21 (Sept., 1960) 460-64.

intravaginal devices which, in correct medical terminology, are all generically designated as pessaries. As Fr. O'Donnell observes, out of a dozen-odd such instruments in common use, the vast majority are totally innocent of contraceptive connotation and may be unhesitatingly permitted according as sound gynecology indicates. Only the occlusive pessary or diaphragm would qualify as a contraceptive mechanism.

At the more speculative level of moral principle, the same author³⁶ questions the accuracy of that theological approach to total medical anesthesia which justifies the temporary suppression of rational function on the exclusive basis of its being an indirect voluntary whose licitness is subject to the rule of double effect. Fr. O'Donnell first notes that most manualists, after treating the matter of alcoholic intoxicants as these were formerly used on occasion for want of more refined analgesics, make immediate transition to the general anesthetics which are more proximately allied to those in common medical use today. He then states that in either case authors are prone to consider as directly intended only the insensibility to pain thereby induced. Concomitant temporary suspension of rational function is, he maintains, generally relegated to the category of indirect result and thereupon exonerated in traditional fashion by applying the principle of double effect. It is Fr. O'Donnell's contention that this reasoning process is not only unnecessary but also less than adequately satisfactory for the needs of modern anesthesiology. He prefers Vermeersch's designation of anesthesia as a kind of temporary mutilation,³⁷ subject accordingly to the principle of totality, and consequently a legitimate object of one's direct intent when required *ad bonum totius*.

Perhaps not all would agree, after consulting the standard authors, that recourse to double effect in justification of total anesthesia is quite clearly as common as Fr. O'Donnell would interpret it to be. Although most manualists are certainly less than specific in indicating precisely what principle they do invoke in this context,³⁸ the comments of at least some few reveal

³⁶ T. J. O'Donnell, S.J., "Moral Principles of Anesthesia: A Re-evaluation," *ibid.* (Dec., 1960) 626-33.

³⁷ *Theologiae moralis principia* . . . 2 (ed. 3) §670.

³⁸ It would be safe to say that the majority of authors who treat, or at least seem to treat, this subject condone total loss of consciousness, when induced by artificial means, with the proviso that there be proportionately serious reason. Since this condition is common to both the principle of double effect and the principle of totality, and since these writers do not commit themselves any more specifically, one can only conjecture as to which of the principles they are invoking.

substantial agreement with Vermeersch's view.³⁹ Certain others, either expressly or by inescapable inference, undoubtedly do commit themselves to double effect as the basis of their solution.⁴⁰ But in any event, clarification of this problem in Fr. O'Donnell's explicit terms of temporary mutilation and the principle of totality is a welcome improvement over some of the vague and antiquated treatments which medical anesthesia is still accorded in some of our standard texts.

Ambiguous as may be certain treatises on the deliberate temporary suppression of one's rational functions, there is no lack of clarity in the insistence of a small minority of contemporary moralists that autopsy must be delayed for a considerable time after death. These several authors are quite explicit in their assertion that after death from lingering illness an interval of one hour, and as much as three hours' lapse of time after sudden death, must be observed before this species of post-mortem begins.⁴¹ The reason behind this otherwise unqualified rule had long puzzled me, eventually to the extent of suggesting the possibility that a factual doubt which truly affects the resolution of one particular problem has been allowed unnecessarily to complicate another on which it actually has no bearing.⁴²

The one problem relates to the administration of certain sacraments to the recently dead—not only to those whose death may be only apparent rather than real, but even to those who are most certainly and irrevocably dead in the medical sense. Thus, for example, we could easily find most respectable pastoral precedent for absolving and anointing a known Catholic who had just been decapitated. Yet how reconcile this practice of post-mortem administration of sacraments with the theological fact that the only capable recipient of any sacrament is *homo in statu viae*? Immediately a dis-

³⁹ Zalba, for example, in Vol. 1 of his *Summa* explicitly rejects the necessity of the principle of double effect (§1098 *ad finem*) and appeals to the *bonum totius*—hence to the principle of totality—as justifying cause (§1104); Noldin (1, §345, 3) expresses decided preference for Vermeersch's opinion.

⁴⁰ Thus, for example, Bucceroni (1, §336); Fanfani (3, §157, C, as there referred to §154, dub. 1); Genicot (1 [ed. 17] §185); J. McCarthy, *Problems in Theology* 2, 153. Especially when reading the older authors, it is not always entirely clear what they have in mind by way of evil effect, whether it be the temporary deprivation of the use of rational faculties or certain more permanent deleterious effects of the exotic drugs to which some of them apparently were referring.

⁴¹ E. Godin and J. O'Hanley, *Hospital Ethics* (Bathurst, N.B.: Hotel Dieu, 1957) §75; C. J. McFadden, O.S.A., *Medical Ethics* (Philadelphia: Davis, 1956) p. 328; J. Paquin, S.J., *Morale et médecine* (Montreal: L'Immaculée-Conception, 1960) pp. 408–9. Fr. Paquin would require a delay of seven or eight hours after violent death.

⁴² J. Lynch, S.J., "Autopsy—How Soon after Death?" *Linacre Quarterly* 27 (Aug., 1960) 98–101.

inction can be invoked, and we concede the possibility of a valid administration of sacraments after medical death, provided that what might accurately be called "theological death" has not yet occurred.

Medical death may be defined as the cessation of all essential vital function beyond any reasonable hope of resuscitation. Theological death, of course, refers to the separation of soul from body. For reasons which may be highly suasive but are assuredly not conclusive, we surmise that the two phenomena need not be simultaneous, but that some interval of time may elapse after medical death before the soul takes its departure—an interval relatively longer or shorter according as the advent of medical death was abrupt or gradual. Hence we allow for conditional administration of sacraments for a limited period of time after medical death has been certainly established. By way of roughest rule of thumb, an interval of one to two-or-more hours is a rather common estimate.

But need this norm be applied also to autopsy in such wise as to forbid a post-mortem until theological death has more probably occurred? There appears to be no valid reason for insisting on any such rule. Granted always genuine certitude of real medical death—and in many an instance, even short of death by decapitation, this can be established within moments—what legitimate moral argument can be advanced against immediate autopsy, especially in view of the considerable medical disadvantages entailed in protracted delay? Certainly the spiritual soul is not any the sooner "evicted" from the body by probings of a material kind. Nor is autopsy any more an "affront" to the soul, as it continues perhaps briefly to inform the body after medical death, than would surgery have been if performed during life. In order to prevent autopsy from killing some who might be only apparently dead, we insist that real medical death be previously ascertained. But once this proviso has been satisfied, no other reason occurs for requiring further delay.

For those who are acquainted with J. F. Fletcher's *Morals and Medicine*,⁴³ it will come as no surprise that this same author's more recent disquisition, "The Patient's Right to Die,"⁴⁴ is but a thinly camouflaged plea for unqualified euthanasia. In comparison with the sixth chapter of his book, this article comes substantially closer to an awareness of our distinction between ordinary and extraordinary means of preserving life; but even though Dr. Fletcher may himself be cognizant of our affirmation of that distinction and its effect upon moral rights and obligations, he neither acknowledges the distinction as valid nor conveys it to his readers. Many of the examples he

⁴³ Princeton: Princeton Univ. Press, 1954.

⁴⁴ *Harper's Magazine* 221 (Oct., 1960) 139-43.

cites in the course of his discussion are more or less classic illustrations of circumstances in which only extraordinary—and hence nonobligatory—measures could prolong a patient's life. But wherever we could theologically afford to agree with his ultimate solution to a concrete case, it would be for reasons which he himself would ridicule. Prof. Fletcher's self-styled "personalistic" ethics remains utterly impatient of any such restrictions as would be imposed by our alleged nominalism. Beyond noting the general tenor of the article, little profit would be realized from further comment.

It is somewhat heartening, however, to note the undiminishing trend among articulate physicians to temper scientific ardor with an awareness of that limited right to die which is acknowledged by sound theology. Although V. J. Collins, M.D.,⁴⁵ is primarily intent upon correcting certain misconceptions among his professional colleagues regarding cardiocirculatory collapse⁴⁶ as "an etiological entity [rather than] a physiological end-state," he takes considerable time to warn against ill-advised attempts at cardiac resuscitation and massage in those many cases where the only likely "benefit" to the patient would be prolongation of vegetable life.⁴⁷ In confirmation of this medical opinion, Dr. Collins most correctly cites Pius XII as his moral authority.⁴⁸

In more generic terms J. Bordley III, M.D.,⁴⁹ admonishes those doctors who may preoccupy themselves with what he calls the mere quantitative aspect of human existence without due regard for the qualitative. Simply to prolong biological life, he insists, is not the legitimate ambition of medical science and should not be sought without reasonable consideration of other factors affecting both the patient and those responsible for his support and care. Though Dr. Bordley does not phrase his observations in theological language, it would not be difficult so to interpret his remarks as to derive from them the constitutive elements of an acceptable definition of extraordinary measures to preserve life.

⁴⁵ "Fatalities in Anesthesia and Surgery," *Journal of American Medical Association* 172 (Feb. 6, 1960) 549–55.

⁴⁶ This is Dr. Collins' suggested substitute for the more familiar term "cardiac arrest." It would take someone more sensitive than myself to the niceties of medical terminology to appreciate the distinction.

⁴⁷ Cf. L. Stahlgren, M.D., and J. Angelchik, M.D., "Cardiac Arrest," *Journal of American Medical Association* 174 (Sept. 17, 1960) 226–33. The authors of this study repeat the now familiar warning that, if the interval between arrest and massage exceeds four minutes, severe neurological defects are most likely in those patients who nonetheless are resuscitated and survive.

⁴⁸ Allocution on the prolongation of life, Nov. 24, 1957; *AAS* 49 (1957) 1027–33.

⁴⁹ "Effect of House Staff Training Programs on Patient Care," *Journal of American Medical Association* 173 (July 23, 1960) 1316–19.

In this connection, however, a certain cautiousness is mandatory. (The statement is made without intent to prejudice the motives of the gentleman last mentioned.) In many an instance of terminal illness, for example, allowing the patient to die by discontinuing certain procedures could be the ultimate practical solution offered by both the orthodox theologian and the proponents of euthanasia. But a common practical conclusion for individual cases does not necessarily indicate a unicity of abstract principle underlying that mutually satisfactory decision. When we concede the licitness of omitting specific medical or surgical attempts to delay or to prevent death, we do so only because we are satisfied that these measures represent extraordinary means of preserving life, i.e., that they either offer no reasonable hope of substantial benefit to the patient, or else are available only at the cost of exceptional expense, pain, or other uncommon hardship. Otherwise we have no theological choice but to acknowledge them as ordinary and obligatory means of preserving life. No such restrictive principle inhibits the mercy killer. Merely by usurping for individual man the exclusively divine prerogative of perfect dominion over his own person, the exponent of euthanasia would countenance even the omission of ordinary means of prolonging life, as well as the deliberate induction of positive measures to terminate life. Accordingly, we have to beware of seeming to agree with an inadmissible "principle" even in that limited number of cases where, by virtue of valid premises, we can condone an ultimate practical solution. Unless an appeal to the patient's right to die is explicitly qualified in terms at least equivalent to our doctrine of ordinary and extraordinary prolongation of life, we are well advised to withhold judgment as to the theological mentality behind the plea.

Another hazard to be avoided in expounding our thesis of the patient's right at times to die is too facile a relegation of specific remedies to the category of either ordinary or extraordinary means. The editors of *America* unhappily failed to clear this hurdle cleanly when they suggested that "it would seem reasonable to regard intravenous feeding, blood transfusions or injections of insulin as ordinary means of preserving life."⁵⁰ They also submitted that the same could be said of "the oxygen tent or of a growing number of routine operations and amputations, even major ones." As a medical doctor⁵¹ pointed out equivalently in a subsequent issue of the same periodical, only the specific circumstances of a concrete case can ultimately determine whether a particular medicament or procedure qualifies as ordinary means of prolonging life. Oxygen sufficient to tide a strapping specimen of manhood through a pneumonia crisis would, *ceteris paribus*, rank as an

⁵⁰ "Patient, Doctor, Human Life," *America* 103 (July 16, 1960) 451.

⁵¹ J. J. Lauber, M.D., "Preserving Life," *ibid.* (Aug. 20, 1960) 545.

ordinary measure of self-preservation. Oxygen continued until the inevitable advent of death for the hopeless cancer patient in terminal coma could for more than one reason very easily merit designation as extraordinary. The examples given are by no means original,⁵² but they should serve to make the point.

Since these Notes already threaten to become excessively lengthy for editorial purposes, the remaining medico-moral items are cited but briefly for the information of those who may be particularly interested in their current status. All of these topics have been treated previously in the Notes to an extent which discourages any attempt at further critical comment.

J. Martínez Balirach, S.J.,⁵³ reports on an exchange featured in the Spanish newspaper *Ya* on the licitness of organic transplants *inter vivos*. A. Royo Marín, O.P.,⁵⁴ had initiated the proceedings by espousing the negative view and denying all probability to its contrary. Fr. Royo's principal argument apparently rests on his conviction—common to all who oppose transplantation—that only the principle of totality, which is unanimously conceded to be inapplicable to this procedure, can justify bodily mutilation. While defending the permissive opinion in two subsequent articles, F. J. Peiró, S.J., professor of medical ethics at the University of Madrid, appealed successively to the extrinsic authority of the many theologians of repute who defend it,⁵⁵ to the highly suasive intrinsic reason based on the law of charity, and to the very significant fact that on the one occasion when Pius XII undertook to discuss organic transplants,⁵⁶ he explicitly excluded from consideration transplantation of organs from living donors. Fr. Peiró, incidentally, professed to see confirmation of the argument from charity in the fact that currently a candidate for canonization is Fr. Kolbe, who, while imprisoned in a Nazi concentration camp, substituted himself for a condemned fellow prisoner and thus met his own death. *Qui potest plus, potest minus in eodem caritatis ordine!*⁵⁷ Finally, M. Zalba, S.J., reviewed the entire

⁵² Cf. G. Kelly, S.J., *Medico-Moral Problems* (St. Louis: Catholic Hospital Assoc., 1958) pp. 129–30.

⁵³ "Una discusión en el periódico 'Ya' sobre trasplantes humanos," *Sal terrae* 48 (Aug.-Sept., 1960) 478–82.

⁵⁴ Author of *Teología moral para seglares* (Madrid: Biblioteca de Autores Cristianos, 1957–58).

⁵⁵ Fr. Martínez identifies only one such authority by name: Mons. A. Martínez Gil, professor of philosophy at the Seminary of Madrid.

⁵⁶ Allocution on corneal transplants, May 13, 1956; *AAS* 48 (1956) 459–67.

⁵⁷ L. Bender, O.P., *et sequaces* would, of course, protest that in such a sacrifice of life death is intended only indirectly, whereas the mutilation involved in an organic transplant is a matter of direct intent. For an answer to this objection, cf. G. Kelly, S.J., "The

controversy and again expressed himself as favoring the negative position while nonetheless acknowledging the intrinsic and extrinsic probability of the opposite opinion—a concession which Fr. Zalba first made most gracefully in the 1957 edition of his excellent *Summa*.⁵⁸ Fr. Martínez, the able chronicler of the foregoing colloquy, casts his own confident vote in favor of the affirmative.

In confirmation of the now familiar obstetrical thesis that therapeutic abortion is at present very rarely, if ever, even medically justified,⁵⁹ several more reports⁶⁰ can be added to the impressive mass of evidence accumulated over the past twenty years or more. Along parallel lines, the "scientific" case for eugenic sterilization suffers palpably from two adversely critical commentaries,⁶¹ neither of which could reasonably be accused of an obsession with moral issues.

Finally, the pros and cons of hypnosis as a medical tool are quite thoroughly aired by H. Rosen, M.D.,⁶² whose primary emphasis is on the extreme care and caution which should attend its use under any circumstances. As others before him have warned, not only is it imperative that the hypnotist be thoroughly schooled in psychodynamics, but his subjects must be selected with a discrimination which stops only this side of scrupulosity. Several of the cases reviewed by Dr. Rosen in illustration of the tragic results of mal-

Morality of Mutilation: Towards a Revision of the Treatise," *THEOLOGICAL STUDIES* 17 (Sept., 1956) 341-42.

⁵⁸ 2, §157 and §162.

⁵⁹ Cf. R. J. Heffernan, M.D., and W. A. Lynch, M.D., "Is Therapeutic Abortion Scientifically Justified?" *Linacre Quarterly* 19 (Feb., 1952) 11-27.

⁶⁰ F. Kyser, M.D., and D. Danforth, M.D., "Reversible Refractory Anemia in Pregnancy," *Journal of American Medical Association* 174 (Oct. 1, 1960) 485-88; W. Walters, M.D., et al., "Thirty-Four Pregnancies after Repair of Stricture of Bile Duct," *ibid.* (Sept. 3, 1960) 26-28; "Abortion for Chronic Polyarthrititis," *ibid.* (Oct. 15, 1960) 909; R. Nabatoff, M.D., "Varicose Veins of Pregnancy," *ibid.* (Nov. 26, 1960) 1712-16; P. George, M.D., et al., "Melanoma with Pregnancy: A Report of 115 Cases," *Cancer* 13 (July-Aug., 1960) 854-59; M. Jesiotr, M.D., "The Influence of Pregnancy and Delivery on Pulmonary Tuberculosis . . .," *Diseases of the Chest* 37 (June, 1960) 649-55; A. Dogliotti, M.D., et al., "Mitral Commissurotomy in Pregnancy . . .," *Journal of Thoracic and Cardiovascular Surgery* 39 (May, 1960) 663-71; J. O'Sullivan, M.D., "The Pregnant Woman in the Age of Technology," *Catholic Medical Quarterly* 13 (July, 1960) 96-102.

⁶¹ "Reappraisal of Eugenic Sterilization Laws," *Journal of American Medical Association* 173 (July 16, 1960) 1245-50; K. Hirschhorn, M.D., "Negative Eugenics," *ibid.* 174 (Nov., 19, 1960) 1658.

⁶² "Hypnosis—Applications and Misapplications," *ibid.* 172 (Feb. 13, 1960) 683-87. Cf. also F. Moya, M.D., and L. James, M.B., "Medical Hypnosis for Obstetrics," *ibid.* 174 (Dec. 17, 1960) 2026-32; and R. Odenwald, M.D., "Hypnosis," *Priest* 16 (Sept., 1960) 777-82.

adroit choice of hypnotic subjects are literally frightening, especially in view of the irresponsible popularization which hypnosis has suffered at the Sunday-supplement level. As moralists have consistently maintained, the ethical use of this procedure for whatever legitimate medical purpose presupposes always the observance of those precautions which only qualified psychologists can determine to be necessary and sufficient.

CHASTITY

It would be highly unoriginal at the present time to ask whether our pastoral attitudes and approach to the moral problems of sex are always as salutarily effective as they could and ought to be. Not only in this specific area, but also of moral theology in general, complaint has been repeatedly raised that our morality is to an excess negatively sin-centered.⁶⁸ As the indictment generally reads, so preoccupied are we with discovering and identifying the myriad vices to be avoided that we neglect the positive inculcation of virtue. Regrettably the charge is not entirely without foundation, although as often as not it is misdirected against the innocent, namely, against those who compile our classroom texts and those whose dubious distinction it is to elaborate upon the same from the professorial dais.

Our seminary training in moral theology is by and large an undergraduate course in unabashed fundamentals, and claims as its essential proximate purpose the development of competent confessors, whose primary responsibility it will be to deal properly with confessed sinners. Except for the dreary fact of sin, there would be no sacrament of penance and no need of confessors. Accordingly, it is absolutely inevitable that basic manuals of this science and art should be in large part devoted to the clearest possible delineation of the nature, species, and gravity of sin, in order that the future priest may not be destitute of this most elemental and indispensable of all pastoral talents, the prompt and reliable ability to recognize sin when confronted with it.

If subsequently, however, the confessor—and the same could be said also of those who in any other capacity engage in the transmission of our moral theology to the laity—rests habitually content with only the stark communication to his penitent of this unlovely fact of sin, he betrays his own personal failure to have progressed beyond the primer stage of moral theology. Unless as confessor he draws generously also from his training in rational and applied psychology, and even more from dogmatic and ascetical

⁶⁸ For an analysis and evaluation of such criticism, cf. J. C. Ford, S.J., and G. Kelly, S.J., *Contemporary Moral Theology* 1 (Westminster, Md.: Newman, 1958) chap. 4; also these Notes *passim* over approximately the last decade.

theology, he will not have begun to make pastorally effective use of the moral theory he may himself have assimilated so well. But moral manualists should not be censured for crediting the average seminarian with intelligence enough to realize that the total content of one's theological and ascetical education is not to be dispensed to the faithful in the compartmentalized form in which it was first acquired, and that the necessary synthesis and supplementation are largely a personal responsibility. It would be a massive and variegated tome indeed which would include between two covers that amount of knowledge required of a genuinely good confessor or counselor.

The preceding quasi digression was prompted by one example of the kind of theological contribution which goes far towards disproving any generalized allegation of negativism against moral theology as a discipline or against moral theologians as a species. Writing principally for the priest in the ministry, R. A. McCormick, S.J.,⁶⁴ makes a soundly reasoned plea for a positive pastoral approach to the sexual problems of adolescents. As anomalous as the observation may appear at first sight, it may nonetheless be true that among those who may profit most from these reflections of Fr. McCormick, are the more experienced of confessors and counselors—those, in other words, who in years and perhaps also in empathy are farther removed from the teen-age mentality.

Fr. McCormick first undertakes to demonstrate, theologically and pastorally, the tragic defects indigenous to what he terms a "peccocentric" attitude towards the adolescent's encounter with the challenge of sex. This is in no sense of the word to gloss over or otherwise to minimize the gravity of sexual sin, either objectively or subjectively, if and when it occurs. Rather is it an effort to help our youngsters to achieve in this regard a truly virtuous maturity, which consists in a properly motivated control of the sex instinct according to one's state in life. Salutory incentive is best supplied, in Fr. McCormick's estimation, by instilling a holy reverence for, rather than a fear of, the fact and function of sex, and by retaining it always within a context of "love and procreation" as opposed to "play and recreation."⁶⁵ The article provides in addition a number of practical reminders in the area of sound adolescent psychology, and concludes with a series of helpful suggestions as to specific points of emphasis which can be profitably employed

⁶⁴ "Adolescent Affection: Towards a Sound Sexuality," *Homiletic and Pastoral Review* 61 (Dec., 1960) 244-61.

⁶⁵ One might also add, without pretense of originality, that Christian instruction in sex would be vastly improved if human procreation were more often properly dignified by recognition of its relation to the creative act of God ("ex quo omnis paternitas in caelis et in terra nominatur") rather than downgraded by comparison with the birds and bees.

when giving counsel of this kind. Thoughtful, realistic, and well documented, the article merits considerably more than a casual scanning.

Invariably, of course, any detailed discussion of adolescent sexual adjustments will suggest the question of dating habits among the teen-age group. G. J. Schnepf, S.M.,⁶⁶ fortunately obliges with a pertinent statistical survey, based on answers received from over fourteen thousand Catholic students—the vast majority of them from the 14–18 age bracket—representing fifty-five schools in all sections of the United States. Steady dating in this plebiscite was defined as “continuous dating of the same person over a period of a month or more to the exclusion of all other persons,”⁶⁷ and on the basis of that understanding only seventeen per cent of those responding reported themselves as currently “going steady.” Bro. Schnepf is thereby moved to infer in part that “our study does not indicate that going steady is a serious social problem even though we recognize that in individual cases it is no doubt a serious personal problem.”

The foregoing item is here included for informational purposes only, and with no intent or least desire to engage with anyone in theological fisticuffs over the moral issues entailed in steady dating among youngsters who are still years removed from any real prospect of marriage. No more than a modicum of common sense and experience suffices for one to realize that many a serious moral problem could be obviated if only more of our moppets could be persuaded that exclusive company-keeping is strictly an adult preamble to the adult vocation of marriage. Nevertheless, Bro. Schnepf's apt designation of the matter as “personal” prompts again the suggestion that moral involvements arising out of this adolescent custom are more accurately assessed on an individual basis rather than in sweeping denunciations of mortal sin as predicated unqualifiedly of a particular dating practice.⁶⁸ Presumably that much can be said without inviting charges of having

⁶⁶ “Survey of Going Steady and Other Dating Practices,” *American Catholic Sociological Review* 21 (Fall, 1960) 238–50. Originally read as a paper at the Twenty-second Annual Convention of the American Catholic Sociological Society, Aug. 31–Sept. 2, 1960.

⁶⁷ Far more satisfactory, at least from a moralist's point of view, is the definition of steady dating formulated by F. J. Connell, C.S.S.R., in “Juvenile Courtships,” *American Ecclesiastical Review* 132 (1955) 181–90. Fr. Connell's definition (pp. 184–85) comprises three essential notes: a boy-girl companionship which is (1) frequent, (2) exclusive, and (3) characterized by some degree of affection. This last emotional element of affectionate interreaction is of paramount importance in any attempt to judge the implications and complications—whether psychological, sociological, or moral—of steady dating within the teen-age set.

⁶⁸ Cf. *THEOLOGICAL STUDIES* 16 (Dec., 1955) 583–84; also J. C. Ford, S.J., and G. Kelly, S.J., *op cit.* (supra n. 63) 157–66.

adduced "dubious reasons for allowing young people to remain in unnecessary occasions of sin" or of "going too far in our tolerance."⁶⁹

However, if one who is confessedly least qualified to evaluate naked statistics may enter the mildest sort of demurrer to Bro. Schnepf's conclusion as quoted above, it is this: Under the gimlet eye of homeroom Sister or Brother or Father, is it altogether inconceivable that at least some of the correspondents in this particular bit of research may have, in understandable self-defense, consciously or subconsciously invoked the recondite principle of mental reservation, or even that of *locutio materialis*, before denying their addiction to steady dating? Mine is not an incorrigibly suspicious mentality, but it does as yet remain healthily inquisitive.

Conjugal love and chastity are the major concern of J. L. Thomas, S.J.,⁷⁰ as he makes a fervid appeal for a proper Christian perspective of the sexual function in marriage. Occasioned by the publication of Bishop Léon-Joseph Suenens' *Un problème crucial: Amour et maîtrise de soi*,⁷¹ this article admittedly borrows heavily from the Belgian prelate in the development of a theme which to a degree is perhaps novel, though only in the sense that it may not have received its due measure of emphasis in the past. Fr. Thomas takes as his point of departure the Gospel commandment to love in imitation of God, our Alpha and Omega, who is Infinite Love. Conjugal love—*agapē* as most assuredly distinguished from *eros*—is but one holy fulfilment of this divine imperative, and if properly conceived and revered, will find its expression only partially, and not exclusively, in the physical intimacy of sexual relationship. Total identification of conjugal love with its genital aspects is responsible, according to Fr. Thomas, for the inability of so many to recognize that no less a manifestation of Christian connubial love is virtuous restraint of sexual impulses, even to the point of prolonged abstinence from the consummation of marital rights if circumstances so require.

Even when perversely craving an improper object of self-satisfaction, the sex appetite can still serve as an apt instrument for the achievement of virtue and even sanctity. This would seem to be the moral ultimately derivable from Fr. Gilby's animadversions on the sexual invert.⁷² As his title more than intimates, Fr. Gilby is here intent on establishing that the moral problem presented by the true homosexual is not essentially different from that of the heterosexual who either must frequently battle to overcome

⁶⁹ *Homiletic and Pastoral Review* 59 (Mar., 1959) 519-26; *ibid.* (May, 1959) 706-10; *THEOLOGICAL STUDIES* 19 (June, 1958) 183-87.

⁷⁰ "Sex, Love and Self-Mastery," *Catholic World* 191 (Sept., 1960) 332-39.

⁷¹ Desclée, 1960.

⁷² T. Gilby, O.P., "Not All That Anomalous," *Blackfriars* 41 (Nov., 1960) 402-8.

strong temptations against purity or perhaps has often succumbed to those temptations and been as many times guilty of formal sin. For both individuals, the proximate goal to be attained in the order of virtue is victory over temptation in the form of total abstention from any inordinate indulgence of the sex appetite. Inordinate indulgence, of course, differs in significance according as a person is married or not; but the homosexual and the unmarried heterosexual share in common the moral obligation to refrain altogether from any deliberate gratification of their respective sexual impulses. Fr. Gilby stoutly maintains that it is neither helpful nor true to consider the homosexual as necessarily either depraved or suffering from disease. The invert possesses passions identical with those of normal men; he differs from his heterosexual fellows only in the fact that his passions do not respond stylistically to the carnal attractions of the opposite sex. In common with the heterosexual, he may allow his passions to lead him into sin and even into psychological illness. But in either instance, moral and medical therapy are basically the same irrespective of the gender of one's sexual partners, whether real or only phantasmal.

As far as any moral theory of sin and virtue is concerned, Fr. Gilby's analysis of homosexuality is undoubtedly correct. His observations likewise offer a substantial substratum of pastoral wisdom which is essential to sound spiritual counseling in this area. (The allied question of concomitant neuroses and psychoses—whether these be the cause or the effect of one's homosexual proclivities—is better reserved to qualified psychologists.) Certainly the invert who seeks spiritual advice should be sympathetically assured, if occasion warrants, that no sinfulness attaches to the spontaneous homosexual inclinations with which he finds himself handicapped, and that the mere fact of these tendencies is in no sense preclusive of a lifetime of perfect chastity. Sin for the homosexual, as is no less true of the unmarried heterosexual, consists only in the deliberate indulgence of venereal impulses, to whatever object these may gravitate. Unfortunately, since marriage is for the exclusively homosexual generally out of the question as a wise alternative to chaste celibacy, abstention from any wilful use of the sex faculty remains the sole moral solution.

To this extent one can and should agree with what is said by Fr. Gilby. But what was left unsaid by him appears to be no less important to the total pastoral picture. Despite one's intellectual recognition of his own blamelessness for the homosexual gropings of his venereal appetite, the very realization that one is anomalously so constituted cannot always be an easy thing to live with psychologically. One's comprehension of the fact that he is—however inculpably—to this marked degree “different” from the majority

of his fellows can be humiliating, even traumatically so. In addition, to be denied reasonable hope of successful marriage is a frustration which many would suffer with less than easy equanimity. Furthermore, the prospect of encountering serious occasions of sin, beyond average in number, in one's routine associations with those of his own sex—this is a conscience burden recognizable as other than ordinary.

While these considerations in no way dilute the theoretic moral theology of chastity or its contradictory as either is correctly predicated of the homosexually inclined, they do color the pastoral scene. Unless spiritual clients of this kind are sympathetically acknowledged to be somehow considerably "different," and advised in the light of this difference, one's proffered counsel may be markedly deficient in its efficacy.⁷³

As realistically noted by J. R. Connery, S.J.,⁷⁴ in his substantially favorable review of M. J. Buckley's *Morality and the Homosexual*,⁷⁵ it would likewise be oversimplifying matters to regard all homosexual instincts as nothing more complex than bad habits acquired as morally imputable entities by reason of repeated sexual deviations of a deliberate kind. Too many serious and competent students of the problem are presently convinced that at the root of these perverted tendencies will often be found a psychological imbalance which is impervious to mere resolutions of the will and which can be corrected, if at all, only by proper psychotherapy. If this be so—and until so credible a theory is definitively disproven, no theologian in prudence can afford to ignore it—the curative process is twofold, medical as well as moral. Consequently, in the words of Fr. Connery, ". . . the goal of pastoral effort will be to prevent homosexual lapses. Correction of the anomaly will be the function of the psychologist or psychiatrist."

While undisguised abhorrence of homosexual indulgence remains the instinctive reaction of "decent folk," the practice of artificial contraception continues to achieve ever higher summits of respectability, at least in non-Catholic circles. However much we may deplore the professed inability of our dissident brethren to perceive the cogency of that philosophical reasoning which concludes absolutely to the intrinsic malice of contraception, we can scarcely, in consistency with doctrine which regards faith as an unmerited gift of God, take them to task for their refusal to accept the theological argument derived from unmistakably clear and authoritative pronouncements of the teaching Church. Tolerable and tolerant coexistence,

⁷³ As a basic introduction in the formulation of pastoral attitudes towards this problem of homosexuality, *The Invert* by "Anomaly" (London: Baillière, Tindall & Cox, 1948) still ranks among the best.

⁷⁴ *Priest* 16 (Oct., 1960) 913-16.

⁷⁵ Westminster, Md.: Newman, 1960.

without moral compromise, demands that we continue the search for means to make our own immutable position on this matter correctly understood, and perhaps even generally respected as our reasonable commitment to the exigencies of faith. It also requires that with equal dispassion we make an effort to comprehend the thought processes of others who have with good conscience arrived, unguided by doctrinal authority, at contrary conclusions.

Addressing himself to this latter end, J. L. Thomas, S.J.,⁷⁶ presents an analytical résumé of current Protestant views on contraception. After reviewing pertinent statements of policy which have emanated in recent years from individual councils, synods, and conferences, Fr. Thomas devotes some little space to the proposition that acceptance of contraception by an overwhelming majority of Protestant sects does not necessarily imply wilful deviation on their part from their acknowledged norms of right moral conduct. A typically Protestant ethics is not blatantly lacking in logic; rather does it want for a foundation of clearly defined moral principles which are absolute in any genuine sense. Particularly as regards contraception, theirs is a morality of proper motivation in the achievement of a necessary end, without awareness of the ethical need to scrutinize the means of accomplishing that end. As Fr. Thomas concludes in part:

To understand the Protestant position we must keep two points clearly in mind. First, Protestants believe that it is their moral obligation to limit the number of births and that it is morally wrong to advise a married couple to refrain from intercourse for long periods, since this kind of advice puts far too great a strain upon marriage and consequently is itself "unnatural." Hence the practice of birth control is regarded as a duty, not a matter of moral laxity. Second, they believe that birth control should not be practiced as an escape from parenthood. Usually there is a responsibility to have children as well as to limit their number. Either to give birth to children or to prevent the birth of children may be irresponsible, so the individual couple should approach such decisions conscientiously, prayerfully, and in the spirit of obedience to God.

This is merely another way of noting the existentialist or "situationist" mentality from which Protestant thinking on the subject emerges. And since even some contemporary Catholic scholars had to be reminded of the errors of situation ethics,⁷⁷ it should not be surprising that Protestant churchmen

⁷⁶ "Contemporary Protestant Attitudes on Contraception," *Proceedings, Fifteenth Annual Convention, Catholic Theological Society of America* (June 20-23, 1960) pp. 51-61.

⁷⁷ *AAS* 48 (1956) 144-45; *Canon Law Digest* 4, 374-76.

have been able to enunciate, sincerely without conscience embarrassment, a thesis of "responsible parenthood through contraception."

Mutual understanding, however, despite its obvious advantages, has also its limitations in any context of total ecumenism. Short of a miracle of grace, complete doctrinal harmony on the question of birth control could be achieved in the present real order of things only on the supposition that the Catholic Church would relax—if not abandon altogether—her traditional teaching.⁷⁸ That not even the best disposed among Protestants appear to appreciate the theological impossibility of that eventuality is a frustration to which we may be forever doomed.⁷⁹

Meanwhile, experimentation with the oral contraceptives continues on a broader scale. With the qualified blessing of the Food and Drug Administration now extended to norethynodrel⁸⁰ specifically as an antioviulant, many more physicians will be prescribing these compounds for the exclusive purpose of fertility control. It is interesting to note that medical opinion is still significantly divided over the medical safety of these steroids if used over extended periods of time, as they would have to be in any lifetime program of contraception. E. T. Tyler, M.D.,⁸¹ vouches confidently for their harmlessness over a two-year span and blandly assures his readers that "studies are continuing in an effort to determine whether use of the medication [*sic*] beyond the presently accepted two years will result in any side effects or toxic manifestations." Less optimistically W. W. Williams, M.D.,⁸² advises

⁷⁸ Especially from *Casti connubii* and from Pius XII's 1951 allocution on the moral problems of married life, it is eminently clear to anyone properly versed in the elementals of theology that artificial contraception stands condemned as intrinsically evil in the absolute sense. Prescinding from the technicalities of the so-called theological "notes," it is theologically inconceivable that the Church's pronouncement of principle on this matter is anything less than totally clear, certain, immutable, and irrevocable.

⁷⁹ Cf., for example, D. J. McCallion, "Human Population Pressures and Birth Control," *Canadian Journal of Theology* 6 (July, 1960) 170-78. Dr. McCallion, associate professor of zoology at the University of Toronto, concludes his discussion with this plea: "It can only be hoped, then, that the next 'ecumenical council' of the Roman Church will give very serious consideration to the urgent question of the dissemination of contraceptive information to underdeveloped countries." Zoologically, of course, the suggestion entails no problem.

⁸⁰ Norethynodrel is the generic designation of the compound more commonly known as Enovid, product of G. D. Searle & Co. The FDA approval of Enovid as an oral contraceptive is as yet restricted to its ingestion on twenty successive days of each month over a maximum period of two years.

⁸¹ "Oral Contraception," *Journal of American Medical Association* 175 (Jan. 21, 1961) 225-26.

⁸² "Contraceptive Tablets," *ibid.* 174 (Oct. 15, 1960) 923.

that "their use over long periods seems hardly justifiable because of their carcinogenic potential and various side effects." (Anyone for Russian roulette?) And our eugenicists especially might profitably ponder another consideration proposed by Karl Kautsky, M.D.,⁸³ former chief of the Municipal Premarital and Marital Guidance Clinic of Vienna, who offers documented testimony of the harmful effects upon the offspring of mothers in whom ovulation had previously been arrested over protracted periods. Dr. Kautsky testifies that most women in German concentration camps suffered premature menopause in psychic reaction to Nazi terrorism. Subsequent to their release, most of the younger group again began ovulating and menstruating, and many of them married and conceived. It is a matter of medical record, according to Dr. Kautsky, that a high percentage of these pregnancies culminated in abortions or stillbirths, while others produced seriously malformed babies, many of them mongoloids. In addition, some female infants exhibited signs of masculine pseudohermaphroditism. It is Dr. Kautsky's professional opinion that "much more research is needed before a method loaded with the danger of producing malformed children should be recommended on a mass basis."

It should scarcely need repeating that, even apart from these ethically pertinent medical considerations, the use of antioviulatory compounds for the purpose of avoiding pregnancy is but another form of illicit contraception.⁸⁴

Since the sterility induced by the contraceptive pills can be designedly of an impermanent and reversible variety, L. L. McReavy⁸⁵ is asked to explain the intrinsic reason why even temporary sterilization, when directly intended, is necessarily wrong. *Salvo meliori*—for this is no sitting duck of a question—his answer does not seem to be in every respect completely accurate.

Beginning with a distinction between sterility as an effect and sterilization

⁸³ "Routine Contraception," *ibid.* 175 (Feb. 25, 1961) 730.

⁸⁴ Cf. W. J. Gibbons, S.J., and T. K. Burch, "Physiological Control of Fertility: Process and Morality," *American Ecclesiastical Review* 138 (Apr., 1958) 246-77; J. J. Lynch, S.J. "Progestational Steroids: Some Moral Problems," *Linacre Quarterly* 25 (Aug., 1958) 93-99, and "Moral Aspects of Pharmaceutical Fertility Control," *Proceedings, Thirteenth Annual Convention, Catholic Theological Society of America* (June, 1958) pp. 127-38; Pius XII, Allocation to the Seventh Congress of the International Society of Hematology, Sept. 12, 1958 (*AAS* 50 [1958] 732-40).

⁸⁵ "Why Direct Temporary Sterilization Is Wrong," *Clergy Review* 45 (Dec., 1960) 741-43.

as the action productive of that effect, Fr. McReavy notes initially that sterilization is always a physical evil, since it "impairs an intrinsically good physical capacity." Up to this point all would certainly agree. But qualification is in order when Fr. McReavy advances his next statement, viz., that "physically evil effects can be lawfully caused if the act which causes them complies with the conditions of the principle of double effect." If this assertion is intended to mean that *only* the principle of double effect will serve to justify the causation of physical evil, something has been overlooked. The principle of totality justifies the amputation of a gangrenous limb; the principle of charity is invoked by many in defense of organic transplantation from a living donor; the principle of punitive authority exonerates the judge who condemns the proven criminal to imprisonment or worse; and so on. All the physical evils discernible in these examples are directly intended but not morally imputable, *servatis servandis*.

It is unquestionably true, however, that suppression of a generative function, as distinct from all other human organic functions, finds its sole justification under the principle of double effect. This is the nub of the question as proposed, and it is here that Fr. McReavy seems to lose momentary sight of the issue:

The moral defect [in inducing an artificial period of sterility] is not that a physical evil is directly willed and caused, for this can be lawful when the right order of goods is observed, as, for example, in a prudent act of bodily mortification. The defect lies in the fact that the very first condition of the principle of double effect is not observed: the causal act itself is not morally honest, because it exceeds the right which, as stewards rather than absolute owners, men have over their own bodies.

Returning now to Fr. McReavy's initial distinction between sterility as an effect and sterilization as its causative action, the excerpt just quoted would seem to admit of only this interpretation: any procedure productive of sterility is intrinsically wrong in itself, independently of the agent's intention. How, then, justify the removal of cancerous uteri, ovaries, testes, or multiple other procedures which inevitably result in sterility but which are universally acknowledged as licit? If the malice of direct sterilization is to be found in the intrinsic evil of the action which induces it, indirect sterilization would be always no less wrong, since it is brought about by essentially the same sort of procedure.

The question which Fr. McReavy neglects really to answer is this: Why

is even temporary direct sterilization intrinsically evil?⁸⁶ And the answer lies ultimately in the essential teleological difference between the human generative function and all other organic functions in man. The latter are bestowed upon man primarily for his own good as a complete and individual person. Consequently, each organic function, exclusive always of the generative, is by nature itself constituted and ordained in essential subordination to the total corporeal good of the individual. Hence if such a function becomes instead a serious threat to personal life or health, it may with direct intent be suppressed and sacrificed for the good of the whole—the principle of totality as so many times enunciated by Pius XII.⁸⁷

The generative function on the other hand was imparted to man primarily for the good of the species and not principally for his personal benefit. It is essentially first and foremost a social function. Hence the ability to procreate is not by nature constituted and ordained in essential subordination to the total corporeal good of the individual, and consequently does not fall directly under man's dispositive dominion as do his other faculties when these latter threaten his personal well-being. Accordingly, one may never directly intend his own sterility, whether permanent or temporary, for this is something which has been withheld entirely from his direct powers of self-disposition. For that reason, the principle of totality is always inadequate for demonstrating the lawfulness of certain sterilizing procedures recognized as permissible, and must always be supplemented with the principle of double effect.⁸⁸ In other words, only indirect sterilization, either permanent or temporary, is even potentially a licit sterilization, and it remains as yet subject to the other conditions which the principle of double effect imposes.

SACRAMENTS

One event of the Olympic year which for more than the most obvious reason will never find its way into the sports records was the final (?) round in a canonico-moral imbroglio begun some two years previously. The bone of contention from the beginning had been canon 209 as it relates to the Church's grant of confessional jurisdiction in the event of *error communis*;

⁸⁶ In what follows on the subject of direct sterilization, I wish to exclude any application of my remarks to punitive sterilization. It is significant that Pius XII, in his 1951 address on the moral problems of marriage, expressly restricted the Church's condemnation of direct sterilization to sterilization of the innocent (*AAS* 43 [1951] 844). The licitness of direct punitive sterilization is still theologically an open question.

⁸⁷ Cf. G. Kelly, S.J., "Pope Pius XII and the Principle of Totality," *THEOLOGICAL STUDIES* 16 (Sept., 1955) 373-96.

⁸⁸ Cf. G. Kelly, S.J., "The Morality of Mutilation: Towards a Revision of the Treatise," *ibid.* 17 (Sept., 1956) 322-44.

and the arena had alternated between the two journals *Palestra del clero* and *Perfice munus*. In all innocent inadvertence S. Tumbas, S.J.,⁸⁹ had instigated proceedings with a good standard exposition of the *de facto* and *de jure* interpretations of the concept of common error. Included also in his discussion was a brief and accurate survey of opinions regarding the licitness of a priest's deliberately contriving a situation of common error in order to force the Church to supply confessional jurisdiction for the occasion. (Less felicitous was his application of common-error doctrine to the circumstances of marriage.)

Alertly out of the opposite corner appeared L. Bender, O.P.⁹⁰ Among several points which he saw fit to challenge were the tenability of the *de jure* interpretation of common error and the legitimacy of that opinion, cited and well documented by Fr. Tumbas, which would allow a priest, for sufficiently serious a reason, deliberately to create common error with a view to hearing confessions by virtue of the jurisdiction thereby "extorted" from the Church. To this latter doctrine Fr. Bender denied all probability, and he insisted that any such priest would be guilty of grave sin and subject to the unreserved suspension imposed by canon 2366. Enter G. Scaltriti, O.P.,⁹¹ with the gentle suggestion that such a view would be "un po' severa," only to provoke from his fellow Dominican a reiteration of his original thesis.⁹² And there the matter rested as 1960 came to a close.

The discussion as it evolved was not totally conspicuous for clarity or for strict adherence to the point at issue. But there did emerge from the *mélange* several items provocative of comment.

First, it would appear to be rather late in the canonical day to question seriously, as does Fr. Bender, the legitimacy of that theory which interprets canon 209 in terms of *error de jure communis* as customarily distinguished from *de facto* common error.⁹³ Of the standard commentators writing in

⁸⁹ "L'Errore comune nei can. 209, 2366," *Palestra del clero* 37 (May 15, 1958) 537-45.

⁹⁰ "Error communis refugium in qualibet difficultate?" *ibid.* 39 (Mar. 15, 1960) 342-45.

⁹¹ "Error communis refugium in qualibet difficultate?" *ibid.* 39 (May 15, 1960) 571; also *Perfice munus* 35 (Oct., 1960) 553-54.

⁹² L. Bender, O.P., "Liceità del confessare fuori giurisdizione," *Perfice munus* 35 (Dec., 1960) 24-27. (Posterity is not likely to invoke blessings upon the editors of *Perfice munus* for having broken the paginal sequence of Vol. 35 in this its last fascicle.)

⁹³ As commonly understood, *de facto* common error stipulates an erroneous judgment actually elicited by a sufficient number in a given community, all of whom have good reason to conclude incorrectly that a particular priest possesses confessional jurisdiction in their regard. A favorite example cites the announcement made on Sunday at all Masses in a parish that confessions will be heard during the following week by a priest imported from outside the diocese to preach a parish mission. The missionary inadvertently neglects to obtain proper faculties but nonetheless hears confessions. *Ecclesia supplet*, as all would

recent years, relatively few would opt for the latter doctrine; and even fewer would deny to the former opinion that degree of probability which suffices to establish the "dubium positivum et probabile" for which canon 209 also makes provision in terms of supplied jurisdiction. Furthermore, if one should agree, even in the limited sense in which Fr. Bender must intend his statement, that the Sacred Roman Rota is a doctrinal as well as a judicial body, he would have little choice but to accept as canonically sound the Rota's assertion that the theory of *de jure* common error has now for some time qualified as "sententia communis."⁹⁴

Secondly, Fr. Bender is very probably expressing the conviction of the vast majority of canonists when he maintains against Fr. Tumbas that, in reference to a priest's canonical qualifications for assisting at marriage, no genuine common error would be occasioned by the sole fact that the priest, lacking proper delegation, would function as official witness in a place where marriages are customarily celebrated. Some five years ago Fr. L. Hofman⁹⁵ also voiced the opinion to which Fr. Tumbas subscribes. The objections entered against the theory then⁹⁶ are no less valid today.

Finally, as regards the question of a priest's contriving common error for the purpose of thus forcing confessional jurisdiction by virtue of canon 209, Fr. Bender would appear to be considerably more severe than the great majority of contemporary commentators. Opinion by far the more common on this matter maintains that only genuinely grave reason can justify this use of the canon, but that such reasons nonetheless can exist and do suffice to make this canonical stratagem altogether licit. (No one questions the validity of absolution when the Church is thus forced to supply jurisdiction, provided

agree. *De jure* common error supposes merely a sufficient foundation for a general mistake of this kind and does not require that the erroneous judgment be actually elicited. Granted the existence of some fact which could be commonly known and which would justify even a canonically knowledgeable person's concluding incorrectly that a priest possesses confessional faculties, potential (*de jure*) common error obtains and the Church thereupon supplies jurisdiction. Thus, e.g., the presence of a priest in a confessional, at a time and in a place customary for the hearing of confessions, would suffice, according to this interpretation, for the application of canon 209, even if only one person were actually to perceive this "public" fact, and even though that person were to confess without ever actually adverting to the question of the priest's jurisdiction.

⁹⁴ "Qui error communis, iuxta sententiam communem, non requiritur quod talis sit de facto, quatenus multi, in loco, errore, detineantur; sed sufficit quod talis sit de iure, quatenus talis habeatur status rerum seu conditio ut error publice sequi possit et debeat." *S.R. Rotae decisiones* 41 (1949) 288.

⁹⁵ "Die Anerkennung des Error communis . . . in der heutigen Lehre und Rechtsprechung," *Trierer theologische Zeitschrift* 65 (1956) 266-81.

⁹⁶ THEOLOGICAL STUDIES 18 (June, 1957) 247-48.

that in a given situation common error is at least truly probable.) Accordingly, those who so teach would impute objectively grave sin to the priest who, for seriously deficient reason, would create common error for jurisdictional purposes. Some, moreover, would also invoke the suspension inflicted by canon 2366 on those who presume to hear confessions without proper jurisdiction. Others, however, would argue that the canonical penalty is not incurred, because jurisdiction is actually acquired by reason of common error. As Zalba observes,⁹⁷ the penal question is disputed, and hence in practice the censure cannot be urged even against those who might sin seriously by forcing common error.

Allegedly there exists, or once existed, a more lenient school of thought which would restrict to a maximum of venial sin the objective evil involved in deliberate contrivance of common error without adequate reason. But a summary check of representative contemporary authors yields nothing more specific than a gratuitous "quidam" or "alii" as exponents of this opinion. One is forced to conclude that current teaching on this point is at least weighted most heavily in favor of the stricter view, which is still considerably more flexible than that expressed by Fr. Bender.

For neither explicitly nor by implication does Fr. Bender make allowance for any circumstances which might warrant the forcing of common error. In fact, he would seem to hold that no confessor, without committing grave sin, could ever consciously function on the sole basis of the jurisdiction supplied in common error, even if the situation was not of his own deliberate making. His argument, couched in universal terms and never thereafter qualified, hinges on his contention that the priest, whose only claim to confessional faculties is the concession of canon 209 in respect to common error, is hearing confessions without jurisdiction. Those confessions are valid, according to Fr. Bender, because jurisdiction is "supplied" ("actus potestatis suppletæ"); but they are gravely illicit because jurisdiction is not "possessed" by the confessor ("actus potestatis non habitæ"). But if confessional jurisdiction is "supplied" by the Church in these circumstances, to whom can it possibly be supplied unless to the confessor himself, who thereupon hears confessions validly by virtue of faculties which he now literally possesses? The malice of contriving such a situation without sufficient reason need not be that of functioning sacramentally without necessary jurisdiction, but can rather be the malice of coercing the Church into an unwilling but effectively valid grant of jurisdictional power.

While the foregoing cisalpine amenities were being exchanged, out of the Emerald Isle came a theological symposium on the spiritual care of the sick

⁹⁷ M. Zalba, S.J., *Theologiae moralis summa* 3 (1958 ed.) §538, note 40.

which is rather unique in its consistent excellence. An entire issue of the *Furrow* was devoted to this topic and comprised four articles⁹⁸ originally presented as papers at the Seventh Irish Liturgical Congress held in April, 1960. A five-page bibliography—principally, but not exclusively, of titles in English—supplements these valuable contributions.

The first, by Conleth Kearns, O.P., provides what might be called a most apposite composition of place (apologies for the Ignatian allusion) by depicting the Christian attitude towards sickness as reflected in the historical person of Christ, and then correlating the Gospel narrative with James 5:14-15. Either for personal ascetic purposes or for homiletic use, this scriptural material collated by Fr. Kearns should be welcomed enthusiastically by priests everywhere.

The liturgical history of the anointing of the sick, as then reviewed by Placid Murray, O.S.B., is based on the complete manuscript of Canon A. Chavasse's *Etude sur l'onction des infirmes dans l'église latine du III^e au XI^e siècle*, of which only the first tome has yet been published.⁹⁹ Dom Murray's purpose is to delineate, without debating, the theological problems which have evolved from the history of extreme unction. At least one such problem has been widely discussed in recent years, and those who have engaged in or witnessed the interchange may find this conclusion of Canon Chavasse, as quoted by Fr. Murray, of particular interest:

Never, before the eighth century, in any of the documents of which we are aware, is the Anointing of the Sick presented as a rite specially destined to prepare the sick man for death. On the contrary, it appears there as a means of saving him from death, if the sickness from which he is suffering is in any way serious, because it is held above all to be a rite of healing. It is only incidentally that it was conferred in those days *in extremis*. Any sickness—and sickness was taken in a very wide sense—was sufficient motive for this reception. It was then in very frequent use.

From the eighth century on, this state of things was to be modified rather rapidly. The association, within the same ceremony, of Anointing and Viaticum and above all of Anointing and Death-Bed Penance, brought about first of all the consequence that Anointing will be conferred practically *in extremis*. The emphasis placed at this period on the purifying effect of Anointing and the assimilation,

⁹⁸ Conleth Kearns, O.P., "Christ and the Sick in the New Testament," *Furrow* 11 (Sept., 1960) 557-71; Placid Murray, O.S.B., "The Liturgical History of Extreme Unction," *ibid.*, pp. 572-93; Dermot MacIvor, "The Care of the Sick in the Roman Ritual," *ibid.*, pp. 594-606; Joseph Cunnane, "Recent Writings on the Liturgy of the Sick," *ibid.*, pp. 607-16.

⁹⁹ *Du III^e siècle à la Réforme carolingienne* (Lyons: Sacré-Coeur, 1942).

which soon became complete, of Anointing with death-bed Penance had the further consequence that the anointing was held to be a last pardon accorded by the Church to the dying. From that time, the rite itself was reserved to those *in articulo mortis*. From being a fact this becomes a law. Anointing will be not only in fact conferred *in extremis* but it will be held not to be able to be conferred otherwise.

This is the question—whether extreme unction was designed primarily as a final preparation for the *status gloriae* or rather as both a spiritual and physical restorative for continuation in the *status viae*—that J. Cunnane singles out for further examination in the light of contemporary thought. After a most competent résumé of other recent literature pertinent to the generic topic under discussion, Fr. Cunnane provides a brief but adequate survey of opinions on this more specific point of current interest.¹⁰⁰ His purpose is not so much to suggest a solution which will satisfy speculative theologians as it is to intimate to the priest in the active ministry how the theology common to both schools of thought may best be utilized to the spiritual advantage of the faithful. Prescinding from all theoretics as to primary and secondary ends, the solicitous pastor of souls will not overlook the fact that by divine institution the sacrament of extreme unction includes among its several purposes a therapeutic effect, physical as well as spiritual. It is by no means exclusively the spiritual embalming process—the metaphor is used with every reverence—that many of the faithful imagine it to be. Proper emphasis on its spiritual and physical restorative properties can do much to allay the infantile fear with which too many regard this sacramental therapy.

Fr. Dermot MacIvor completes this quaternion with an ascetico-pastoral exegesis of the Roman Ritual as it is employed in the spiritual care of the sick, inclusive of those who are not in danger of death.

Further echoes of the moot phases of the teleology of extreme unction are audible in J.-C. Didier's neatly-packaged response¹⁰¹ to a practical question which often, no doubt, has been debated in our parish rectories. In circumstances of protracted illness, when death is foreseen as relatively remote in terms of time, is it preferable to anoint late rather than early so that the spiritual benefits of the sacrament may be exposed to proportionately less risk of loss through mortal sin on the part of the recipient? Since according to canon 940, §2, extreme unction cannot be repeated within one and the

¹⁰⁰ Cf. THEOLOGICAL STUDIES 20 (June, 1959) 260–62.

¹⁰¹ "L'Onction des malades: du moment le plus opportun de la conférer au point de vue de l'efficacité sacramentelle," *L'Ami du clergé* 70 (July 28, 1960) 474–76.

same danger of death,¹⁰² some would incline to a delayed administration for the reason mentioned. As Fr. Didier proceeds to demonstrate, that option is exposed to legitimate criticism if one reflects upon our theology of the sacrament as expressed by the Council of Trent.¹⁰³

Not only is extreme unction divinely calculated to strengthen the sick person spiritually against temptation, but, among its other purposes, it is likewise designed to assuage physical suffering and even at times to cure. Quite appositely Fr. Didier points out that this last is a normal, though conditional, effect of a sacramental remedy and not a miracle to be wrought through prayer. Hence the remedy should be applied, if possible, while one's restoration to health requires less than a miracle for its accomplishment. As for the prospect of mortal sin's intervening between the time of anointing and the remote moment of death, does not that very possibility argue strongly in favor of more immediate reception of a sacrament uniquely intended to protect against sin in time of illness? And even in the event that mortal sin should nonetheless deprive the sick person of the spiritual benefits of extreme unction once received, that loss is not irreparable. For confession with at least sincere attrition, or perfect contrition alone, will revive those effects undiminished within the soul. Those who argue in favor of postponing for any considerable interval the anointing of these long-term patients might do well to ruminate upon Tertullian's rejection of infant baptism on the grounds that one should delay that saving grace until such time—whenever that may be!—as one's youthful follies are safely behind him.

Another point of proper ministerial procedure is handled with customary deftness by C. L. Parres, C.M.,¹⁰⁴ and concerns the administration of extreme unction to surgical patients prior to a serious operation. The question as proposed is not provocative of any astronomical flight of theological genius, and nothing breathtakingly novel could be expected by way of correct answer. But this bit of catechesis illustrates again the perils of the rule of thumb as pragmatic substitute for recourse to relevant moral principle. As Fr. Parres most clearly explains, these cases can be solved only by determining as best one can in individual instances whether danger of death *a causa intrinseca* threatens at least probably at the moment the sacrament is

¹⁰² Less than accurately, Fr. Didier predicates this restriction of the same illness ("... le sacrement de l'onction n'est pas réitérable... au cours d'une même maladie"). As he doubtlessly would be first to agree, if reminded, it is within the same danger of death that repetition of the sacrament is prohibited. But in the course of one illness danger of death may occur and vanish a plurality of times, thus making possible as many licit and valid reanointings during a single siege of sickness.

¹⁰³ DB 909.

¹⁰⁴ "Extreme Unction before a Serious Operation," *Homiletic and Pastoral Review* 61 (Oct., 1960) 90-94.

administered. If the only apparent probable danger is one yet to be induced by surgical procedure, that danger is still of a future and extrinsic kind and the patient is not as yet a subject capable of being validly anointed—though he may become such in the course of surgery or subsequent thereto. If on the other hand, as can often happen, probable cause of death can be discerned as already operative within the patient, even antecedently to and independently of the operation to come, extreme unction may and should be administered. Most pertinent, too, is Fr. Parres' reminder that intrinsic danger of death may proceed from the very infirmities of old age, as well as from injury or sickness; though he wisely adds the caution that probable danger of death, in the accepted sense of canon 940, is not necessarily in every case concomitant with the advent of minimal old age, however the incipience of that period in one's temporal existence might be variously computed by theological actuaries.

Apart from the requirement that death must threaten *ab intrinseco* to be at least the probable and remotely future result of a present malady, the validity of extreme unction depends in addition, as does the validity of all sacraments conferred on adults, upon the recipient's intention to receive it. Although habitual and implicit intent will suffice, discernible evidence of even this minimum may be totally lacking at times, or even be positively contraindicated with highest probability by sentiments rationally expressed by a dying person before lapsing into coma. All but the rawest of theological neophytes are familiar with the differences in extant moral opinion as to the licitness, when confronted with this sort of situation, of a priest's administering conditionally the sacraments of penance and extreme unction—preceded by baptism, if there be at least probable need of it—on perhaps the most tenuous of probabilities that adequate intention was actually elicited previously by the now unconscious and dying patient. While one school insists that the sacraments must be withheld from these unfortunates, the quantitatively and qualitatively impressive corps in the opposite camp requires only the avoidance of serious scandal before inscribing its placet upon the conditional conferment of all three sacraments.¹⁰⁶

One of the most recent exponents of this latter opinion is E. de Bekker, W.F.,¹⁰⁶ who synthesizes the doctrine with most estimable conciseness and accuracy of expression. Almost by way of obiter dictum, Fr. de Bekker in-

¹⁰⁶ Cf. THEOLOGICAL STUDIES 21 (June, 1960) 245-46; 20 (June, 1959) 252-53; 19 (June, 1958) 196-98; 17 (June, 1956) 195-96; 13 (Mar., 1952) 94-97.

¹⁰⁶ "Casus conscientiae," *African Ecclesiastical Review* 2 (July, 1960) 178-83. This relatively new journal features a good variety of theological and philosophical topics, an excellently contrived "casus conscientiae" in each issue, and a highly representative "question box." Of particular value to priests in mission territories, it would also be an asset to any theological library. P.O. Box 232, Masaka, Uganda.

jects a personal observation which bears repetition:

If the doubt [as to proper dispositions] remains, it does not seem that one can establish a certain strict obligation of administering the sacraments to noncatholics, but a zealous priest should go to them with the intention of doing for them, not the least, but the most that sound theological principles will permit.

That the more benign opinion in this matter, properly understood and properly applied, is entirely consonant with "sound theological principles" is objectively at present beyond all legitimate question.

By way of final note, for the convenience especially of those who function under the jurisdiction of Propaganda, attention might be called to several commentaries on the revisions to be found in the latest decennial faculties for mission territories. These analyses all made their appearance before the new legislation became effective at the beginning of the current calendar year, and others doubtlessly have since been published. With a perspicacious eye to practicality as well as to comparative textual exegesis, M. B. Walsh, S.J.,¹⁰⁷ cast his contribution into handy vade-mecum format and employed several schematic and typographical devices to make innovations in the faculties, as nearly as is safely possible, perceptible at a glance. To the individual missionary, whose access to libraries in so many cases is either highly problematical or totally nonexistent, this extra dividend will be particularly welcome. In the periodical literature, L. Buijs, S.J.,¹⁰⁸ F. Timmermans, S.J.¹⁰⁹ and Msgr. J. Madden¹¹⁰ adjacently to P. L. Murphy,¹¹¹ had also by year's end submitted comparable annotations.

One relatively minor question which none of the above-mentioned commentators saw reason to broach, relates to an instance or two in which Propaganda in its decennial faculties granted privileges apparently without reference to the new rubrics which simultaneously went into effect. (The fact, for example, that the decennial faculties refer to "major and minor double feasts" [§16] and to "doubles of the first class" [§17] would indicate a certain lack of horizontal intercommunication within the Roman Curia.) However, despite the seeming fact that Propaganda prescinded from the concurrent voice of its sister Congregation of Rites, there would appear to be ample canonical justification for missionary bishops to exercise even those

¹⁰⁷ *Mission Faculties, 1961-1970* (Washington, D.C.: Mission Secretariat, 1960).

¹⁰⁸ *Periodica* 49 (1960) 352-405.

¹⁰⁹ "The New Decennial Faculties Granted by the S.C.P.F.," *Clergy Monthly* 24 (Nov., 1960) 361-86.

¹¹⁰ "Some Missionary Faculties," *Australasian Catholic Record* 37 (Oct., 1960) 285-308.

¹¹¹ "Missionary Faculties," *ibid.*, pp. 317-32.

faculties which are somewhat at variance with the new rubrics—unless, of course, competent authority eventually declares to the contrary. Thus, for example, they may allow the private anticipation of Matins and Lauds from noon of the preceding day (§55) and grant the more generous privilege of weekday requiem Masses conceded in §16.¹¹² It will be recalled that in a parallel manifestation of legitimate independence Propaganda has never included in its indult for Mass without a server (§5) the proviso “*dummodo aliquis fidelis Sacro assistat*,” which by papal command is to be inserted in all such indults granted by the Congregation of the Sacraments.¹¹³

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¹¹² Subsequent to the submission of these Notes to the editor, L. Buijs, S.J., in *Periodica* 50 (1961) 39–43, reported a reconciliation between Propaganda and the Congregation of Rites on this matter of decennial faculties. Among several items: John XXIII has explicitly extended to Dec. 31, 1970, the missionary's privilege of anticipating from noontime both Matins and Lauds; and the missionary indult in relation to the *Missa de requie cotidiana* has been reworded so as to accord with the terminology of the more recent rubrics. For additional revisions cf. Buijs, *art. cit.*

¹¹³ Cf. AAS 41 (1949) 508; *Canon Law Digest* 3, 336.

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