

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

GENERAL MORAL

By year's end available theological journals had provided relatively few commentaries on the *Monitum* released July 15, 1961, by the Congregation of the Holy Office.¹ Particularly in view of certain popular misinterpretations of the document expressed in both secular and religious newspapers, it would have been gratifying if at the professional level more general discussion of this significant pronouncement were available for report in this issue of the Notes. Perhaps the deficiency will be supplied in the near future.

The *Monitum* in question consists of a one-sentence prelude and four imperative directives. The preamble states the proximate reason which prompted the Congregation to express its will in the regulations to follow:

Since it is evident that many dangerous opinions regarding sins against the sixth commandment and regarding the imputability of human acts have been widely popularized and are still being disseminated, this Supreme Congregation has decided to make public the following norms.²

The Holy Office does not specify what precisely these dangerous opinions are or who precisely have been responsible for propagating them. But for anyone conversant with the recent history of moral theology, it is considerably better than conjecture to conclude that the reference here is to certain authors whose writings during the last decade or more have provoked protest from established theologians and reprimand in one form or another from the Holy See.³

Such generically would appear to be the opinion also of L. L. McReavy,⁴ who suggests that "The 'dangerous opinions' . . . are presumably those which, in assessing the imputability of acts of unchastity . . . exaggerate the impact of psychological impediments on freedom of will, to such an extent as to infer that materially grave transgressions of the sixth commandment are seldom, in practice, formally grave." Likewise in the judg-

EDITOR'S NOTE.—The present survey covers the period from July to December, 1961.

¹ *AAS* 53 (Sept. 22–25, 1961) 571.

² "Cum compertum habeat passim esse vulgatas et adhuc spargi multas et periculosas opiniones circa peccata contra VI Decalogi praeceptum et circa imputabilitatem humanorum actuum, haec Suprema Sacra Congregatio sequentes normas publici iuris fieri censuit."

³ For more specific references to publications which have been so criticized in recent years, cf. these Notes *passim* since 1953.

⁴ *Clergy Review* 46 (Dec., 1961) 755.

ment of L. Beirnaert,⁵ the Congregation is primarily disturbed by the writings of some who invoke the data of depth psychology in order to question the gravity of sexual aberrations or to minimize to an extreme the subjective responsibility of those who commit them. Somewhat more specifically, an anonymous commentator in *L'Ami du clergé*⁶ recalls two discourses of Pius XII⁷ and thereupon declares eligible in present context such errors as (1) situation ethics, (2) that exclusive preoccupation with the primacy of charity which would obliterate all consideration of an objective norm of morality, and (3) that appeal to determinism or compulsion as regards sexual activity which would make formal mortal sin of this species either totally nonexistent or very rare. Even more detailed on this point is R. Carpentier, S.J.,⁸ who summarizes succinctly, but with enviable thoroughness, those variations of modern psychological and theological theory which have led certain exponents of either discipline to a denial of the adequacy of free will in most matters sexual or to the endorsement of situation ethics in one or another form.

The several doctrines cited by these commentators are unquestionably current and realistic threats to orthodox moral theology, and it is reasonably certain that they represent the "dangerous opinions" to which the Holy Office refers. It should be noted, however, that these are theories which have been adopted by relatively few in the name of theology, and that those who within the profession itself are acknowledged and respected as representative theologians have been prompt and incisive in their repudiation of such teaching. Many, too, are the modern psychologists who have successfully avoided the various pitfalls of Freudianism, even while making profitable use of the valid data and legitimate techniques which depth psychology puts at their disposal. As Fr. Carpentier, for example, takes pains to emphasize, it would be an injustice in this context so to universalize on particulars as to predicate of modern psychology in general those doctrinal errors which in truth are discernible in only some of its theories as espoused and applied by only some of its practitioners.

Of the four precepts which follow upon the Congregation's prefatory statement, the first two are reaffirmations of certain perennial responsi-

⁵ "Un Monitum du Saint-Office," *Etudes* 311 (Oct., 1961) 116-19.

⁶ *L'Ami du clergé* 71 (Dec. 7, 1961) 736.

⁷ The first (Mar. 23, 1952) was a radio address on the formation of a Christian conscience (*AAS* 44 [1952] 270-78); the second (Apr. 18, 1952), an allocution on the moral law (*ibid.*, pp. 413-19).

⁸ *Nouvelle revue théologique* 83 (Sept.-Oct., 1961) 856-61.

bilities which are of the essence of several ecclesiastical offices and which accordingly are thoroughly familiar to the theologically informed:

1) Bishops, deans of faculties of theology, and rectors of seminaries and schools for religious must insist that those whose function it is to teach moral theology or allied disciplines comply exactly with the traditional teaching of the Church.

2) Ecclesiastical censors must exercise great caution in censoring and passing judgment on books and periodical literature which treat of the sixth commandment.⁹

These two edicts of the *Monitum* would appear to be entirely clear and self-explanatory; they need to be understood in a recriminatory sense only in so far as they apply to a small minority who in the past may, by way of exception, have been guilty of reprehensible carelessness in the discharge of the serious duties here enumerated.

The other two directives introduce legislation which is new in the order of explicit positive law:

3) According to the intent of canon 139, §2, clerics and religious are forbidden to practice psychoanalysis.

4) The opinion of those who maintain that previous psychoanalytical training is altogether necessary for the reception of holy orders, or that candidates for the priesthood and religious profession must undergo examinations and tests of a strictly psychoanalytical character, must be rejected. This holds also if there is question of determining the aptitude required for the priesthood or religious profession. Likewise priests, and religious of both sexes, are not to go to psychoanalysts unless their ordinary permits it for grave reason.¹⁰

The relevant portion of canon 139, §2, cited in the third norm imposed by the Holy Office, forbids clerics the practice of medicine and surgery

⁹ "1) Episcopi, Praesides Facultatum Theologicarum, necnon Seminariorum et scholarum Religiosorum Moderatores, ab iis quibus munus incumbit docendae theologiae moralis vel congeneris disciplinae, omnino exigant ut traditae ab Ecclesia doctrinae ad amussim se conforment.

"2) Censores ecclesiastici magnam adhibeant cautelam in recensendis ac iudicandis libris et ephemeridibus, in quibus agitur de sexto Decalogi praecepto."

¹⁰ "3) Clericis et Religiosis interdicatur ne munere psychoanalystarum fungantur, ad mentem can. 139, par. 2.

"4) Improbanda est opinio eorum qui autumant praevidiam institutionem psychoanalyticam omnino necessariam esse ad recipiendos Ordines Sacros, vel proprie dicta psychoanalytica examina et investigationes subeunda esse candidatis sacerdotii et professionis religiosae. Quod valet etiam si agitur de exploranda aptitudine requisita ad sacerdotium vel religiosam professionem. Similiter Sacerdotes et utriusque sexus Religiosi psychoanalystas ne adeant nisi Ordinario suo gravi de causa permittente."

except with apostolic indult. It is quite likely that even prior to the *Monitum* a considerable number of canonists and moralists would have interpreted this canon as applying also to the practice of psychoanalysis, especially in this country, where psychiatry is recognized as a medical specialty the practice of which requires a doctorate in medicine. But apart from that surmise, it is beyond question that ecclesiastical law now so extends as to require permission from the Holy See before a cleric or religious may function habitually and professionally as psychoanalyst. This stricture should not be understood as any reflection upon the legitimate science and art of psychoanalysis. Certain it is that no vilification of either medicine or surgery is even implicit in the prohibition which as a general rule excludes from these practices those in the clerical state. So *a pari* psychoanalysis suffers no necessary slight from parallel legislation. There does perhaps remain a doubt as to the precise nature of psychoanalysis as here understood by the Holy Office, but in the interests of clarity the content of the fourth and final directive should first be examined before that uncertainty is discussed.

The first two sentences of this fourth norm would appear to be entirely doctrinal in character. In other words, they do not directly impose or forbid any particular *modus agendi*, but rather reject as speculatively false an opinion regarding the requisites for the proper selection and training of priests and religious. As well explained, for instance, by Fr. Carpentier,¹¹ this opinion would maintain in part that no priest is adequately equipped for the apostolic work of the ministry until he has been properly trained in psychoanalytical theory and method. Furthermore, as the same school of thought would have it, until he himself has submitted to examinations and tests of a strictly psychoanalytical kind, no candidate for the priesthood or religious life is capable of managing his own spiritual affairs in the manner and degree required by his vocation. Finally, the theory repudiated by the Holy Office would contend that no prudent test of vocation to the seminary or cloister is complete until each aspirant has been subjected to strict psychoanalysis, the results of which will reveal his aptitude or lack thereof for the life which he ambitions. The reason behind this insistence on psychoanalysis as an essential factor in priestly and religious training is primarily a sexual consideration. For in the opinion of those who formulated the theory, without this psychoanalytical experience no priest or religious is qualified either to cope with his own problems of sexual adjustment or to counsel others effectively in theirs. And there lies the nexus between this portion of the fourth norm and the introductory sentence of the *Monitum*.

¹¹ *Art. cit.* (cf. supra n. 8) pp. 860-61.

The third and final sentence of the same fourth norm reverts to the disciplinary level of the first three directives and explicitly forbids priests and religious to consult psychoanalysts without permission of the ordinary. In exempt clerical institutes the approbation of one's major superior will suffice. For all other priests and religious it is the local ordinary who must be consulted.

The principal doubt engendered by directives three and four concerns the precise meaning of psychoanalysis in the understanding of the Holy Office. That the word does have a limited meaning in the language of psychology and psychiatry is beyond question. And that the Congregation was well aware of that restricted sense must be presumed, especially in view of its own phrase, "proprie dicta psychoanalytica examina et investigationes." Since this legislation is of the type which circumscribes the free exercise of rights, it must be interpreted according to that restricted meaning of psychoanalysis, whatever it may be.

It would perhaps be impossible to formulate an essential definition of psychoanalysis as that term is understood within the profession itself. But even the descriptive definition offered by psychologists themselves is of considerable help in determining the minimum required to verify the notion of psychoanalysis as that procedure is distinguished from other psychological and psychiatric techniques. Hinsie and Campbell describe it as a form of psychiatric treatment for "investigating mental processes by means of free association, dream interpretation, and interpretation of resistance and transference manifestations."¹² Fr. Carpentier expresses much the same understanding of the process when he speaks of "that method of psychic cure, introduced by Freud its author, which in more or less modified, corrected, supplemented and perfected form proceeds by means of analysis, strictly so called, of the unconscious. For this analysis the patient, aided, accompanied, and more or less guided by the psychoanalyst whom he consults, reveals his dreams and instinctive acts and unburdens himself of his free associations." It is also characteristic of strict psychoanalytical treatment that it must, in order to be effective, be protracted over a relatively long period of time. Two sessions per week over a span of two years would not be an overestimate of the length of average treatment.

The notion of psychoanalysis, as contained in these circumlocutions, may remain quite vague in comparison with the type of definition with which philosophers and theologians are more familiar. Nevertheless, the concept emerges with sufficient distinctness to enable one to segregate the

¹² L. E. Hinsie, M.D., and R. J. Campbell, M.D., *Psychiatric Dictionary* (New York: Oxford Univ. Press, 1960) p. 590.

strict psychoanalytical process from certain other forms of psychotherapy which do not technically qualify as psychoanalytical and which are perhaps more commonly employed by psychiatrists: shock treatments, tranquilizing drugs, client-centered counseling, environmental manipulation, inspirational group therapy, occupational therapy, etc. And however much better a professional psychologist might define or describe psychoanalysis, it must be kept in mind that it is only to this restricted notion, and not to other forms of psychotherapy, that the several mandates of the *Monitum* are applicable. Permission from one's ordinary, for example, is not by virtue of this document required before a priest or religious may submit to mental therapy other than strict psychoanalysis. Nor are seminary officials and religious superiors prevented from making use of those psychological tests whereby, more and more commonly in recent years, the aptitude of candidates for the priesthood and religious life is partially evaluated. First of all, these tests are not of a strictly psychoanalytical kind. And even if they were, it is not recourse to the tests themselves which in this instance is forbidden by the *Monitum*, but rather endorsement of the speculative thesis that psychoanalysis is an essential requisite in every case for determining the suitability of aspirants to a life of perfect chastity.

It is interesting to note in this regard an Instruction issued by the Congregation of Religious¹³ a few months previous to this pronouncement of the Holy Office. Addressed to the superiors of religious communities, societies without vows, and secular institutes, this earlier document treats of the selection and training of candidates for the states of perfection and sacred orders. One section, entitled "Modus agendi cum psychopathicis," refers first to several classes of candidates whose psychological fitness for this calling should be suspect. Superiors are then instructed to "pay careful attention to all these types, and to subject them to examination by a prudent Catholic psychiatrist who, after repeated tests, will inform them whether they are capable of sustaining the burdens of religious and priests, especially that of celibacy, with honor to their state in life." Since all psychiatrists today borrow to some extent from psychoanalytical theories and techniques, and since it would be extremely temerarious to assume that one Roman congregation would contradict another, this mandate from the Congregation of Religious would surely seem to confirm a most strict interpretation of psychoanalysis as that term is employed by the Holy Office. It would be a serious mistake, in other words, to predicate of psychology and psychiatry in general what the *Monitum* states only of that unique and specific tech-

¹³ *Instructio de candidatis ad statum perfectionis et ad sacros ordines sedulo deligendis et instituendis*, Feb. 2, 1961 (Rome: Vatican Polyglot Press, 1961).

nique acknowledged within the profession as psychoanalysis in its technical sense.

ANOVLANT DRUGS

Since theological discussion of the anovulant drugs began some four or more years ago, moralists have never been less than unanimous in their assertion that natural law cannot countenance the use of these progestational steroids for the purpose of contraception as that term is properly understood in the light of papal teaching. With equal conviction theologians have commonly taught that, when these same drugs are medically indicated as necessary for the cure or control of serious organic dysfunction, they may licitly be taken even though temporary sterility may result indirectly as an unavoidable concomitant of the therapy. Both conclusions were explicitly confirmed by Pius XII in his September 12, 1958, address to a congress of hematologists.¹⁴

These two facets of the anovulants represent the most basic and most simple moral problems posed by "the pills." Further discussion of these phases of the question would be superfluous if it were not for the disturbing fact that even these elementary conclusions are in danger of becoming obscured at the popular level by certain ambiguous statements which have been appearing periodically in the secular press. Typical of these theologically misleading lucubrations is an attempt by John Rock, M.D.,¹⁵ to resolve the doctrinal differences which characterize Catholic and non-Catholic thinking on the matter of contraception.

Dr. Rock's article treats, first, the question of public policy as regards legal sanctions on the practice of contraception, and, second, the matter of diverse doctrines on the morality of contraception as enunciated by Catholic and non-Catholic spokesmen respectively. Little fault can be found with the doctor's sentiments on the first item. In reference to the second, however, he betrays himself as woefully deficient theologically. For after insisting quite correctly that Catholic teaching does not necessarily forbid the avoidance of pregnancy or the spacing of births by the natural method of continence, either total or periodic, Dr. Rock attempts to establish that direct suppression of ovulation is likewise a natural, and therefore licit, method of birth control:

It is my confident hope that the medication [the oral contraceptive pill] will

¹⁴ *AAS* 50 (1958) 735.

¹⁵ "We Can End the Battle over Birth Control!" *Good Housekeeping*, July, 1961, pp. 44-45, 107-10. A condensed version of this article appeared in *Reader's Digest*, Sept., 1961, pp. 103-7.

prove acceptable to my church, since it merely gives to the human intellect the means to suppress ovulation; these means have heretofore come only from the ovary and, during pregnancy, from the placenta. These unthinking organs supply their hormone, progesterone, at those times when nature seeks to protect a fertilized ovum or growing foetus from competition for the woman's resources. The oral contraceptive simply duplicates the action of this natural hormone, when the woman herself feels the necessity for protection of her young—present or prospective. The Catholic moralists who have so far expressed themselves publicly, however, do not share my views.

Dr. Rock omits mention of the fact that Pius XII had likewise expressed himself publicly in repudiation of any such views. Neither ignorance of that authoritative papal statement nor conscious failure to cite it in context is excusable in one who undertakes to speculate publicly on the Catholic position regarding anovulants.

As for Dr. Rock's argument from reason in favor of the "naturalness" of physiologic fertility control, the fallacy is evident. The fact that nature on the occasion of pregnancy provides a concomitant anovulatory period does not warrant the conclusion that one may on other occasions choose to induce that same phenomenon by artificial means. This is precisely what is denied in our teaching on direct sterilization. As any doctor will readily agree, death from natural causes is also of very common occurrence. But that biological fact does not justify one's anticipating nature in this regard by deliberately terminating his own or another's life, even by means which duplicate nature's lethal processes.

It was of this essay of Dr. Rock's that Rev. John A. O'Brien of Notre Dame University wrote in a letter to the editor of *Good Housekeeping*: "I cannot commend too highly the superb article by Dr. Rock on the removal of birth control as a political issue, dividing our citizens and fomenting hatred and strife. . . ."¹⁶ Presumably, Fr. O'Brien did not intend that his encomium should apply to the doctor's defense of the oral contraceptives as perhaps morally permissible. But one wonders if the Planned Parenthood Federation will credit that distinction if and when it chooses to cite Fr. O'Brien as an authority on the subject.

On the sole evidence of his *Good Housekeeping* article, Dr. Rock's position on the matter of contraception could legitimately be interpreted as being, at worst, that of an earnest but inadequately informed Catholic whose ultraspect for the contrary conscience convictions of many a non-Catholic might in good faith tend on occasion to jump the bounds of reasonable tolerance into the forbidden area of illicit co-operation in the material sins

¹⁶ *Good Housekeeping*, Sept., 1961, p. 20.

of others. It would be exceedingly difficult to pass so kindly a judgment on another item of his authorship, which appeared concurrently in a national medical journal.¹⁷ There, editorializing on the threat of a population explosion, Dr. Rock discounts as mere pious hope any expectation that periodic continence will suffice to stem the overwhelming tide of increasing births. "Only contraceptives," he insists, "easy to use and to obtain—with the will to use them—can possibly hold the population line until the means for sustenance and improvement in the standard of living are provided." Speaking of "the pill," he leaves no doubt as to his approval of it as an unqualified contraceptive:

This newest addition, the oral contraceptive, is but an example of progress. It has, for most women, all the requisites except, for the moment, cheapness. As yet, it is unique in affording a truly natural method of birth control—the one the body uses to prevent conception—so it should meet no cultural, and eventually overcome present limited religious, objection. This method is obviously much more "natural" than wilful intramarital continence at a time in the cycle when Nature plans for an ovum to meet its complement, the spermatozoon.

Thereupon Dr. Rock issues this challenge to the medical profession as a whole:

While the enlightened ones (among whom should be all physicians) try to increase everywhere the knowledge and the availability of current contraceptives, they should strive to invigorate motivation to use them where required. Furthermore, the enlightened must work hard to improve and supplement contraceptive technics, so that one or another means, including periodic continence, is on hand everywhere to meet every requirement: cheapness, harmlessness, ease of use, and acceptability within every variation of mores, habitat, and religion.

Expressed by one who publicly associates himself with Catholicism, this is indeed strange counsel. Stranger still is the philosophy underlying it:

Within human reason, conception is good only if it can be expected, through the essential help of parents and society, to result in a healthy, constructive, adult component of family and group. It follows that conception is bad if parents and society cannot protect, sustain, and train the infant through childhood and adolescence. Exploding populations make this quite impossible today over large parts of the globe. Obviously, to man's God-given reason, man is not intended to beget young merely to have them die of starvation or violent death after a bare, beastly existence. Reason manifests that man's intellect was provided, among other objec-

¹⁷ "Population Growth," *Journal of American Medical Association* 177 (July 8, 1961) 58-60.

tives, to prevent this, but without violating his sexual nature or his marriage [by intramarital continence], through which this is fulfilled. Toward this end, his intellect, I submit, has evolved "the pill."

Some months later Dr. Rock's tactics had allegedly changed to some extent. According to an Associated Press dispatch of January 25, 1962, the doctor assured the annual meeting of the Chicago Area Planned Parenthood Association that "Their [the pills'] use is completely moral," though on the same occasion he reportedly conceded that his position on the matter is at variance with official Catholic teaching:

The church hierarchy opposes use of the pill as immoral, but among communicants there is an increasing willingness to accept it. Close to half a million women are using the pill for contraceptive purposes. And it is hard for me to believe these women are all Protestants.

The purpose of quoting at such length from these various statements of one proponent of physiologic fertility control is to illustrate the sort of specious reasoning, unreasoning emotionalism, half-truths and fallacies to which the faithful are being exposed on this elemental question of the oral contraceptives. To counteract these adverse influences, we have had an abundance of theological literature on the subject over the past four years.¹⁸ But little or nothing of what is written in clerical journals is ever seen in the original by most of the laity, who consequently remain largely dependent upon priests in the ministry to provide definitive answers to their doubts in this matter. And if there is one decisive answer which can and must be given relative to the anovulant drugs, it is an unqualified negative to the question as to whether they may licitly be used as a means to prevent conception's resulting from conjugal intercourse.

This fundamental phase of the ethical problem presented by the infertile pills is theologically a closed issue. Both by virtue of the principle which governs the morality of direct sterilization and by reason of the authoritative statement of Pius XII on the more specific matter of the

¹⁸ For example, cf. W. Gibbons, S.J., and T. Burch, *American Ecclesiastical Review* 138 (1958) 246-77; L. Janssens, *Ephemerides theologicae Lovanienses* 34 (1958) 357-60; J. Connery, S.J., *THEOLOGICAL STUDIES* 19 (1958) 549-51; J. Lynch, S.J., *Linacre Quarterly* 25 (1958) 93-99, and *Proceedings*, Thirteenth Annual Convention of CTSA (1958) pp. 127-35; F. Furlong, S.J., *Periodica* 47 (1958) 294-99; D. O'Callaghan, *Irish Theological Quarterly* 27 (1960) 1-15; J. Farragher, S.J., *THEOLOGICAL STUDIES* 21 (1960) 599-603, and *ibid.* 22 (1961) 626-32; J. Madden, *Australasian Catholic Record* 38 (1961) 140-46; M. Thieffry, S.J., *Nouvelle revue théologique* 83 (1961) 135-58; N. Crotty, C.P., *Australasian Catholic Record* 38 (1961) 102-13; J. Fuchs, S.J., *Periodica* 50 (1961) 31-38. Cf. also *infra* nn. 19-21.

anovulants, only one conclusion, viz., a denial of licitness, can emerge from any orthodox discussion of the drugs in so far as their use results in sterility by direct intent. In the most recent literature this is effectively demonstrated again by T. J. Connolly,¹⁹ G. Healy, S.J.,²⁰ and P. M. Loftus.²¹

Unhappily, however, we are still left with several peripheral problems which arise from the fact that, apart and distinct from their contraceptive potential, the drugs in question can also produce certain desirable effects which are legitimate objects of direct intention.²² The doubt which then is invariably raised is the familiar query as to the applicability of the principle of double effect to a situation in which sterility, either temporary or continual, is ostensibly of the indirect variety. In some instances a solution can readily and confidently be provided, because both the medical facts of the case and the application of relevant principle are clearly evident. We have medical assurance, for example, that the progestational steroids are effective as remedies for certain serious anomalies of menstruation, and moralists from the beginning—even before the opinion was confirmed by Pius XII—did not hesitate to concede that use of the drugs in these circumstances would not be wrong, provided only that the postulates of the principle of double effect could be satisfied.

But certain other cases depend for satisfactory moral solution upon accurate knowledge of facts which are not yet entirely evident. In this latter area moralists can give only conditional answers, sometimes with the uncomfortable suspicion that they may not be dealing with practical reality but with mere hypotheses which may forever remain conjectural or which may even be disproven.

Currently one of the most common of such questions relates to the licitness of using the pills in an attempt to regularize the ovulatory cycle in women whose ovulation periods are so irregular, and consequently so unpredictable, as to make the practice of rhythm unreliable as a means of avoiding pregnancy. On this point there is sharp difference of opinion among

¹⁹ "Further Observations on the Use of Fertility Drugs," *Australasian Catholic Record* 38 (July, 1961) 179-94.

²⁰ "Anovulant Pills," *Philippine Studies* 9 (July, 1961) 495-504.

²¹ "Theological Aspects of the Contraceptive Pill," *Catholic Medical Quarterly* 14 (Oct., 1961) 97-103.

²² For the information of anyone in search of fundamental physiological data essential to a proper understanding of the various moral problems related to the use of the progestational steroids, fifty cents will buy a copy of J. Devaney and P. Reaves, *The Truth about the New Birth Control Pills* (New York: Popular Library, 1961). Written in popular style, this paperback is nonetheless a substantially reliable source of facts relevant to the multiple effects of the infertility pills.

theologians, although of those who have discussed the matter the majority would seem inclined to judge the procedure as permissible. It is of major importance, however, to understand the assumptions upon which they base their favorable solution and to realize that, if one or more of these assumptions should be proven incorrect, the proponents of this opinion would be forced to change their position.

First they assume that it is the normal and natural thing for women in general to enjoy a more or less regular and predictable ovulatory cycle. Consequently, any considerable departure from normalcy in this regard, i.e., any irregularity in ovulation so pronounced as to make the effective practice of rhythm impossible, is equivalent to a pathological condition which one has a right to correct by legitimate means. They further assume that what is envisioned as the ultimate result of treatment is a regular monthly cycle of both ovulation and menstruation. They do not mean to condone any procedure which would regularize only the successive periods of menstrual bleeding while repeatedly and indefinitely suppressing all ovulation. And finally they assume, on the authority of certain doctors who have proposed the treatment as medically feasible, that the regularity of ovulation eventually to be achieved is not due causally to the temporary period of sterility which also occurs in the patient, but is rather the immediate effect of the restoration of proper hormonal balance which the medication achieves. Temporary sterility, in other words, is not the directly intended means whereby regularity of ovulation is accomplished, but rather an indirect by-product of therapy whose direct result is regularization of the ovulatory cycle.

On the strength of these suppositions, the question of regularizing the cycle is properly understood to mean that for some few months (three or four would appear to be the approximate number which doctors have in mind) the steroids are ingested according to prescribed dosage for twenty consecutive days beginning on the fifth day following the onset of menstruation. They are then withdrawn temporarily in order to allow the next menstruation to occur, are again resumed on day five for another twenty consecutive days, and so on for the allotted span of several months. During this entire period no ovulation will have taken place, nor will it ever take place as long as the pills are continued according to the twenty-day-per-month regimen. (Menstruation will have occurred with calendar regularity, but this is by no means the regularization of the cycle which moralists have in mind when they discuss the matter.) But once the medication is totally withdrawn after the several months' treatment, there will thereupon follow—in the expectation of those doctors who express faith in the theory—a

regular and predictable cycle of ovulation. It is not for theologians to pass judgment on the medical theory itself. But it is only on the understanding that this is substantially what is meant by regularizing the cycle that some moralists have tentatively committed themselves to a defense of the procedure. That their opinion is presently both intrinsically and extrinsically probable would appear to be beyond reasonable doubt.

Although L. L. McReavy²² seemingly prefers the negative answer to this question of regularizing the ovulatory cycle, he does not deny probability to the affirmative opinion. Fr. McReavy's doubt in the matter is a doubt of fact which he shares in common with others who challenge the assumption that irregularity of ovulation can be properly designated a pathological condition. In the strict medical sense of the term, of course, it cannot be so considered, since it is not necessarily a threat to physical health. But in so far as it may be a notable departure from what should be the normal physiological rule in women—though even this contention is not established beyond all doubt—irregular ovulation may qualify as an abnormality which one is entitled to correct if licit means are available. As Fr. McReavy notes, Pius XII²⁴ was quite tolerant of certain forms of cosmetic surgery performed not in order to remedy a strictly pathological condition but merely for the sake of correcting a defect in physical appearance. It would seem altogether reasonable to concede that normalcy of physical function, no less than normalcy of physical appearance, should be included within the notion of the *bonum totius* as that concept is employed in the principle of totality.²⁵

Over the years another vexatious scholion has attached itself to the basic thesis enunciated of the oral contraceptives. This problem looks to the *post partum* period of lactation in women and presupposes that for some months after childbirth ovulation is naturally suspended in the generality of mothers who nurse their babies. In the event, however, that nature should fail—as at least sometimes it does—to provide this period of natural sterility, can justification be found for using the pills in order to insure oneself against the “accident” of ovulation which, through nature's oversight as it were, might otherwise occur?

Some few writers have expressed themselves as favoring the view that

²² “Use of Steroid Drugs to Regularize Menstrual Cycles,” *Clergy Review* 46 (Dec., 1961) 746-50.

²⁴ *AAS* 50 (1958) 957.

²⁵ Since it is assumed in what has preceded that suppression of ovulation is not the means of regulating the ovulatory cycle and consequently need not be directly intended, the statement to which this note is appended does not contradict what I shall say about the suppression of ovulation during the lactation period. Cf. *infra* n. 27 and corresponding text.

suppression of ovulation in these circumstances would be permissible, and they reach this conclusion via the premise that to suspend this excessive ovulation is but to correct a defect of nature and is therefore not a direct sterilization in the acceptable sense of that term. In other words, these authors—at least by implication—would understand direct sterilization as the direct suppression of *normal* generative function. But, they would then reason, since ovulation during the lactation period is not a normal generative function, its calculated suspension by artificial means does not contravene the natural-law prohibition against direct sterilization.

Both the major and the minor premise of this syllogism are open to challenge, and the burden of proof would appear to rest on those who choose to defend them. Is it established, for instance, as a rule of nature that women should not ovulate during the lactation period? And if so, for what minimum length of time should maternal physiology prevent *post partum* ovulation? Fr. Connolly²⁶ concentrates his attention on this factual phase of the question and concludes that medical evidence at the moment does not warrant the assertion that ovulation even in the early lactation period is truly an anomaly of nature. Consequently, he denies intrinsic probability to the opinion which, on the basis of so dubious an allegation, would allow direct artificial suppression of ovulation during any part of the nursing period.

Even if it could be proven, however, that the ovulatory process in women should normally not resume until lactation has terminated, there would still be a major difficulty to overcome in the attempt to justify the artificial suppression of ovulation in those women whom nature may have failed in this respect. It is altogether clear that the use of anovulants in these circumstances would represent a direct temporary suppression of generative potential, for the only conceivable purpose of the medication in this case would be to prevent ovulation and conception. Moralists have always equated to direct sterilization any such procedure as this, and they have never in principle explicitly restricted the prohibition against direct sterilization to calculated suppression of *normal* generative function. May and should that principle be so refined, or would the revision deviate from papal teaching on the subject? With all respect to those who may see the problem in a different light, it seems to me that we would find ourselves in an untenable theological position if we endorsed the emendation.²⁷ Thus, for example,

²⁶ *Art. cit.* (cf. supra n. 19).

²⁷ Precisely because suppression of ovulation is in this instance directly intended, one may with consistency question the morality of this procedure even while tentatively conceding the probable licitness of regulating the ovulatory cycle with the aid of anovulants. Cf. supra n. 25 and corresponding text.

on the perhaps medically absurd supposition that a married woman would continue to ovulate regularly and to bear children up to her sixtieth year (unquestionably an anomaly of nature), would our principles relative to sterilization allow her to submit for that reason to a direct suppression of ovarian function? And if someone should allege theological justification for an affirmative answer to that question, what minimum age in women would he then propose as the ultimate limit beyond which the prohibition against direct sterilization need no longer apply? Such an example could be multiplied repeatedly, but the one would seem sufficient to illustrate the treacherous sort of corollary which might logically be drawn if we were to restrict the concept of direct sterilization to the suppression of only so-called normal generative function.

While theologians and priests in general should profit considerably from any legitimate speculations and disagreements regarding the morality of certain subsidiary uses of the anovulant drugs, a great deal of caution is required at the pastoral level. In popular estimation the pills are now regarded, primarily if not exclusively, as an effective means of avoiding pregnancy without necessary recourse to even periodic continence. We must make altogether clear that their use for this directly contraceptive purpose is contrary to moral law. Only when it is evident that some genuine malady requires the remedial effects of the drugs in question can we begin to think and speak in terms of an indirect suppression of generative function which may be allowed for sufficiently serious reason.

BUSINESS ETHICS

Those who attended the June, 1961, convention of the Catholic Theological Society of America will not have forgotten the excellent panel discussion on business ethics conducted by Daniel L. Lowery, C.S.S.R., and Arthur Hull Hayes, president of CBS Radio. The formal remarks of both panelists on that afternoon are now available in the *Proceedings*²⁸ of the convention and should be of vital interest not only to professional moralists and specialists in business administration but also to priests in general and to all who have had occasion in the past to lament the failure of theologians to keep pace with the multiplicity of ethical problems which modern business methods have spawned.

Neither panelist at the meeting professed competence to provide total solutions for the myriad questions raised. Each was intent rather on illustrating the vast number and diversity of moral situations which the business-

²⁸ "Moral Problems in Business Practice," *Proceedings*, Sixteenth Annual Convention of CTSA (June 19-22, 1961) pp. 117-46.

man encounters endlessly in his daily professional routine. Both assured their audience that the business world is not only in desperate need of help from theologians, but that many in the field would sincerely welcome a realistic consideration of their problems in the light of our moral principles.

Mr. Hayes's brief sampling of specific cases provides material sufficient for numberless *casus conscientiae*, not all of them by any means unfamiliar to theologians. Those he chooses to mention owe their existence to such institutions as the expense account, income taxation and tax deductions, business entertainment, racial discrimination, advertising, etc. As would be expected from a man in his position, Mr. Hayes's very substantial contribution to the discussion consists in his authoritative delineation of concrete situations in the business world to which our moral principles are to be applied.

Fr. Lowery's more lengthy comments are grouped under three generic headings: (1) general observations on (a) the moral status of American business, (b) the caliber of personal ethics among Americans generally, (c) the popular concept of corporative morality, and (d) the consequent role of the moral theologian vis-à-vis this existentialistic state of affairs; (2) a moral consideration of such particular problems as those proposed by Mr. Hayes; and (3) practical suggestions for providing more extensive and more accurate moral appraisal of business practices. As a point of departure for intelligent discussion, for amicable exchange of information and opinions, and ultimately perhaps for the formulation and acceptance of a workable code of sound business ethics, there can be no doubt that Fr. Lowery's reflections represent a sure stride in the right direction. If they fail to achieve their stated purpose, viz., "to stimulate the interest of competent theologians," the fault will certainly not be his.

Several observations made by Fr. Lowery deserve emphasis and invite additional comment. First of all, it is an uncontestable fact that relatively little up to now has been done by moral theologians in the specific name of business ethics, and for that deficiency perhaps an apology is due the business world. On the other hand, it should not be forgotten that many of the "problems" which might be submitted as characteristic of the modern market place are reductively as old as the Decalogue itself, and that for an answer these require only a thoughtful reference to that definitive norm. When padding the expense account, for example, is clearly the equivalent of stealing, is some new code necessary to declare it unlawful? If the entertainment of clients entails providing them with the proximate occasion of sin, should not conscience itself suffice to perceive the practice as illicit? True it is that the very prevalence of certain unethical business practices

makes it more than ordinarily difficult for the conscientious businessman to hew to the moral line. But this does not alter the fact that in a good many instances that line is already clearly and indelibly marked for every man, whether he be denizen of the business world or contemplative monk. Sometimes when this type of problem is submitted for moral appraisal, there is reason to believe that what the consulting party really wants explained is how to succeed in business while avoiding implication in practices which conscience has already instinctively and correctly judged to be patently wrong. Counsel of this sort does not seem to be the proper function of the moral theologian.

However, it must be admitted that the morality of many a business practice is not so easily discerned or so unequivocally declared. In this more complicated area it must not be forgotten that fallible human judgment often plays an important role in formulating moral decisions, and that legitimate differences of opinion among theologians are neither a rarity nor an anomaly. Furthermore, because certain of the problems peculiar to the businessman are morally ambiguous as presented, they are answerable only with multiple qualifications and distinctions. This is especially true of cases involving scandal and material co-operation with the sins of others. Unless one can recognize why sometimes in moral theology the only correct answer must be an uncertain or highly qualified solution, he will be expecting too much of even the most expert of moralists.

It will also sometimes happen that a particular practice will be correctly judged as licit in itself but dangerous because open to serious abuse. One relevant example which comes easily to mind is that of a salesman's giving gratuities to purchasing agents with no intent to bribe them into dishonest decisions but merely to insure equal consideration for himself and his product when the predictable gifts of his competitors are received. As innocent as in single instance may be both the gift and its motivation, the possible evil consequences of the practice are immediately evident. It is the responsibility of the business profession itself, and not that of moralists, to agree upon whatever effective controls may be necessary in the practical order to avoid the obvious dangers attendant upon customs of this kind.

On the supposition that representative businessmen were to convene with representative moral theologians in a serious attempt to construct a code of business ethics, at least one ghost would haunt the conference table. Whether he be judged pessimistic or merely realistic for insinuating it, Fr. Lowery also senses the presence of that specter:

Unless there is some agreement on at least the most fundamental and minimal requirements of morality, it is difficult to see how any codes of business ethics can

amount to anything more than rules of good sportsmanship. Good sportsmanship doesn't seem to stand well the strains imposed on it in times of crisis or severe pressure. Without some consensus on principle, the discussions of businessmen will inevitably end up on shifting sands. In his excellent article in *Social Order*, Monsignor George Higgins draws attention to the *Patterns of Economic Justice, a Catholic, Jewish and Protestant Declaration*, eight general principles agreed upon in 1946 by representatives of the three faiths as being fundamental moral bases of economic life. Monsignor Higgins is convinced that there is at present "widespread agreement" among Catholic, Protestant and Jewish students of social ethics on these principles. I sincerely hope Monsignor Higgins is right.

Here lies the most formidable obstacle to general acceptance and observance of any worth-while ethical code of business practice. Unless universal agreement can be reached on an objectively sound norm of morality, and unless the elemental notion of moral responsibility becomes universally acknowledged, on what common principles can such a code be constructed? We have never yet been conspicuously successful in our attempts to propagate among the morally skeptical our doctrine on natural law. One prime example of failure in that direction are the very codes of medical ethics so often invoked as an example of what theologians have done for one profession while neglecting the businessman's moral problems. Our medico-moral directives have been accepted and observed in their totality only in institutions under Catholic auspices, but elsewhere have had little or no influence in the determination of hospital policies. Fortunately, because our Catholic hospitals are able to function effectively as independent units, professionally unaffected by the divergent moral standards of their non-Catholic counterparts, a most detailed ethical code for Catholic institutions serves our purpose adequately well. But the business world offers few such islands of isolation where Catholics can function entirely undisturbed by the moral blind spots of many of their colleagues who remain uncommitted to our ethical system. Even if there can be devised a workable code of business ethics agreeable to all men of good will, Catholic businessmen must face the prospect of its being for themselves less than an adequate answer to the totality of professional problems to which their consciences should be sensitive.

But whether ultimate appeal is made to common decency, professional integrity, a sense of social responsibility, or the brotherhood of man, the essential first step toward the formulation of an ethics for businessmen would seem to be the proposal and universal acceptance of a basic norm of business morality which will dictate and properly sustain the specific imperatives of a practical code. Without such a point of reference individual

directives will for many be meaningful only if and while their observance remains personally advantageous.

How well disposed are businessmen themselves to accept an ethical code governing their professional conduct? This question was one of many answered by some seventeen hundred business executives in response to a questionnaire submitted to them by R. C. Baumhart, S.J.²⁹ Ninety per cent of the respondents expressed themselves as most favorable to the suggestion, though a considerable number of these were skeptical as to the practical effectiveness of such a measure. Enforcement they see as the major problem, and more than half predicted that "people would violate the code whenever they thought they could avoid detection." It is also significant that in the opinion of most of these business leaders a man's personal code of behavior is the factor most likely to influence him in the formulation of ethical decisions, whereas poor example on the part of his superiors is his strongest inducement to ethical compromise.

Fr. Baumhart himself is inclined to be moderately optimistic about the feasibility of a business code, and imputes the failure of past efforts of this kind (e.g., the Code of Moral and Ethical Standards adopted in 1958 by the National Association of Manufacturers) to the fact that they "have no enforcement provisions and are filled with generalities and platitudes that signify little but good will." Similarly, he indicts the "Standards of Practice" of the American Association of Advertising Agencies for "the absence of specific, detailed statements of what industry members regard as unethical, and the teeth to put these statements into action." By way of contrast Fr. Baumhart cites as an example of more effective approach the Ethical Standards of Psychologists professed by the American Psychological Association:

The APA used an empirical approach, gathering data about the ethical problems confronting psychologists. Members of the APA were asked to "describe a situation they knew of firsthand, in which a psychologist made a decision having ethical implications, and to indicate what the correspondents perceived as being the ethical issues involved."

These reports were examined to discover patterns in the problems and thereby to provide a plan for organizing the information supplied. After the reports were categorized into six ethical areas, they were analyzed to obtain a number of specific problems in each area. Following this analysis, six committees were appointed, each concentrating on the specific ethical problems of a single area. After much discussion and thoughtful study, these committees hammered out the *Ethical*

²⁹ "How Ethical Are Businessmen?" *Harvard Business Review* 39 (July-Aug., 1961) 6-19, 156-76.

Standards of Psychologists. With adaptation to its own circumstances, any industry could produce its own code in the same way. The issue is not whether it can be done, but whether top management wants it done.

It would be highly interesting to discover how the proposed code of business ethics would deal with the eight categories of extant unethical practices which the various respondents to Fr. Baumhart's questionnaire specified as "The one practice I would most like to see eliminated." They are here listed in descending order of the frequency with which they were singled out by the executives responding: (1) gifts, gratuities, bribes, and "call girls"; (2) price discrimination, unfair pricing; (3) dishonest advertising; (4) miscellaneous unfair competitive practices; (5) cheating customers, unfair credit practices, overselling; (6) price collusion by competitors; (7) dishonesty in making or keeping a contract; (8) unfairness to employees, prejudice in hiring. As mischievous as this question of my own may appear to be, it is also irresistible: How many of the above practices, as specified by businessmen themselves, require the further diagnostic services of moral theologians?

But lest it be thought that this moralist is an incorrigible defeatist or a confirmed cynic in his attitude toward the broad question of morality in the business world, appreciative applause should here be accorded several constructive proposals made by R. W. Austin in his forthright discussion, "Code of Conduct for Executives."³⁰ Mr. Austin's thinking on the subject goes far deeper than any casuistry of "call girls," bribery, contractual injustice, or other patent forms of moral chicanery. In fact, it might be said that, aside from the illustrative examples with which he salts his observations, his total first concern is most laudably with ethical fundamentals rather than with ultimate solutions to specific cases.

Mr. Austin reveals himself quite impatient of any code comprising merely a litany of thou-shalt-not regulations imposed *ab extrinseco* and sanctioned with even the most condign of penalties. Rather does he postulate "internal incentive" to ethical conduct on the part of individual business executives, all of whom he would like to see personally committed in principle to the fulfilment of affirmative obligations rather than policed into the observance of negative precepts. To this end he challenges businessmen to assume not only the title but also the basic responsibilities of professionalism, in the meliorative sense of that term. These responsibilities, characteristic of any genuine profession, Mr. Austin enumerates as three:

1. The requirement that a member of the profession demonstrate an acceptable

³⁰ *Ibid.* (Sept.-Oct., 1961) pp. 53-61.

standard of excellence within a recognized body of knowledge. (An ancillary requirement is the affirmative duty to attempt to expand that body of knowledge and pass it on to others succeeding him.)

2. A code of conduct, produced by the profession and *not* imposed on it by others, which each member affirms or professes that he will follow. (The standard should be affirmative—"Thou shalt" in character rather than "Thou shalt not.")

3. Recognition and assertion of the fact that each member of that profession will place the interests of society before his own personal interest.

On the basis of this commitment to a professional attitude, Mr. Austin thereupon suggests as a "simple, easy to understand, and convincing" code for business executives the following norms:

1. The professional business manager affirms that he will place the interest of the business for which he works before his own private interests.

2. The professional business manager affirms that he will place his duty to society above his duty to his company and above his private interest.

3. The professional business manager affirms that he has a duty to reveal the facts in any situation where (a) his private interests are involved with those of his company or (b) where the interests of his company are involved with those of the society in which it operates.

4. The professional business manager affirms that when business managers follow this code of conduct, the profit motive is the best incentive for the development of a sound, expanding, and dynamic economy.

Only a Pollyanna would profess to see in so simple—and not totally unambiguous—a formulation of ethical commitments anything more than the germ of a complete code of business ethics. But it is this sort of approach to the problem, viz., from acceptable principle to valid conclusion, that businessmen must adopt if they are to expect any truly novel and effective contribution from theologians.

CONJUGAL CHASTITY

There have long existed two legitimate schools of theological thought on the question of *amplexus reservatus*, that form of marital intercourse which is designedly terminated before it becomes *actus completus* and while there is still no proximate danger of orgasm for either partner. The more rigorous opinion maintains that the sexual act so described is intrinsically wrong in the absolute sense, though relatively few of the proponents of this doctrine are inclined to consider as objectively grave the alleged unchastity entailed. More common and solidly probable teaching on the matter declares that the act in itself is licit for husband and wife, but in the concrete is fraught with moral dangers for many of those couples who might indulge in the

practice. Only with the proviso that these dangers in single instances can be avoided do proponents of this less severe opinion concede that this form of intercourse can be countenanced as morally unobjectionable.

This question received considerable attention some ten years ago when the Holy Office issued a *Monitum*³¹ which declared in part that "priests in exercising the care of souls and the direction of consciences should never, either spontaneously or upon being asked, presume to speak as though there were no objection to the *amplexus reservatus* from the standpoint of Christian morals." By far the majority of subsequent commentators—including two consultors of the Holy Office³²—were convinced that the document prescinded from and did not profess to resolve the doctrinal dispute summarized above. Rather, in their opinion, it was directed against a small third contingent of writers and priests in the ministry who were at the time recommending *amplexus reservatus* without qualification and with such lack of discretion as to merit reprimand from the Holy See.³³ This interpretation of the document still stands as canonically legitimate, and as a consequence it is even to this day solidly probable and more commonly taught that, *servatis cunctis servandis*, it is possible for some married people to indulge in *amplexus reservatus* without sin on their part.

In a more recent review of the theological history of this question, A. Boschi, S.J.,³⁴ comes to the same conclusion after a most honest and accurate presentation of both viewpoints. He also notes, as do all who in prudence defend the milder teaching, some of the dangers which must be eliminated before *amplexus reservatus* can be declared tolerably licit. Chief among them is the great difficulty which many would experience in the attempt, after strong sexual stimulation, to refrain from complete venereal satisfaction in an act other than *copula perfecta*. Then, too, habitual recourse to the practice

³¹ AAS 44 (1952) 546; cf. *Canon Law Digest* 3, 435.

³² F. Hürth, S.J., *Periodica* 41 (1952) 251-69; M. Castellano, O.P., *Ephemerides iuris canonici* 8 (1952) 341-45.

³³ Fr. Castellano (cf. supra n. 32) makes this point most explicit in his commentary on the *Monitum*, as noted by G. Kelly, S.J., and J. C. Ford, S.J. (*THEOLOGICAL STUDIES* 15 [1954] 101-2). In the words of these latter: "He [Fr. Castellano] enumerates three opinions. The first holds that the *amplexus reservatus* is 'simpliciter licitus, castus, omnibus commendabilis.' The second holds that it is not evil *ratione objecti* but only *ratione finis vel adiunctorum*, which make it or can make it illicit. The third holds that it is evil in itself, either gravely or venially. [As Fr. Castellano observes] 'The second and third opinions are not touched by the *Monitum*; the Holy Office intended to reprove only the first—so at least it seems to me—and to put an end to the dangerous habit of certain writers and confessors of praising and advising the use of the *amplexus reservatus* as permissible and commendable.'"

³⁴ "Amplexus reservatus," *Perfice munus* 36 (July, 1961) 392-98.

could easily lead to its eventual abandonment in favor of outright onanism. And not least among the perils to be avoided is the development of the hedonistic attitude which would make a fetish out of the purely sensual phase of marriage to the detriment or utter exclusion of the spiritual.

In contrast to Fr. Boschi's treatment, D. Squillaci's discussion of the same topic falls considerably short of total theological truth.³⁵ After quoting the *Monitum* in its entirety, the Monsignor cites, apparently with approval, this comment of Fr. Hürth:

There remains to determine what precisely these words mean, in themselves and in the mind of the Holy Office: "From the standpoint of Christian morals there is some objection to be made to *amplexus reservatus*." Certainly the words mean at least this: the aforesaid *amplexus* cannot be termed licit without any distinction or qualification. On the other hand, these words as they read do not necessarily mean: this *amplexus* of its intrinsic nature is contrary to Christian ethics and consequently always illicit.³⁶

Fr. Hürth is also quoted to the effect that "the Holy Office did not wish to condemn all *amplexus reservatus*, but only that which is vitiated because of certain evil circumstances." Msgr. Squillaci immediately thereupon concludes that it is consequently evident that "*amplexus reservatus*, indulged in with the intention of suppressing semination, experiencing venereal pleasure, although incomplete, and preventing conception is gravely illicit, even though it be done, as is said, to foster mutual love, because in this act the primary end of matrimony is excluded from the beginning." In ostensible confirmation of this assertion the Monsignor quotes that sentence of *Casti connubii* which climaxes Pius XI's condemnation of contraception; and he explicitly denies that *amplexus* can be classified as one of those incomplete venereal acts which *servatis servandis* are licit for married people. The only circumstances which, in Msgr. Squillaci's opinion, could justify this sort of incomplete intercourse would be those in which failure to complete the conjugal act would be unintended and accidental. The example he cites is that of a couple who in the attempt to perform a complete act of intercourse find it impossible because of such extrinsic circumstances as poor health, advanced years, or the like.

It is clear that Msgr. Squillaci has chosen to defend the most severe of several views on this matter, and no one may deny him the right to do so. But what is most disturbing about his presentation is the fact that he proposes as altogether certain a doctrine which in truth is but the probable

³⁵ "De sollicitatione ad turpia," *Palestra del clero* 40 (Aug. 1-15, 1961) 903-7.

³⁶ *Art. cit.* (cf. supra n. 32) pp. 256-57.

opinion of a small minority. Throughout his discussion there is no indication, even implied, that contrary opinion exists as eminently admissible. And precisely because of that contrary opinion, a canon lawyer would be forced to deny outright a further conclusion which the Monsignor states categorically, viz., that denunciation for solicitation would be mandatory, in accordance with canon 904, in the event that a confessor should suggest *amplexus reservatus* to a married penitent.³⁷

Those authors who maintain that *amplexus reservatus* is not in se necessarily a species of conjugal unchastity defend their position on the very assumption that the act is performed (1) with the intention of terminating it short of completion and (2) for the purpose of avoiding conception. Neither intention is such as to vitiate the act so performed. If the first purpose were declared illicit, it would be logically impossible to justify any incomplete sexual act between husband and wife except those performed in proximate preparation for complete intercourse. If the second intention were condemned as universally immoral, it would be logically impossible to defend the practice of rhythm as a means of avoiding conception. Sound theology could not sustain either of those conclusions.

In determining the morality of any incomplete venereal act on the part of married people—and by definition *amplexus reservatus* most assuredly qualifies as *actus veneris incompletus*—the principle to be applied may be stated as follows: incomplete conjugal acts, either mutual or solitary, are in the order of chastity licit, provided that they maintain their proper relation both to the complete act of marital intercourse and to one's partner in marriage. Licitness is restricted to the order of chastity in order not to deny the possibility of violating some other virtue by an act which is per se conjugally chaste. Certain incomplete acts, for example, even though licit in themselves, may be so distasteful to one partner that for the other to insist on them could be a violation of charity.

The "proper ordination of incomplete acts to one's partner in marriage" merely emphasizes the monogamous nature of matrimony or the singular personal object of legitimate sexual activity in marriage. Just as the complete sexual act with a partner other than one's spouse is condemned as

³⁷ Whatever may and doubtlessly should be said in question of the prudence and propriety of such advice on the part of a confessor, the canonical truth of the matter is that technical solicitation simply cannot be verified in the sole fact of his tolerating, approving, insinuating, or even recommending a practice which, in the opinion of the majority of theologians, is *ex objecto* sinless. *Mutatis mutandis*, no less serious objection must be entered as regards Msgr. Squillaci's parallel application of canon 904 to a confessor's recommendation of *copula dimidiata* (cf. *infra* n. 38 and corresponding text).

adultery, so also the incomplete act tending towards any object except one's conjugal partner is forbidden. Thus, for example, a married man, because of embraces and kisses with his own wife, might deliberately experience incomplete sexual pleasure. At least as far as this first condition is concerned, such an individual cannot be accused of sin against chastity. Whereas the same man, similarly stimulated by embraces with a woman other than his wife, could scarcely maintain that his incomplete sexual act was properly related to the latter. This relationship of incomplete act to one's partner in marriage is normally verified unless it is positively excluded, either explicitly by one's conscious direction of it towards another object, or implicitly by its natural and undiverted tendency toward such another object.

With due regard for the danger of intemperate self-indulgence, the "proper ordination of the incomplete act to the complete" means nothing more than the absence of proximate danger of complete sexual gratification in an act other than that of *copula perfecta*. So again, the married man who in solitude is consciously stimulated sexually by phantasms of his wife remains within his marital rights until he reaches the point where danger of pollution is proximate. Similarly, incomplete mutual acts between husband and wife are qualified by this same condition, viz., that those acts maintain their proper relation to the complete act or, in other words, that there be no unjustifiable danger for either partner of complete sexual satisfaction apart from *copula perfecta*. It does not mean that the complete act must be consummated on that very occasion. Absence of proximate danger of pollution suffices to fulfil this final condition.

It is in view of these sound speculative principles determining the morality of incomplete sexual acts as performed by married people that so many reputable theologians have concluded—with such qualifications as have already been mentioned—to the *ex objecto* licitness of *amplexus reservatus*. To maintain, as does Msgr. Squillaci, that the act becomes gravely sinful either because it is by choice restricted to the category of the truly incomplete or because it is motivated by the intention to avoid conception, is to ignore the more common teaching of theologians and thus to misrepresent seriously the obligations of married people in this regard.

Regrettably, much the same criticism would have to be expressed of Msgr. Squillaci's thesis on *copula dimidiata*,²⁸ that complete marital act which consists in only partial penetration of the vagina but with total semination within the interior portion of that organ. If motivated by the belief that conception is thereby made impossible, or at least far less likely,

²⁸ *Art. cit.* (cf. *supra* n. 35).

this mode of intercourse becomes, according to the Monsignor's moral assessment, "certainly gravely sinful." He claims confirmation of this teaching in the 1922 private response of the Holy Office to several doubts relative to proper pastoral counseling in respect to this form of conjugal coitus.³⁹

A survey of representative authors who commit themselves on this question would reveal that they are virtually unanimous in holding that *copula dimidiata*, performed solely because of the expectation of thereby lessening the likelihood of conception, does not exceed venial sin. (In fact, Zalba asserts that it would not be even venially sinful if a couple had valid grounds for not desiring a pregnancy.⁴⁰) The reason for denying gravity of matter is the fact that this form of intercourse fulfils all the requisites of *copula perfecta*, viz., vaginal penetration and intravaginal semination. One may suspect that the capital reason for predicating even venial sin of the act is to facilitate interpretation of the response to the second of the three *dubia* mentioned in the preceding paragraph. But it is quite evidently the firm conviction of theologians—and one never disavowed by the Holy Office in the course of forty years—that these answers were not designed to declare seriously sinful the act of *copula dimidiata* even when naively intended as an effective means of escaping pregnancy. Subjective mortal sin, of course, would be committed if the act were performed by husband and wife with the erroneous conviction on the part of either that this form of intercourse is objectively a serious violation of conjugal chastity.

If one analyzes carefully the language used by the Holy Office in reference to both *amplexus reservatus* and *copula dimidiata*, several similarities of approach and phraseology soon become apparent. Both documents treat explicitly not of the intrinsic morality of a particular act but of a pastoral *modus agendi* on the part of confessors and spiritual counselors. Both are worded in such a way as to rebuke some of these latter for a deplorable failure to temper with proper qualifications and restrictions their approval of certain sexual acts which for various extrinsic reasons are at best morally

³⁹ The Holy Office was asked on behalf of all the bishops of Holland: "1. An tolerari possit confessarios sponte sua docere praxim copulae dimidiatae, illamque suadere promiscue omnibus poenitentibus qui timent ne proles numerosior nascatur. 2. An carpendus sit confessarius qui, omnibus remediis ad poenitentem matrimonio abutentem ab hoc malo avertendum frustra tentatis, docet exercere copulam dimidiatam ad peccata mortalia praecavenda. 3. An carpendus est confessarius qui, in circumstantiis sub 2, copulam dimidiatam poenitenti aliunde notam suadet, vel poenitenti interroganti num hic modus licitus sit, respondet simpliciter licere absque ulla restrictione seu explicatione. Resp. Ad 1^{um}, negative; ad 2^{um} et 3^{um}, affirmative" (*Canon Law Digest* 1, 155-56; *ibid.* 3, 428-29).

⁴⁰ *Theologiae moralis summa* 3 (1958 ed.) §1512.

perilous unless extreme caution is observed. But in neither case does the Congregation state, either explicitly or by necessary implication, what it most easily could and doubtlessly would have said if convinced of its truth, viz., that either act is *ex objecto* gravely sinful.

The same tone characterizes in part the more recent communication from the Holy Office to the American bishops on the matter of contraception, with particular emphasis on the use of the occlusive pessary for this purpose.⁴¹ After deploring in general the growing practice of artificial onanism, the Congregation, in terms which transcend all distinction, condemns "as intrinsically evil the application of pessaries (sterilet, diaphragm) by married couples in the exercise of their marital rights." The use of the term "married couples"—especially in context with the sentence to follow in the document—should leave no doubt that the situation envisioned is one in which husband and wife agree to prevent conception by means of an occlusive pessary. It is noteworthy that this mutually agreeable practice is condemned categorically and unequivocally, as it must be, as intrinsically evil. For here the matter is one of formal co-operation in mutual sin.

The subsequent sentence changes both the *status quaestionis* and the *modus loquendi*: "Furthermore, ordinaries shall not permit the faithful to be told or taught that no serious objection may be made according to the principles of Christian law, if a husband co-operates materially only with his wife who uses such a device." The language is now a clear echo of the wording used three years previously by the same Congregation when speaking of *amplexus*—no longer an incisive relegation of the act to an intrinsically evil category, but a sharp reminder that even material co-operation with an onanistic wife is not altogether beyond serious objection. For the situation now visualized is that in which a husband is sincerely opposed to marital relations of an onanistic kind (else he could not correctly be termed only a material co-operator), but for most serious reason co-operates on occasion in conjugal intercourse while doing all within his power to preserve the natural integrity of the act in its mutual totality.

It is highly significant that the husband's act in this second situation is not termed intrinsically evil, as was the mutual act described in the preceding sentence of the document. It is no less significant that the Holy Office in the same second sentence designated the husband's co-operation as "material only," a term never applied by theologians to an act which is *ex objecto* intrinsically wrong. The Congregation restricted itself—as it had previously done with regard to *amplexus*—to the assertion that co-operation

⁴¹ *Canon Law Digest*, Supplement, sub can. 1081.

of this kind would still encounter certain serious objections from the standpoint of moral law. It did not, however, declare or even insinuate that those objections are necessarily unanswerable and insurmountable in every case.

For these reasons A. Boschi, S.J.,⁴² reconsiders a previously expressed opinion of his own and concedes that the Holy Office did not, by virtue of this communication, resolve the long-standing dispute as to whether a husband, for sufficiently grave reason, may licitly have intercourse with his wife if she cannot be dissuaded from using an occlusive pessary. Not only does Fr. Boschi admit that this question is still an open issue, but he also endorses the affirmative opinion, at least to the extent of allowing that a most serious reason (his example is danger of death or its equivalent) would serve to justify the husband's material co-operation. Only a few months before, the same author had strenuously defended the negative view on the doctrinal question and had insisted that the less severe teaching of some recent writers could not be reconciled with the Holy Office communiqué.⁴³ In revising his thoughts on the subject, Fr. Boschi parts company with Msgr. Squillaci, who claims as certain, by reason of the Holy Office pronouncement, that the affirmative opinion can no longer be sustained in any form.⁴⁴

In his compilation of these Notes a decade ago, Fr. Gerald Kelly, S.J., had occasion to comment on several expressions of opinion, current at the time, which favored the licitness of a husband's material co-operation in the circumstances now under discussion. After acknowledging the probability of that conclusion and indicating the intrinsic reasoning which sustains it, Fr. Kelly went on to stress the several reasons why this speculative doctrine must be applied in pastoral practice only with the greatest circumspection:

The husband's co-operation, though not formal in the circumstances outlined above, is certainly a most intimate kind of material co-operation. Moreover the dangers of misunderstanding and abuse are very great. The distinction between a condom and a diaphragm is so subtle that even some very good theologians do not recognize it; it might be utterly unintelligible to the untrained lay mind. For the layman a mechanical device is apt to be a mechanical device, and he might well wonder why a wife is permitted (at most) only a negative co-operation when her husband uses the instrument, whereas he is permitted to co-operate positively when she uses a diaphragm. Finally, besides the danger of abuse by the

⁴² "Brevi note sul decreto del S. Ufficio circa la 'Cooperatio viri in casu pessarii occlusivi ex parte uxoris,'" *Perfice munus* 36 (Oct., 1961) 555-61.

⁴³ "Sull'uso del matrimonio," *ibid.* (Mar.-Apr., 1961) pp. 154-59.

⁴⁴ "De onanismo," *Palestra del clero* 40 (July 15, 1961) 788-90.

individual easy-going husband, there is the more common danger resulting from the increasing use of the diaphragm, due to the efforts of the Planned Parenthood Association. These reasons ought to prompt a confessor to be most cautious in dealing with this case. He should be sure that the man is sincerely opposed to the wife's practice, that he is genuinely unable to stop it, that he has a very serious reason for co-operating (e.g., grave danger of incontinence, a prolonged privation of marriage rights), and that he will say nothing to others that would cause scandal through misunderstanding. Granted these cautions, the [permissive] opinion . . . could be safely followed as long as there is no contrary decision by the Holy See.⁴⁵

If one reflects thoughtfully upon the relevant communication issued three years later by the Holy Office, it would appear eminently safe to say that this document does not represent a ruling contrary to the sentiments expressed by Fr. Kelly. Rather it would seem that Fr. Kelly anticipated exactly the mind of the Congregation by specifying in some detail the very cogent reasons why speculatively admissible doctrine must not be applied irresponsibly at the pastoral level.

SACRAMENTS

Rarely does it happen that a truly original question in moral theology is submitted to the editors of our clerical journals. One of those more frequently repeated relates to correct procedure when nonpracticing or invalidly married Catholics request baptism for their children. Because canon law provides no explicit directive for this situation, and because total uniformity is not to be found among authorities who discuss the problem, a certain amount of obscurity in this area is perhaps inevitable. However, it would seem that maximum clarification might better be achieved if stress were put on an aspect of the case which as a rule is not sufficiently emphasized, viz., the strict right possessed by Catholics, whether virtuous or sinful, to have their children baptized, and the corresponding obligation of parish priests to comply with their request for the same. In other words, instead of asking, as is usually done, whether and in what circumstances we are allowed to baptize *in casu*, we might more properly ask whether and in what circumstances we are allowed not to baptize.

The observation is occasioned by one statement made by C. L. Parres, C.M.,⁴⁶ in his most recent discussion of this problem. Speaking of Catholic parents involved in a reparably invalid marriage, Fr. Parres remarks:

⁴⁵ THEOLOGICAL STUDIES 13 (1952) 80.

⁴⁶ "Baptizing Children of Lax or Invalidly Married Catholics," *Homiletic and Pastoral Review* 61 (Aug., 1961) 1083-84.

“. . . I do not think that it is wise to hold out for convalidation of the marriage as a *sine qua non* for administering baptism to the children.” May it be suggested that this is an understatement, and that it should more correctly be said that it is per se not permissible to deny baptism in this situation, even if parents refuse to validate their marital status?

For by virtue of his baptism, each Catholic is endowed with strict right in justice to whatever assistance from the Church may be necessary to enable him to fulfil his obligations as a member of the Mystical Body of Christ. Among these obligations is his duty as a parent to provide for the baptism of his children in the manner prescribed by canon law. Consequently, his request of the Church that his child be baptized is but the exercise of a right which must in justice be honored. Should the Catholic parent have lapsed into heresy, schism, or apostasy, he would have forfeited that prerogative; but unrepented sins, other than those delicts, do not affect his inviolable right to baptism for his children. As far back as 1796 the Congregation of Propaganda ruled to the effect that neither the tepidity of Catholic parents nor their own immoral way of life constitutes reason why their children may not and should not be baptized, especially upon parental request.⁴⁷

But what of the intimately related parental obligation to provide also for the Catholic education of baptized children? Does present lack of intention to fulfil this consequent duty abrogate the right to demand the child's baptism?

First of all, as is usually noted in this context, it is only for the licit baptism, outside danger of death, of the children of infidels, heretics, schismatics, and apostates that the Code explicitly adds the proviso “*dummodo catholice eius educationi cautum sit.*” It is true that various ecclesiastical documents, as well as theological and canonical manuals, have attached the same qualification to the baptism of children of nonpracticing Catholics, generally in terms of “reasonable hope” of Catholic education for the child. Most often when nonpracticing Catholic parents present their children for baptism, there is not the least difficulty in verifying this reasonable hope, however severely the phrase might legitimately be interpreted. The parents themselves will readily give assurance of their intention in this regard, and since there is no good reason for distrusting their word, there is no justification for refusing baptism. But when on occasion there is very good reason to doubt that parents will honor their promise—as might, for example, be the case when previous children of the same marriage have been allowed to grow up without any semblance of Catholic education—it is extremely important to keep in mind the benevolence with which the Church herself has

⁴⁷ *Collectanea S.C.P.F.*, §625.

contemplated this contingency. The Holy Office itself has been satisfied with *spes possibilis*,⁴⁸ which would seem to imply that, unless every reasonable possibility of proper education can be excluded, children of such parents not only may but must be baptized. Since it is no easy thing in these cases to rule out every reasonable possibility of adequate religious training in the future, presumption must always strongly favor the priest's obligation in justice to honor the request of nonpracticing or invalidly married Catholics that their children be baptized. Burden of proof lies heavily on him who would claim legitimate excuse from this pastoral duty.

Once away from the matter of infant baptism, the question of proper intention in the recipient of sacraments creates many a dilemma. M. L. Gibbons, C.M.,⁴⁹ treats briefly of the somewhat unusual case of a dying person who insists that he not be anointed until after he has lapsed into coma and been declared *in extremis*. Does this intention suffice for valid and licit reception of extreme unction? Fr. Gibbons does not hesitate to endorse at least conditional administration of the sacrament on the grounds that habitual intention seems to be verified. He prefers that anointing be conditional, in the event that "the reluctant recipient [should] desire to continue in a state of manifest sin until the 'acceptable time.'"

Certainly, habitual intention could not be denied in these circumstances; even virtual intention, it would seem, could be established with relative ease. As for Fr. Gibbons' reason for electing to anoint conditionally rather than absolutely, a twofold doubt occurs. First, it is not entirely clear to what "state of manifest sin" his text refers. But since it is not indicated in the question proposed that the dying person, while conscious, had also refused the sacrament of penance, his only sin would appear to be that of deferring extreme unction until after the advent of coma, with the explicit stipulation that it then be administered. If so, there would appear to be no unrepented mortal sin to constitute an impediment to the fruitful reception of the sacrament; for it is solidly probable that the obligation to receive extreme unction at all in danger of death binds only *sub levi*. It is, consequently, a fortiori at least solidly probable that no more than venial sin is involved if one, while not refusing the sacrament absolutely, were to defer it until such time as its benefits might be diminished to a considerable degree.

However, *supposito non concesso*, in the event that the dying person in question lapsed into coma without having properly repented of mortal sin of which he was known to have been certainly guilty, there is further

⁴⁸ *C.I.C. fontes* 4, §1200, ad 4.

⁴⁹ "Extreme Unction: The Reluctant Recipient," *Homiletic and Pastoral Review* 62 (Dec., 1961) 284.

reason to question an insistence upon only conditional administration of extreme unction to the now unconscious patient. Canon 942, it is true, legislates that those who contumaciously persist in a manifest state of mortal sin are not to be anointed, and that if this be doubtful (as always in practice can be presumed once the impenitent has lost consciousness) the sacrament is to be administered conditionally. Many commentators see excellent reason to interpret this canon as immediately concerned with lack of intention on the recipient's part and not with his lack of attrition. And when dealing with the unconscious dying whose intention to receive the sacrament is, as in this case, altogether certain, but whose other dispositions are by supposition doubtful, they would prefer absolute anointing in order to take full advantage of our teaching on the reviviscence of extreme unction upon subsequent removal of an impediment to its fruitful reception. For since the only apt condition *in casu* would be "si dispositus es," the effects of a conditional anointing would be nil unless here and now the patient is at least attrite. Absolute anointing, on the other hand, would retain its potential of sanctifying grace until such time as the patient, still in danger of death, might revive sufficiently to elicit an interior act of attrition.

As Fr. Gibbons allows with respect to the case just noted, many Catholics who show themselves reluctant to receive extreme unction, despite circumstances which make them eligible for it, are merely the unhappy victims of their own irrational fears based on an inadequate understanding of the total nature and purpose of the sacrament. Because the prospect of death is understandably disturbing to them, they are no less disturbed by any proposal that they submit to a rite which instinctively they associate only with the certain advent of death in the relatively near future. They have come to look on extreme unction as exclusively a sacramental valediction, a final purgation to be accomplished only at the terminus of one's earthly existence in immediate preparation for transit to eternal life. Granted (most gratefully) that extreme unction is designed to be ultimately nothing less than that, nevertheless its total potential in the order of grace is not fully expressed without such consideration as this:

It is . . . altogether consistent with the intention of Christ and the Church that extreme unction be conferred on many a person who is destined to escape the danger of death which here and now justifies his anointing. Accordingly it follows that this sacrament is not meant to be in every instance a proximate preparation for the next life. Often in God's providence its benefits are intended as an extra dividend of grace for the continuation of one's earthly existence. Cleansed now of all taint of sin for which he was at least attrite, and relieved perhaps of all liability to temporal punishment for sin, the recipient of this sacrament resumes his

spiritual life in renewed innocence comparable to that with which he was first endowed at baptism.⁶⁰

Apart, then, from all speculative dispute as to primary and secondary aspects of extreme unction,⁶¹ there would appear to be room for more pastoral stress on those phases of the sacrament which are too often neglected in sermons, instructions, and the popular literature. Catholics who are about to die should find their greatest comfort in the realization that this sacrament is truly a terminal grace, a final and immediate preparation for eternity. But lest we confirm the erroneous impression that extreme unction is reserved exclusively to those whose death is inevitably proximate, we should not fail to explain to the faithful in general that, for the many who are destined to recover from their illness, the sacrament becomes an intermediate blessing, a supernatural rejuvenation granted *in via* for the purpose of facilitating the continuation of one's earthly progress toward heaven.

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⁶⁰ J. J. Lynch, S.J., "Extreme Unction: Towards a Practical Appreciation of the Sacrament," *Linacre Quarterly* 28 (Nov., 1961) 147-56.

⁶¹ Cf. THEOLOGICAL STUDIES 20 (1959) 260-62; *ibid.* 22 (1961) 264-65.