

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

IMPUTABILITY

For centuries Catholic theologians have agreed that a man is morally responsible for his actions as far as he recognizes their morality and at the same time exercises free choice in them. It has also long been common doctrine that various factors can interfere with either the necessary knowledge or the freedom of choice. Among such factors have always been listed passions or emotions and mental disturbances. But in recent years the tremendous progress in the sciences of psychology and psychiatry has led to a greater appreciation of the influence of these factors on human actions.

Some materialistic or atheistic psychologists and psychiatrists have gone so far as to deny all freedom of choice, teaching that all human actions are determined by forces beyond conscious control. Influenced by such opinions, some writers on moral questions have exaggerated the effect of these factors without denying the possibility of free will. Against such writers the Holy Office published its *Monitum* of July 15, 1961.¹ Commenting on this warning, George Cruchon, S.J., Professor of Pastoral Psychology at the Gregorian University in Rome, recalls the traditional principles in these matters. The fact that emotional factors may take away free choice at the moment of an act does not necessarily mean that the act is not imputable morally to the agent. For example, a man who deliberately works himself into a rage with the full intention of killing his neighbor is guilty of the killing even if at the actual moment of killing he is in such a rage that he cannot control himself. So, also, previous negligence in control of one's thoughts may contribute to a state of great emotion or passion.²

I would interject here that it is also possible that the previous thoughts which arouse the passion may also be involuntary.

Fr. Cruchon warns Catholic psychotherapists and confessors not too

EDITOR'S NOTE.—The present survey covers the period from January to June, 1962.

¹ AAS 53 (1961) 571; *Canon Law Digest*, 1961 Supplement, can. 129. Cf. THEOLOGICAL STUDIES 23 (1961) 233-39; Sister M. Theresa DeFerrari, "Moral Freedom and the Influence of the Emotions," *Bulletin of the Guild of Catholic Psychiatrists* 7 (1960) 236-45; "La culpabilité," *Vie spirituelle, Supplément*, n. 61 (2^e trimestre, 1962) whole issue, including P. Grelot, "Théologie biblique du péché," pp. 203-41; M. Huftier, "Nature du péché selon saint Augustine," pp. 252-304; and articles on psychology, psychopathology, and the virtue of penance.

² G. Cruchon, S.J., "Annotationes: Evolvuntur speciatim notiones quaedam philosophicae et psychologicae," *Periodica de re morali, canonica, liturgica* 51 (2, 1962) 207-46.

easily to tell their patients or penitents that their objectively gravely sinful actions are not subjectively grave—even for the good purpose of relieving their anxiety.³ On the other hand, I would add, sometimes one may and should, in a cautiously qualified way, reassure patients and penitents when it seems morally certain that they are not subjectively guilty.⁴

Important for proper training in control of one's emotions is the home environment in childhood. Parental example and attitudes influence the child's character greatly. Attitudes too strict or too lax can lead to dangerous repressions resulting in later violent outbursts. After the example of the methods of painless childbirth, similar methods may some day be learned to control or eliminate undue tensions, stimulations, and obsessions. Just how this might be done is yet to be learned.⁵

One situation which often involves severe tensions is that of a couple for whom abstinence from marital relations is necessary for some reason. To think a great deal about the difficulty of abstinence just increases the tension and can even lead to neuroses. Such persons should try rather to learn to express and experience their love in nonsexual ways. It can be done, and done with great and lasting joy. Witness the happiness of long-married couples. To try to achieve some sexual expression of love without full satisfaction can cause frustrations and increase tensions and natural guilt feelings, even where there may be no actual guilt.⁶

The reprinting of an article by John C. Ford, S.J., treating some of the canonical principles of imputability found in canons 2199–2206, provides a good review of these principles.⁷ On the question of emotions and passions, canon 2206 says: "Passion which has been voluntarily and deliberately excited or fomented tends to increase imputability; otherwise it diminishes imputability more or less in proportion to the diverse heat of passion; and takes it away altogether if it precedes and impedes all deliberation of the mind and all consent of the will."⁸

No matter how clear the theory may be, the application by a person to

³ *Ibid.*, p. 217.

⁴ Cf. my statement on this, *THEOLOGICAL STUDIES* 21 (1960) 598.

⁵ Cruchon, *art. cit.*, pp. 219–20.

⁶ *Ibid.*, pp. 222–23.

⁷ John C. Ford, S.J., "Criminal Responsibility in Canon Law and Catholic Thought," *Bulletin, Guild of Catholic Psychiatrists* 9 (Jan. and Apr., 1962) 37–43, 107–19, reprinted from 3 (1955) 3–22. Cf. comments, *THEOLOGICAL STUDIES* 17 (1956) 168–69.

⁸ Ford, *Bulletin*, p. 42. Canon 2206: "Passio, si fuerit voluntarie et deliberate excitata vel nutrita, imputabilitatem potius augeat; secus eam minuit plus minusve pro diverso passionis aestu; et omnino tollit, si omnem mentis deliberationem et voluntatis consensum praecedat et impediat."

his own actions or by a confessor to his penitent's acts can involve great difficulty. A German writer,⁹ after also discussing the psychological aspects of the effect of emotions on imputability, offers some practical norms for judging whether such disturbances have reduced or removed imputability. Full responsibility for an act is not necessarily present just because the person is conscious of what he is doing and has a theoretical knowledge of its malice. Irresistible impulses are real occurrences. But if an act is completely out of harmony with a person's ordinary way of acting and judging, it is a pretty good sign that the act was not fully voluntary. Regret immediately after an act tends to a similar judgment.¹⁰

These may be recognized as signs given by most standard moral textbooks for judging the amount of voluntariness in a doubtful case.¹¹ For any act to be a mortal sin, it must be a free, fully voluntary choice of what one knows to be seriously wrong. This is psychologically inconsistent with a sincere will to love and serve God that shows itself in a habitual attitude of preferring to die rather than offend God seriously. This is not to say that mortal sin is rare. But formal mortal sin, justly deserving the eternal punishment of hell, must be a fully deliberate choice. It need not be from malice, but it should also be remembered that a mortal sin of weakness does not mean that the person was not strong enough to resist. If he truly cannot resist, there is no sin at all. If the impulse or passion is very strong but still can be resisted, it diminishes imputability. A mortal sin of weakness, as distinguished from one of malice, is rather where a person deliberately chooses to offend God, not because of hatred of God or contempt for Him, but because of loving some creature more than God. It is putting God in second place, wishing that one could avoid offending God, but choosing rather to offend God than to give up the partner of an invalid marriage, or than offend a spouse who wants to practice contraception, or whatever the sin is. To love God properly is to put Him in first place; it is to have a love for God and a contrition for sin which is *appretiative summa*, listed among the qualities of contrition necessary for valid absolution from sin.¹²

It is certainly true that a man can act perfectly voluntarily even when affected by violent passion. This is clearly seen when he acts contrary to what the passion would lead him to do. For example, if in spite of an almost overwhelming impulse to flee the scene of an accident or fire, a man stays to

⁹ J. Schwermer, "Affective Bewusstseinsstörung und sittliche Zurechnungsfähigkeit," *Theologisch-praktische Quartalschrift* 52 (1, 1962) 11-23.

¹⁰ *Ibid.*, pp. 20-21.

¹¹ Cf. Noldin, *De principiis*, nn. 317, 318.

¹² Cf. Noldin, *De sacramentis*, n. 255.

help, he has clearly made a voluntary choice. So, too, if he fled, the flight could be voluntary. But such an impulse of fear would often reduce imputability and could even eliminate it. Severe penalties against hit-and-run drivers almost seem unfair, except that knowledge of such penalties can certainly help overcome the impulse to flee the scene.

To avoid sin in those matters where passion and emotion may easily become overwhelming, especially in matters of purity, often the only effective way to avoid the sinful act is to avoid the occasion of sin. Some years ago the question of occasions of sin was discussed with regard to steady dating.¹³ There were and are differences of opinion among theologians as to the exact definition of a proximate occasion of sin which must be avoided under pain of mortal sin. Stephen Tumbas, S.J.,¹⁴ prefers to consider the fact that there is no sharp division between proximate and remote occasions, but rather a whole range of degrees. He proposes that to determine an obligation to avoid a given occasion, one should consider three elements: the greater or less probability of lapse in the occasion which is more or less proximate; the greater or less gravity of the sin in question and of its consequences or concomitants; and the greater or less necessity or reason for approaching or remaining in the occasion. The greater the probability of lapse and the greater the gravity, the greater should be the necessity to justify. If there is a reasonable proportion between the necessity and the probability plus gravity, the occasion is not sinful. If the necessity is a little less than the probability plus gravity, the occasion is venially sinful. If the necessity is much less, the occasion is gravely sinful—presuming that the whole discussion is concerned with the occasion of grave sin.

Freely to place oneself in a situation which will almost certainly lead to sin is often listed in manuals as a lack of properly ordered charity to self. Fr. Tumbas calls attention to the fact that it is also a violation of prudence. To these two malices I would add that of presumption: expecting God to give grace in the form of special help to avoid sin when the person himself does not take ordinary prudent means to avoid it.

For the direction of confessors, Fr. Tumbas suggests following a lenient opinion as far as refusing absolution, but to advise penitents according to the principles he has outlined. To this I would add what may be obvious to all, that in sins of purity with another, the occasion is far more often the type of situation than a particular person: two mutually attracted persons being *solus cum sola*.

¹³ Cf. J. R. Connery, S.J., "Steady Dating among Adolescents," *THEOLOGICAL STUDIES* 19 (1958) 73-80; J. J. Lynch, S.J., *ibid.*, p. 170, for various references.

¹⁴ S. Tumbas, S.J., "De occasione proxima peccandi," *Palestra del clero* 41 (Feb. 15, 1962) 218-31.

CHARITY TO NEIGHBOR

"Why and How You Must Love Your Neighbor" is explained by D. F. Miller, C.S.S.R., in the *Liguorian*.¹⁵ True supernatural charity does not expect benefits in return, nor is it exercised for the good feeling that results from helping another. These can be helpful but should not be the main motive. To be the supernatural virtue, it must be for the love of God. The "how" includes the positive works of helping one's neighbor in need, almsgiving, good example, zeal, correcting others when it will be helpful to them, defending those who are unjustly criticized. Faults to avoid are hatred, prejudice and discrimination, scandal and uncharitable speech.

Among faults against charity, a distinction should be made between involuntary feelings and formal sins.¹⁶ Feelings of aversion or of racial prejudice are often involuntary. They become sinful when deliberately fostered or when one acts in accord with such feelings.

Love of enemies has always seemed one of the hardest parts of Christ's teaching. M. Huftier,¹⁷ following B. Häring, C.S.S.R.,¹⁸ and through him Holy Scripture and St. Augustine, discusses at some length two ways of showing love of enemies: fraternal correction and forgiveness of injuries. Before attempting the correction of others, one should be sure that his motive is truly one of charity and not of revenge. To forgive those who have wronged us may be psychologically hard and may take time. Praying for them will help towards loving them. And praying for the grace to overcome feelings of hostility can be a help. Try not to say anything against the other and try for a reconciliation.

To this outline I would add a few points: the distinction mentioned before between involuntary feelings and deliberate acts. We are obliged to *love* our neighbor and our enemy, but we may not be able to *like* him. The required love is of the will: to want his welfare. If he is a sinner, we must want his conversion and salvation. And if he has offended us, we must forgive him as God forgives us. But it may help to recall that God does not forgive anyone who is not sorry for his offense. So we are not obliged to forgive unless the offender shows that he is sorry. Of course, ordinarily it is better to make the first move. All should know from what they see of others that often enough both parties to a quarrel consider themselves innocent.

Almsgiving is a work of charity and is obligatory on those who have

¹⁵ *Liguorian* 50 (May, 1962) 1-7.

¹⁶ B. F. McWilliams, C.S.S.R., "Perhaps You're Better Than You Think," *Liguorian* 50 (March, 1962) 20-22.

¹⁷ "Pardon des injures; amour des ennemis," *L'Ami du clergé* 72 (June 28, 1962) 410-16.

¹⁸ *La loi du Christ* 3 (Paris: Desclée, 1959).

something to spare. L. Babbini, O.F.M.,¹⁹ clarifying an earlier article of his,²⁰ holds that the rich are obliged in social or legal justice to distribute truly superfluous goods to the poor. It is a part of their obligation towards the common good. Referring to *Mater et magistra*, he recalls that this obligation can sometimes be fulfilled by providing opportunities for work for more men; but alms should also be given to those who cannot work. He admits that it is all right for a man to put aside savings for future needs of himself, his family, and his employees, according to his state in life. Most would agree with this doctrine, except that most would be content to call it an obligation in charity only and not in justice. To say that an obligation exists only in charity is not to say that there is no obligation.

Charity to neighbor also demands that we look out for his best interests, especially in the spiritual order. This includes an obligation to do what we can to keep him from sin and to avoid what may lead him into sin or confirm him in sin. Questions are often asked about "Attendance at Non-Catholic Weddings,"²¹ in which a Catholic or divorced person is involved (or, often enough, both). If it is an invalid marriage, it is the beginning of a sinful union. To congratulate someone on entering such a union or to show approval of it is surely sinful. And attending the wedding or the reception or a shower before, normally shows approval and is the equivalent of congratulating the person. If there is no real approval of the sin, the question becomes one of scandal. Usually, even appearing to approve tends to confirm the person in his sin and to make it harder for him to break off his sinful union. Scandal can also be involved towards others who are tempted to enter a similarly invalid union.

As Fr. O'Connell suggests, if the friend or relative entering the invalid marriage is truly in good faith, because he is not a Catholic or was never raised as a Catholic, his sin will be only material. And less reason is needed to justify merely material co-operation and indirect scandal. But one should not show approval even for merely material sin.

Even for the parents to approve or show external approval of an invalid marriage of a son or daughter will usually be an occasion of sinful scandal.²² The excuse that they want to keep on good terms with their offspring, the better to bring them back to the practice of their faith, is hardly a justifying

¹⁹ "Breve dottrina sul superfluo semplificata," *Palestra del clero* 41 (Feb. 1, 1962) 167-69.

²⁰ *Ibid.*, 40 (1961) 923-27.

²¹ H. J. O'Connell, C.S.S.R., *Liguorian* 50 (Feb., 1962) 19-20. Cf. J. Sheridan, "Question Box," *Los Angeles Tidings*, Mar. 16, 1962, p. 5.

²² G. Lobo, S.J., "Marriages outside the Church," *Clergy Monthly* 26 (June, 1962) 185-86, treating of parents in India giving their daughter in child marriage to a Hindu.

reason even for merely apparent approval of a sinful union. No reason can justify real approval of sin. And the excuse is hardly valid. First, of course, they should try to dissuade their son or daughter from such a marriage. If the son or daughter insists on going through with it anyhow, the parents (or other relatives or friends) should explain that, though their love is as strong as ever, their loyalty to God will not allow them to be present. This can be a real help to making the party realize the invalidity of the marriage. The parents can still visit their offspring, but should do nothing to encourage sinful activity.

FIRST COMMANDMENT

Somewhat related to the problem of attending an invalid marriage is the question whether a Catholic may be a sponsor at a non-Catholic baptism. Aidan Carr, O.F.M.Conv., answers, as any theologian would, in the negative.²² One may be present but may take no part in a non-Catholic religious service.

Which leads to the question: How much may and should a Catholic do to foster the reunion of all Christians? Bishop John C. Heenan of Liverpool, in a Lenten pastoral letter, suggests some practical rules to help carry out your duty in fostering Christian unity:

1. Assume that members of other religions are at least as sincere as ourselves. . . .
2. Always keep calm when the ignorant attack what they wrongly believe to be Catholic doctrine.
3. Be ready to answer questions about the faith. But never argue if you are unable to keep your temper.
4. In discussions with non-Catholics never, in an effort to please, pretend that differences in doctrine do not matter.
5. Don't deny that the Catholic Church claims to be the one true Church. But, on the other hand, don't allege that only Catholics can be real Christians.
6. Christian charity does not require us to take part in the worship of other religions. We may . . . pray with them in private. That is quite a different thing from taking part in public worship in which we do not believe.
7. Join with non-Catholics in working for the good of the community, in the social services, trade unions and political parties.
8. While fostering Christian unity we must never forget our duty of bringing all men to a knowledge of the truth. . . .²⁴

Undoubtedly most important is prayer. Faith is a supernatural gift, and so supernatural means must be used to attain it. With confidence in the possession of the truth, we can pray and urge non-Catholics to pray that all may see and embrace the truth as God wishes. If great numbers so pray

²² "Catholic Sponsor at Non-Catholic Baptism," *Homiletic and Pastoral Review* 62 (Feb., 1962) 460.

²⁴ "A Pastoral on Christian Unity," *America* 106 (Mar. 3, 1962) 782.

and do it humbly and perseveringly, they can be sure that God will hear their prayer.²⁵

Of course, we must also do what we can on our part to help. Discussions aimed at better mutual understanding may help to dispel false ideas and to lead eventually to acceptance of the truth. Any large movement of reunion would have to begin with the leaders. Consequently, "Catholic theologians must, under vigilance of their bishops, seek to establish a dialogue with the theologians of other Christian religions."²⁶ Certainly, such dialogue has been more and more encouraged by the Church, especially in these days with the establishment of the Vatican Secretariat for Promoting Christian Unity. Nevertheless, Kevin O'Rourke, O.P.,²⁷ commenting on the 1949 Instruction of the Holy Office,²⁸ points out that such meetings still require the permission of the local ordinary. That Instruction had recalled that "in all these meetings and conferences any communication whatsoever in worship must be avoided; yet the recitation of the Lord's Prayer or of some prayer approved by the Catholic Church, is not forbidden for opening and closing the said meetings."²⁹ In this regard, it might be recalled that the doxology, "For thine is the kingdom and the power and the glory forever and ever. Amen," added by most Protestants to the Lord's Prayer, is an approved Catholic prayer, is still in regular use in the Oriental rites of the Church, dates back at least to the fourth century and probably to the time of Christ, and was possibly used by our Lord and the apostles.³⁰

While promoting mutual understanding and charity, in which "we must admit the existence of some truth in all religions and . . . venerate truth wherever we find it," still we must "believe in one objectively true religion, the Catholic faith,"³¹ and so should do nothing to indicate an approval or acceptance of the heresy of indifferentism.³²

The question of mutual understanding and tolerance brings up the

²⁵ Paul-Emile Card. Leger, "Disunited Christians," *Catholic Mind* 60 (Apr., 1962) 59-65 (pastoral letter, Jan. 13, 1962). The Cardinal ordered the prayer "Pro unitate ecclesiae" to be said in all Masses in the Archdiocese during the Church Unity Octave, Jan. 18-25.

²⁶ *Ibid.*, p. 63.

²⁷ "Directives to Unity," *Homiletic and Pastoral Review* 62 (Feb., 1962) 419-25.

²⁸ *De motione oecumenica*, Dec. 20, 1949, *AAS* 42 (1950) 142; *Canon Law Digest* 3, 536-42.

²⁹ *Canon Law Digest* 3, 541.

³⁰ It is found in the text of Mk 6:14 in many early editions; cf. A. Merk, *Novum Testamentum graece et latine*, or any annotated edition of the Greek text.

³¹ Card. Rugambwa and the Bishops of Tanganyika, "The Church in a Pluralistic Society," *Catholic Mind* 60 (Jan., 1962) 59-63.

³² Leger, *op. cit.*, p. 64.

question of the right to follow an erroneous conscience, a question discussed quite widely of late.³⁵ All theologians hold that a person is obliged to follow his conscience when by it he judges that something must be done or avoided, even if the judgment is erroneous. Does this obligation give him a strict right to follow it? The Bishops of Tanganyika affirm that "every human being is born with the indestructible right of following his conscience. This right will apply to every field, especially to the religious field."³⁶ What kind of right is this and what is its extent? All theologians agree that a man should never be forced to do anything contrary to his conscience. (Although, if a man alleges his conscience as a reason for avoiding what most men would consider a duty, it may be insisted that he show reasons for his judgment of conscience.) When it comes to allowing him to do what his conscience indicates as an obligation, most authorities in theology, sociology, and political science would say that legitimate authority has the right to prevent actions harmful to others.³⁷

Hence, the right to follow conscience is a relative right and must yield before the rights of others. Also to be remembered is that there is an obligation on all to form a correct conscience.³⁸ So the man with an erroneous conscience has, in a sense, two conflicting obligations: to follow his conscience and to correct his conscience. The fact that a man has at least a relative right to follow an erroneous conscience, plus the rejection of infallibility, has led some

to the contention that error has rights, in the sense that toleration of it is not only an act of justice towards a sincere conscience, but is an indispensable means, under God's providence, of arriving at truth. . . . To maintain that error is a necessary element in access to truth is like saying that sin is necessary to progress in holiness. The experience of sin and repentance can lead to a deeper love of God as they did in Mary Magdalen; the experience gained by error can lead to truth. Neither however is necessary or even desirable in itself.³⁹

The move for greater mutual understanding and charity for our separated brethren has led some writers in various countries to think that perhaps the

³⁵ Cf. H. St. John, O.P., "Toleration and Conscience," *Catholic Mind* 60 (Apr., 1962) 51-58, discussing *inter alia* J. Lecler, S.J., *Toleration and the Reformation* (New York: Association Press, 1960); J. B. Sheerin, C.S.P., *Catholic World* 195 (June, 1962) 177-79, reviewing E. D'Arcy, *Conscience and Its Right to Freedom* (New York: Sheed & Ward, 1961).

³⁶ *Op. cit.*, p. 61.

³⁷ H. St. John, O.P., *art. cit.*, p. 55; Sheerin, *art. cit.*, p. 179. Cf. man who claimed divine inspiration to shoot Jimmy Hoffa in court in early December, 1962.

³⁸ E.g., St. John, *loc. cit.* ³⁹ *Ibid.*, p. 54.

Church should reconsider its strict prohibition against Catholics' joining the Masons, that the reasons for earlier prohibitions no longer hold true. But Catholic writers find the original reasons are still valid. Ximena Felieu Silva³⁸ sees some sign of greater mutual understanding in the invitation extended to a French Jesuit, Michel Riquet, to speak before a French Masonic lodge. However, he also recounts questions asked of Père Riquet which indicate a lack of sympathy with the Church. Further, he states that the other French lodges disclaim this single incident as anything typical of French Masonry.

Giovanni Caprile, S.J., reviews three books and a Masonic periodical which try to claim that objectionable features of Masonry have disappeared in Italy.³⁹ But at least two of the defensive books have clear indications of the incompatibility of Masonry and Catholicism. For example, one of the Masonic authors expresses himself as convinced that the metaphysical, ethical, political, social, human, ideological position of Masonry "is in irremediable contrast with that of the Church."⁴⁰ The contention for change of attitude seems rather to be a plea for Catholic laity to accept Masonry, while admitting incompatibility with Catholic doctrine. Fr. Caprile concludes that many individual Masons are good men, but that the movement as a whole has not changed notably. He notes, too, that the Roman Synod recalls the ecclesiastical penalties for Catholics who join the Masons.⁴¹ Similar conclusions are reached by J. A. Segarra, S.J., reviewing a French defense of Masonry.⁴²

Indirectly, William J. Whalen, author of *Christianity and American Freemasonry*,⁴³ confirms his previous appraisal by saying that in contrast to the Masons, the Odd Fellows and Knights of Pythias have far less objectionable practices than the Masons. He feels that there might be room for review and rescission of previous prohibitions of these two organizations.⁴⁴

³⁸ "Hacia un acercamiento entre la Iglesia y la Francmasonería?" *Mensaje* 11 (May, 1962) 164-66.

³⁹ "La massoneria e certi suoi recenti apologisti," *Civiltà cattolica* 113, 2 (Apr. 7, 1962) 47-56, reviewing: L. Lupi, *Rispondo ai Gesuiti* (Rome: Atanor, 1959); B. Bellomo, *La massoneria universale dalle origini ai nostri giorni* (Milan: Ciarrocca, 1960); S. Hutin, *La massoneria e l'Italia*, tr. from the French by N. Soffiantini (Milan: Mondadori, 1961); and the periodical *Voce fraterna*.

⁴⁰ *Ibid.*, p. 47, citing Lupi, *op. cit.*, pp. 31-32.

⁴¹ *Ibid.*, p. 53, citing *Synodus romana*, no. 247.

⁴² "Masonería," *Razón y fe* 165 (Jan., 1962) 84-87, reviewing A. Mellor, *Nos frères séparés, les Franc-maçons* (Paris: Mame, 1961).

⁴³ Milwaukee: Bruce, 1958.

⁴⁴ "Poor Man's Masonry," *Priest* 18 (Feb., 1962) 120-25.

THIRD COMMANDMENT: SUNDAY MASS

A number of minor points with regard to Sunday Mass have been treated in various periodicals. Some may be worth recalling. A. Doolan, O.P.,⁴⁵ corrects the false notion announced by an Irish priest who told the children that they were obliged under pain of mortal sin to be present on days of obligation at the Offertory, Consecration, and Communion of the same Mass. Fr. Doolan notes that all moral theologians hold that the Consecration and Communion must be in the same Mass, but not necessarily the Offertory. The priest was stricter than the Church.

All agree that the ideal for any Mass is to be present from the celebrant's entrance into the sanctuary until his exit after Mass. All also agree—a point often misstated—that there is an obligation on Sundays to hear an *entire* Mass from the sign of the cross at the beginning of the prayers at the foot of the altar until at least the "Ite, missa est." There is general agreement, further, that one's obligation may be fulfilled at two different Masses, provided that the double Consecration and priest's Communion are in the same Mass and that the two Masses are not simultaneous.⁴⁶

Further, common doctrine requires the intention of hearing Mass and at least a minimum of attention. Obviously, the ideal is full attention to the liturgy. But to fulfil one's obligation, for all practical purposes it suffices that one is not fully asleep the whole time of the Mass and not doing anything completely incompatible with awareness of what is taking place. Somewhat in confirmation of this view is a response from the Sacred Congregation of the Council stating that those engaged in televising a Mass fulfil their obligation provided they have the intention of fulfilling their obligation and with such intention unite themselves with the celebrant.⁴⁷ It would seem that the Sacred Congregation did not mean to specify the intention of fulfilling the precept, but would agree that any intention to hear Mass is sufficient.

A note in *Palestra del clero*⁴⁸ recounts another case of a misinformed priest. This zealous pastor, seeing a group of foreign boys with their chaplain visiting his church just as Mass was about to start on a local holyday, insisted that they were obliged to stay for the Mass. The writer notes that

⁴⁵ "The Obligation to Hear Mass on Sundays," *Irish Ecclesiastical Record* 97 (June, 1962) 402-3.

⁴⁶ Cf. Holy Office decree of Mar. 4, 1679, (DB 1203).

⁴⁷ Decree of Oct. 27, 1961, as reported by M. Zalba, S.J., "Boletín canónico-moral de 1961," *Razón y fe* 165 (Apr., 1962) 403-16.

⁴⁸ C. Crevola, S.J., "Obbligo di ascoltare la s. messa?" *Palestra del clero* 41 (Mar. 1, 1962) 290.

travelers away from home need not observe days which are of obligation by particular law. So, Americans in Ireland on St. Patrick's Day, or in Italy on the feast of St. Francis of Assisi, are not obliged to attend Mass. On the other hand, if it is a day of obligation in the general law of the Church⁴⁹ and observed where one is visiting, one must attend Mass even though the day is dispensed in one's home area. So, the same travelers would have to attend Mass on the feast of Corpus Christi while in Ireland.⁵⁰

A complication of this general rule is discussed in a Spanish periodical.⁵¹ It seems that the feast of St. Isidore is of obligation by particular law in Madrid but not in other nearby towns. A case is presented of a family who leave Madrid in the morning for a picnic outside the city. According to E. F. Regatillo, S.J., if they leave before the last Mass and return after the last Mass, they are not obliged to attend Mass. But if they return before the last evening Mass, they must attend it. I would be inclined to advise the people to attend Mass in any case, but I wonder whether there could be a legitimate analogy with the laws of abstinence, which some hold would not bind at all if one were absent from the obligatory territory during part of the day.⁵²

Cloistered nuns are bound by law to hear Mass on Sundays as much as anyone else. But they are also bound by law not to leave their cloister. What to do if they cannot get a priest to say Mass in the convent on a Sunday? Must they go out to the nearest church? Fr. Connell⁵³ thinks that the law of cloister would prevail over the law of Sunday Mass, but he suggests that this could be good reason for one of the local priests to trinate even without such a faculty.

FIFTH COMMANDMENT: BOXING

The death of Benny "Kid" Paret on April 3rd of last year occasioned new appraisals of the morality of boxing. Every boxing death arouses outcries.

⁴⁹ I yield to common practice here and elsewhere, although I recognize the inaccuracy. The law in question is universal for the Latin rite of the Church, not for the whole Church.

⁵⁰ S. Congregation of the Council, Nov. 18, 1958, allowed Ireland to reduce from ten to eight holydays of obligation: the six we have plus Corpus Christi and one particular holyday, St. Patrick. Previously they had the ten of canon 1247, except that St. Patrick's Day was substituted for St. Joseph's. Cf. *Canon Law Digest*, 1961 Supplement, canon 1247.

⁵¹ E. F. Regatillo, S.J., "Obligación de la misa de precepto particular," *Sal terrae* 50 (Apr., 1962) 253-54.

⁵² Cf. F. J. Connell, C.S.S.R., on fasting laws, as reported in these Notes, *THEOLOGICAL STUDIES* 22 (1961) 644; admittedly not a perfect analogy.

⁵³ F. J. Connell, C.S.S.R., "Which Law Takes Precedence?" *American Ecclesiastical Review* 146 (Feb., 1962) 134-35.

But all too often in the past, such complaints were concerned only with deaths from ring injuries. Moralists have rarely, if ever, based their objections to boxing on the number of deaths.⁵⁴ It is generally conceded that such deaths are accidental, if not incidental. Presumably, no boxer intends literally to kill his opponent. And defenders of the sport have always answered these specious objections with statistics to show that the percentage of deaths in boxing is lower than in some other sports.

The main issue is rather the intention of hurting the opponent and especially of trying to knock him into unconsciousness. Especially heartening to moralists was the number of writers, including regular sports writers, who recognized this as the main issue.⁵⁵ There have been no official statements of the magisterium of the Church directly on the morality of boxing. But statements of Pope Pius XII would seem to lead to conclusions against the morality of trying to knock an opponent senseless. In a 1952 address to an Italian Congress on the Pedagogic and Hygienic Problems of Sports and Gymnastics,⁵⁶ the Holy Father set down as the moral principle of sports that they were licit as far as they served the good of the body, but not if done to the harm of the body. In this regard he classed overtraining for a track event as illicit.⁵⁷

As for intending to deprive another person of consciousness, Pius XII told a group of anesthesiologists⁵⁸ that anesthetics and hypnosis could be perfectly licit when used for proper medical purposes, but not if used merely for entertainment or as a hobby.⁵⁹

Several moralists⁶⁰ have joined those previously mentioned in these Notes,⁶¹ in publishing their opinion that boxing is immoral, at least whenever

⁵⁴ None whose writings I have seen, as recorded in these Notes through the years; e.g., *THEOLOGICAL STUDIES* 16 (1955) 248-50; 17 (1956) 181-82, 564-65; 18 (1957) 575.

⁵⁵ E.g., Jim Murray, "The Prize is Death," *Los Angeles Times*, Sept. 30, 1962, Sports Section, p. 1; Prescott Sullivan, "Isn't the Nature of the Game to Blame?" *San Francisco Examiner*, Mar. 26, 1962, p. 51; Robert Teague, of the *New York Times*, as expressed on the television program "Open End," shown in San Francisco, KQED, May 29, 1962.

⁵⁶ Nov. 8, 1952, *AAS* 44 (1952) 868-78; *Catholic Mind* (1953) 569-76.

⁵⁷ *Catholic Mind*, loc. cit., pp. 570, 575-76.

⁵⁸ Feb. 24, 1957, *AAS* 49 (1957) 129-47; *The Pope Speaks* 4 (Summer, 1957) 33-49.

⁵⁹ *The Pope Speaks*, pp. 42-44.

⁶⁰ L. L. McReavy, *Clergy Review* 41 (1956) 413-16; E. F. Miller, C.S.S.R., *Liguorian* 44 (1956) 236-39; P. Palazzini, *Dictionary of Moral Theology* (Westminster: Newman, 1962) pp. 1156-58, under "Sports: Dangerous"; L. L. Knoblauch, O.F.M., "La temeridad en los deportes y espectáculos a luz de los principios de moral," *Verdad y vida* 17 (1959) 481-82; M. Zalba, S.J., *Theologiae moralis compendium* 1 (Madrid: Editorial católica, 1958) n. 1573, 6, who also lists other authors; R. A. McCormick, S.J., "Is Professional Boxing Immoral?" *Sports Illustrated* 17 (Nov. 5, 1962) 71-82.

⁶¹ Cf. supra n. 54.

it involves the intention of striking severe blows to the head. Summarizing the medical and moral evidence available, a physician, E. G. Laforet, writing in the *Linacre Quarterly*, concludes that boxing is objectionable on both scores.⁶²

To my knowledge, no moralist in recent years has defended boxing. Some nonmoralist writers have offered defenses, but for the most part they do not meet the real issues. Most point to the good effects boxing has had in giving an occupation and a sense of importance to boys from city slums, apparently believing that the results justify any means.⁶³ One San Francisco columnist even alleges as his principal defense that he likes to watch the matches!⁶⁴ A few do meet the issue, at least partially, by denying the intention of inflicting harm⁶⁵ or denying the medical evidence of brain damage.⁶⁶ Mere denials by nonmedical men are hardly sufficient to refute the overwhelming testimony of special studies from various countries all over the world.⁶⁷ In the many talks which I have given on this subject to groups of priests, I have asked for theological answers in defense of the sport. So far the only defending responses have been emotional. Some even feel that those who hold boxing immoral are the offensive type of "do-gooders."⁶⁸ I think one of the strongest refutations of that is that many of the moralists, myself included, who condemn the sport are converts to this position from being regular fans before they seriously considered the moral objections.⁶⁹ I can still recall my indignant reaction to the first suggestion which I had seen that boxing might be immoral, an article in the *Osservatore romano* in October of 1949. But the more I considered the theological arguments, the more I became convinced of the immorality of prize fighting, at least of attempting to land severe blows to the head of the opponent or trying to knock him unconscious.

⁶² "Boxing: Medical and Moral Aspects," *Linacre Quarterly* 25 (1958) 56-67.

⁶³ E.g., J. A. Farley, Jr., "My Fight in Defense of Boxing," *Sports Illustrated* 16 (Apr. 23, 1962) 26-27; H. J. Massaquoi, "Should Boxing Be Abolished?" *Ebony* 17 (June, 1962) 44-52; anon., "Scorecard," *Sports Illustrated* 17 (Nov. 5, 1962) 7.

⁶⁴ C. McCabe, "Should We Abolish Professional Boxing?" (column: "The Fearless Spectator") *San Francisco Chronicle*, Mar. 23, 1962, p. 29.

⁶⁵ J. Tinney, "Boxing: Sport or Sin?" *The Santa Clara* (Santa Clara University student newspaper) Sept. 20, 1962, p. 6.

⁶⁶ Anon., *Sports Illustrated* 17 (Nov. 5, 1962) 7.

⁶⁷ Cf. Laforet, *art. cit.*, and THEOLOGICAL STUDIES, *supra* n. 54.

⁶⁸ E.g., Farley, McCabe, *loc. cit.*

⁶⁹ Cf. sports writers mentioned *supra* n. 55, and H. Barnes, "Let's Abolish Boxing," *Saturday Evening Post*, Oct. 25, 1958, pp. 42 ff. (as told to A. Silverman). Barnes was senior official of the N.Y. State Athletic Commission, has officiated in over six thousand fights.

F. J. Connell, C.S.S.R., who has written often of the immorality of prize fighting, reaffirmed his opinion in the *American Ecclesiastical Review* for June of last year,⁷⁰ and added an exhortation to priests to work for the abolition of boxing and especially to stop Catholic sponsorship of boxing matches. His conclusion:

I believe that in view of all that has been said, priests should try to have professional prize fighting abolished in the United States. In this should be included also the Golden Gloves tournaments, for these too, whatever they may be called, are fights, aimed at scoring a knockout. I believe that priests should not foster boxing bouts in their social centers, for again these are, or at least they lead to, fighting. If our people ask us about the morality of prize fights, I believe they should be told that these are morally wrong, for I cannot see any probability to the contrary.⁷¹

In view of the practically unanimous opinion of present-day moralists, why is it that so many Catholics still support boxing? At last year's meeting of the Catholic Theological Society of America in Pittsburgh, it was suggested that moralists had not publicized their opinions sufficiently. These notes over the years have shown that practically every regular moralist writer has given voice to his opinion at least once. But has it been presented sufficiently to the public? This is more for the Catholic popular press to achieve. But even here, most Catholic periodicals have carried articles on the question, and diocesan papers have regularly reported and often publicized the statements and articles of the more learned journals.⁷² Sometimes the effect these might have is somewhat offset by editors. In a full-page feature interview publicizing my opinion on the matter in the San Francisco archdiocesan weekly, the *Monitor*,⁷³ a box was inserted in the middle of the article announcing that the following week "a world champion who is a Catholic goes up against the most publicized fighter of the times. Patterson's third match with Johansson will be televised on theater screens."

The process of changing general opinion on such a widely accepted sport is bound to be slow, but it does seem to be taking place. Many colleges have given up boxing as a spectator sport, including San Jose State College in California, which had one of the best teams in the country. And even the San Francisco *Monitor* this year reprinted the interview with me without announcing a fight on the same page.⁷⁴

Fr. Connell suggested that "priests should try to have professional prize

⁷⁰ "Prize Fighting," *American Ecclesiastical Review* 146 (June, 1962) 376-80.

⁷¹ *Ibid.*, p. 380.

⁷² E.g., the Laforet article and Fr. Connell's have been featured in NC releases; e.g., *Los Angeles Tidings* Apr. 6, 1962, p. 16, etc.

⁷³ Mar. 3, 1961, p. 9, interview by James Kelly. ⁷⁴ Mar. 30, 1962, p. 13.

fighting abolished in the United States." Many, myself included, would not favor prohibiting it by law, remembering the effects of another Prohibition.⁷⁶ As an *America* editorial suggests, it will be best abolished by informed public opinion. "For if all teachers of morality could convince themselves and their public of the immorality of professional boxing, the days of this brutal pastime would definitely be numbered."⁷⁶

As should be evident, the main objection to boxing is the intent of the fighter to land severe, injury-causing blows to the head or other vulnerable areas,⁷⁷ or to try to knock his opponent unconscious. As fighting now exists, this seems to be an inevitable part of boxing as a spectator sport. What if such intent could be eliminated? Some years ago, Gerald G. Grant, S.J., Professor of Ethics at Loyola University in Chicago, proposed eliminating blows to the head by making a foul line at the neck.⁷⁸ Fans would greet this as ridiculous. And yet, there would still be the good effects of exercise and development of physical strength and skill. Is not the reason it would seem ridiculous that it would no longer satisfy the blood lust of the spectators?

Furthermore, I can conceive of circumstances in which boxing could be legitimately taught as a program for training in the manly art of self-defense. The conditions: that it be not done before an audience, and that the participants exclude a real intention of landing a severe blow to the head. This would not exclude directing a blow to the head but with the intention merely of giving the opponent practice in parrying such a blow. This could be compared to certain forms of judo training during the last war, in which an instructor would tell one of the trainees to try to hit him with a sword or machete knife. Presumably, the trainee did not really want to hit the instructor, but unless he acted physically as though he wanted to hit him, the instruction would not be effective. So also, in boxing for training, one could aim a blow as though to knock out an opponent, if the honest intention were not to land the blow but only to give the other an exercise in parrying the blow. Whether or not that would be possible in practice is hard to say. But I think that it is possible, provided no audience is present as mere spectators.

⁷⁶ My opinion was quoted in the above-cited interview; cf. also McCabe, *loc. cit.*; T. O'Flaherty, "Who Really Killed Kid Paret?" *San Francisco Chronicle*, Apr. 13, 1962, who points out that the amount of money involved would keep it alive.

⁷⁶ *America* 107 (Apr. 21, 1962) 73.

⁷⁷ Cf. studies on boxing injuries to eyes, *Journal of the American Medical Association* 161 (1956) 770, and on kidneys, *Journal of Urology* 72 (1954) 145.

⁷⁸ NC release, *San Francisco Monitor*, Apr. 20, 1956.

To reduce all this theory to practice, what should be a confessor's answer to a penitent who asks whether it is morally all right for him to box or not? To paraphrase the Holy Office's answers to several different questions in late years, the confessor may not simply say that it is licit, but must let it be known that there are serious objections against it from the viewpoint of Christian morality. And I would say that the confessor should try to dissuade the penitent from beginning a career of boxing, either as a professional or as an amateur boxing for an audience.⁷⁹ If he is already involved in the sport, I would suggest his retiring from it. If this seemed too hard for him, or if he needed to continue for his livelihood, then I would try to show him that he should try to win on points only, and not try for a knockout. If he could not be so persuaded, I would inquire further into his reasons, but unless this showed some other sinful motive, I would not refuse absolution, since it would be hard to say that the sinfulness is grave in an ordinary case.

SUICIDE AND MORAL PRINCIPLES

Confusion about the so-called principle of double effect is not rare among writers in ecclesiastical periodicals.⁸⁰ Accuracy on the notions of direct and indirect voluntary and the conditions under which an action with a morally evil effect may be performed would avoid a lot of confusion on solutions of moral problems. All this leads up to a recent treatment of the question of suicide to protect military secrets, a question answered clearly and accurately before after a similarly fuzzy attempt at a justification of suicide.⁸¹

What I would judge the fuzzy treatment is one published some years ago by J. Leclercq⁸² but reported last May with a suggestion of hesitant approval of M. Huftier.⁸³ The case is, of course, of recent interest because of the Gary

⁷⁹ Some would distinguish between professional and amateur boxing. Professional may be worse, but the primary objections also hold of college and amateur boxing before an audience where, as often is the case, the contestants intend to try to land severe blows to the head and to try for a knockout. Making the distinction: the *America* editorial (supra n. 76); anon., "Il pugilato professionistico e la morale," *Civiltà cattolica* 113, 2 (Apr. 21, 1962) 160-63; E. J. Schonleber, as cited in *Catholic Mind* 60 (June, 1962) 29-31 under title of "Mayhem under Another Name."

⁸⁰ Cf. *THEOLOGICAL STUDIES* 20 (1959) 248-49; 21 (1960) 601, 602; 22 (1961) 631. In this last case the author assured me by letter that he had originally written the way I suggested it should be, but censors had insisted on changing it.

⁸¹ *THEOLOGICAL STUDIES* 16 (1955) 247, on J. McCarthy's clear statement correcting a fuzzy statement by M. Van Vyve.

⁸² J. Leclercq, *Leçons de droit naturel* 4/1 (Namur, 1937) 61-62 (3rd ed., Louvain: Société d'Etudes Morales, Sociales et Juridiques, 1955; 2 vols.).

⁸³ "A propos du suicide," *L'Ami du clergé* 72 (May 10, 1962) 297-303.

Powers-U-2 incident of May 1960 and subsequent discussion of his release last year.⁸⁴

Canon Leclercq finds confusion in Vermeersch's treatment of direct and indirect suicide.⁸⁵ Actually, Vermeersch's statement of the principles is fairly clear. What Leclercq finds confusing are certain examples found in the last paragraph of the section, where Vermeersch discusses the question whether or not a man may kill himself as executioner at the command of the state. Vermeersch qualifies this as disputed matter, so there should be no wonder at debatable examples. Leclercq finds difficulty in Vermeersch's distinction between stabbing oneself (on the order of the executioner) or drinking poison (on a similar order). The latter he classes rather with placing one's neck in the noose or on the guillotine block (still at the order of the executioner, who is prepared to enforce his command by violence). I would concede to Leclercq and Huftier the right to debate this distinction, but I can see no reason therefrom to challenge the general principles on direct and indirect suicide.⁸⁶

Leclercq goes on to say that he can see no difference between the condemned man's putting his head obligingly on the block where the guillotine blade is about to fall, and another man's putting his head on a railroad track where a train is about to pass,⁸⁷ yet moralists would call the latter

⁸⁴ Cf. P. Olsen ("Inquiring Photographer"), San Francisco *Examiner*, Mar. 11, 1962, sect. 4, p. 5, asked: "Should Gary Powers have killed himself?" Of the eight answers reported, five said no, three said yes, at least if he had been ordered to do so. According to press reports, the CIA had provided a suicide needle but gave no orders to use it to protect secrets, but only to escape torture; cf. *Herald Tribune* News Service story by Robert J. Donovan, datelined Washington, Feb. 27, 1962, as it appeared in the San Francisco *Examiner*, Feb. 28, 1962, p. 1.

⁸⁵ A. Vermeersch, S.J., *Theologiae moralis principia responsa consilia* (Rome: Gregorian, 1937; or 3rd ed., 1945) vol. 2, n. 297.

⁸⁶ Vermeersch is saying that drinking poison is not immediately occisive; it is only placing poison where it will have an occisive effect. Stabbing or hanging oneself is more clearly immediately occisive. Vermeersch does not give these as examples of direct and indirect suicide, although he may intend such a possibility in the real order. One might compare his idea on drinking poison with the famous case related of "The Great Mouth-piece" Fallon, who is said to have drunk poison in court to show that it was not lethal and then, minutes later, had it removed by a stomach pump. Leclercq complains that stabbing oneself is no more lethal than drinking poison; it is merely causing an opening which eventually will cause death. Perhaps Vermeersch would have admitted this of a man who was a surgeon and had equipment hidden nearby by which he could sew himself up again. But under relatively normal circumstances the stabbing is an immediately occisive action. On the difficulty in confusing direct and indirect physical causality with directly and indirectly voluntary killing, cf. J. J. Lynch, *THEOLOGICAL STUDIES* 20 (1959) 248-49.

⁸⁷ Leclercq, *op. cit.*, p. 62.

direct suicide, the former indirect. Here the main point is missed. The actions are indeed similar; the issue is in the intention. Actually, I do not think that anyone would deny that the example could, in theory at least, be just the opposite. If a man deliberately ran up unbidden and put his neck on the block just as the blade was about to fall because he wanted to end his life, this would be a direct suicide. On the other hand, if a man put his head on a track in front of a train because he was being prodded by a bayonet or a red-hot poker to do so, it might be indirect suicide. Then he obeys, not to kill himself, but to avoid the burning or stabbing. But in the ordinary course of affairs the man putting his head on the block is doing it, not because he wants to be killed, but to avoid the pain of being forced so to place his head. I do not think this is an ideal example, but I also do not think that it is entirely devoid of the proper distinction. The whole doctrine of the principle of the indirect voluntary⁸⁸ does lie essentially in the intention.

We know from revelation as handed on to us by the teaching authority of the Church that suicide is morally evil.⁸⁹ We know that we may not do evil that good may come of it.⁹⁰ And yet, we know that God Himself co-operates in causing moral evil, else it could not occur. Putting these data of revelation together, theologians conclude that one may permit evil as a clearly foreseen result of a voluntary action, but must not intend the evil either as an end in itself or as a means to some good, even though it be a very great good. The virtue of prudence further demands that evil should not be caused even in this indirectly voluntary way, unless a commensurate good is also achieved. Hence, the commonly held four conditions of the principle of the indirect voluntary or "double effect": (1) that the immediate action performed be good or indifferent; (2) that the foreseen evil effect be not intended (as an end in itself); (3) that the good which is intended be not an effect of the evil (i.e., that the evil is not intended as a means to a good end); (4) that the good intended be commensurate with the evil foreseen. Of these, the first three are the immediate conclusions from the data of revelation. The last is an obvious dictate of prudence or right reason.

The third condition above is sometimes worded in a way that may lead an undiscerning reader into confusing the order of physical causality or of time sequence with the intentional order; e.g., that the good effect must be at least equally immediate with the evil.⁹¹

⁸⁸ I prefer this name to "double effect," because in many applications the justifying good which is intended is in the action itself and is not an *effect* in the same sense as the tolerated evil effect; e.g., many cases of indirect scandal.

⁸⁹ E.g., for immediate purposes, Pius XI in *Castì connubii* (DB 2246).

⁹⁰ Rom 3:8.

⁹¹ Cf. Noldin, *De principiis*, n. 83, though reading the whole statement should make it

The importance of trying to see how immediate an evil effect is in the order of physical causality lies in the psychological inevitability often involved of directly willing a physically immediate effect. Thus, to use an example once heard from John C. Ford, S.J., if Titius hits Bertha on the head with a sledge hammer, saying that he only intends to kill a mosquito perched there, others may well suspect that he also intended harm to Bertha and not merely allowed it. So, there can be value in deciding whether a given action is to be considered an immediately occisive action or not. For this reason, Vermeersch's example of distinguishing between drinking poison and stabbing can well be debated on this ground. As mentioned above, I can see reasons both ways. The same would hold of the classical example of the girl who jumps from a very high tower to escape being raped.⁹² I can see a difference between this and shooting herself or taking poison to escape rape, but I can also see the possibility of debate: not, however, as to whether or not she may shoot herself in such circumstances, but as to whether or not she may jump to save herself from rape. If so jumping should be considered a directly occisive action, it would be forbidden even to escape rape.

If one accepts the classical explanation that the girl is justified in jumping to escape the rape even though death on the rocks below is inevitable, it would not follow that therefore one may jump to kill himself so that he will not reveal secrets. In the former case, it is by the jump and change of position that the girl avoids the rape and not by her death (presumably in ordinary circumstances envisaged in the classical case). But to jump in order to kill oneself, not because one finds death attractive in itself, but to keep oneself from revealing secrets, would be to intend death directly as a means. If the girl intended saving herself by the death, not even Vermeersch would allow the jump.

From this it should appear that a rule of thumb for this condition, not applicable in all cases but often helpful, is to consider whether the good which is directly intended would still be achieved even if (*per accidens*, perhaps) the evil effect did not occur. Suppose, for example, that just as the girl jumped to escape the would-be rapist, a group of firemen with a safety

clear: "Si effectus non sequitur per effectum malum, sed aut aequè immediate aut saltem effectus malus per effectum bonum." A better statement is in E. F. Healy, S.J., and J. F. Meara, S.J., *Moral Guidance* (Chicago; Loyola Univ., 1960) p. 19: "The good effect must not be produced by means of the evil effect." I would still prefer my statement for two reasons: the good need not be an "effect" of an action but can be in the action itself; and a good effect can follow from the evil too, as long as it is not what is intended, but some other good is intended which is not caused by the evil effect.

⁹² Vermeersch uses this example too, *loc. cit.*

net happened to be passing by and saved her from death. She has still achieved her intended good of avoiding rape and has not died. So death is not the *means* of avoiding the rape, but getting away from the tower is.

Shooting herself or drinking poison would not verify the condition, because here the death is the means of escaping. If the bullet accidentally missed, or the potion was not poisonous after all, she would not have achieved the good she intended. So, also, the spy about to be captured. If he can really escape his captors by jumping, he may well be justified. But if he intends his death as a *means* to preserve the secrets, he is sinning.⁹³

Leclercq takes off in the wrong direction after disagreeing with Vermeersch's example. He feels that leaving it all to the order of intention is to depart from objective reality and leads to confusion. Comparing, on the one hand, the act of killing oneself to preserve secrets from the enemy by placing one's head on a railroad track in front of a train, and, on the other hand, preparing oneself for the executioner at the guillotine, he finds the physical components similar and feels that the mental state is the same, too: neither desires death, both dispose themselves to accept death. The only difference he can see is that one wants to avoid the brutality of the executioner, the other wants to avoid betraying the secrets of his country. Is not the latter more noble than the former?⁹⁴

Of course, he is refusing again to see the difference in intending the death or not. Granted that the spy's purpose is nobler than the criminal's; still, he may not directly *intend* his own death even though the physical causality is from an external object, the train.

Realizing that most Catholic moralists will say that the spy may not intend evil that good may come of it, Leclercq next argues that the difficulty is from the bad connotation of the word "suicide." He suggests using rather the expression "sacrifice of one's life" where it is for a noble purpose. He charges that moralists have acted similarly on the problem of protecting secrets by lying. "Lying" has a bad connotation. So moralists concocted a definition of lying which would allow falsehoods to protect necessary secrets and called these falsehoods "mental reservations." As a definition of licit sacrifice, he suggests: accepting death to attain an end which one judges more noble than the preservation of life; or, "one should admit the liceity of the sacrifice of life when this assures a good which is greater than, or at

⁹³ Only the objective order is under consideration here. If a man erroneously judged that he was justified, he would be free from formal guilt. But if he asked a confessor about it, the confessor should help him form a correct conscience.

⁹⁴ Leclercq, *loc. cit.*, p. 63; *L'Ami*, p. 301.

least equal to, the life which one sacrifices."⁹⁶ A man may even be obliged to such a sacrifice if it is necessary for the common good in time of war.

I have no great objection to using the word "sacrifice," nor to the conditions he sets down; but I would insist on one more: provided that the man does not intend his own death as a means to achieve some end. In other words, the distinction must be kept between directly and indirectly voluntary killing, whether the word "sacrifice" is used or not.

Fr. Huftier calls Leclercq's exposition a bold theory⁹⁷ and insists that he is merely reporting it. However, he wonders whether perhaps the traditional teaching is deficient.⁹⁸ Maybe there should be exceptions, or perhaps it would be better to say that possible exceptions are a part of a higher law. However, he suggests that the words of our Lord might be applied to the captured spy: "But when they deliver you up, do not be anxious how or what you are to speak; for what you are to speak will be given to you in that hour."⁹⁹ On the other hand, one should consider the praise of our Lord for the good shepherd who lays down his life for his sheep. Huftier closes with a citation from St. Augustine to the effect that we cannot judge the consciences of men.⁹⁹

Four months after this article, apparently in response to letters received as a result of it, Fr. Huftier answered this last objection himself. As Pius XII explained clearly in his 1952 discourse on Christian conscience,¹⁰⁰ conscience must be followed, but conscience must also be formed according to true Christian norms as known from revelation and natural law through the teaching of the Church to whom Christ entrusted this authority.¹⁰¹ Fr. Huftier also answers several other objections with a much more accurate use of principles than Leclercq had shown. If there could be any justification of suicide as a means to achieve great good or to avoid great evil threatening the common good, it would not come from a mere changing of definitions, but by a clearer determination of the malice involved in the forbidden act.¹⁰² The mere fact that a great good is to be achieved or a great evil is to be avoided never justifies placing an act which is intrinsically evil. Nor can one legitimately appeal to the principle that, of two evils, one should choose the lesser. This applies only when one is faced with only two possible acts, each

⁹⁶ Leclercq, pp. 63-64; *L'Ami*, p. 302: "... on doit admettre la légitimité du sacrifice de la vie, lorsque celui-ci assure un bien supérieur ou au moins égal à la vie qu'on sacrifie."

⁹⁷ *L'Ami*, p. 302: "théorie audacieuse." ⁹⁸ *Ibid.*

⁹⁹ Mt 10:19-22; *L'Ami*, p. 302.

⁹⁹ *Ibid.*, p. 303.

¹⁰⁰ AAS 44 (1952) 270-78; *Irish Ecclesiastical Record* 81 (Apr., 1954) 300-306.

¹⁰¹ "Suicide, mensonge, essai d'éviter le mal . . .," *L'Ami du clergé* 72 (Sept. 13, 1962) 540-44.

¹⁰² *Ibid.*, p. 543.

of which (erroneously) seems evil to him; but he may not choose a morally evil act to avoid an effect which is a greater physical evil.¹⁰⁸ This is shown in the condemnation of direct abortion for any cause by Pius XI in *Casti connubii*, and by Pius XII in a 1948 talk to surgeons¹⁰⁴ and in the better known 1951 discourse to Italian Catholic midwives.¹⁰⁵

To the objection that the martyrology lists as saints virgins who cast themselves into the fire to avoid rape or to avoid an occasion of sin, Huftier recalls St. Augustine's answer that such an action is clearly wrong on one's own authority and hence can only be justified by appealing to a direct divine inspiration. But Augustine does not rule out the possibility of madness either.¹⁰⁶ He might also have questioned the historicity of such accounts, or praised the spirit of sacrifice in following an erroneous conscience.

But Fr. Huftier still seems bothered by one of the examples which Leclercq had mentioned: the case of Fr. Maximilian Kolbe, who had been praised for taking the place of a man sentenced to be executed by the Nazis. An objection had proposed that the difference between Fr. Kolbe's act and the spy's suicide is the difference between being the author and being the victim of death.¹⁰⁷ But he still thinks this is a very subtle distinction between actively helping towards achieving his own death and delivering the actual deathblow.

As an example, he asks what difference whether a man turns on a faucet and wets his head, or places his head under a running faucet which has been turned on by someone else. In both cases, is not the man the voluntary cause of his head getting wet? So, also, the man who puts his head on a block or voluntarily puts himself in front of a firing squad is the voluntary cause of his own death, even though some other agent drops the blade or fires the gun.¹⁰⁸

The parity can be denied, and an explanation may help to a further clarification of the very notion of indirect voluntary. As Fr. Huftier puts the head-wetting example, both seem cases of a man who intends to get his head wet, and that is the very point at issue: not who turned on the water but what the man intends.¹⁰⁹ If Fr. Huftier wanted to make his example fit, he should have put it differently. The case of Fr. Kolbe or the submissive criminal would be more like saying that a man wanted to get something, and al-

¹⁰⁸ *Ibid.*, pp. 541-42; the "morally" and "physical" are my additions.

¹⁰⁴ May 20, 1948; Pius XII, *Discorsi e radiomessaggi* 10, 95-100.

¹⁰⁵ *AAS* 43 (1951) 49-64; *Catholic Mind* 50 (1952) 49-64.

¹⁰⁶ *Art. cit.*, p. 541: "il n'exclut pas l'affolement." He takes up the same point again, pp. 542-43.

¹⁰⁷ *Ibid.*, p. 541. ¹⁰⁸ *Ibid.*, p. 544.

¹⁰⁹ Of course, the other conditions enter into a moral question, too; e.g., whether the act itself is morally good, etc.

though he did not want to get wet, he saw that he would have to step under a running faucet to reach the object. Then his head's getting wet is voluntary, but only indirectly voluntary. For Fr. Kolbe presumably did not want his own death but wanted to free the other person, although he realized that stepping into the other person's place would almost surely lead to his being killed by the Nazis. But again presumably, the other person's freedom was not gained precisely by Fr. Kolbe's death, but by his taking the man's place in death row. If it were precisely by his death that the other man was freed, I could see a difficulty. So also the about-to-be-executed criminal presumably complies with the executioner's order to place his head on the block, not because he wants to die, but because he does not want to be stabbed or kicked by the executioner.¹¹⁰

A further possibility of the head-wetting example may bring out another condition often overlooked. A man can intend more than one effect of his act. So our head-wetter could intend to pick up an object under the running faucet and at the same time decide that he wanted to cool his head. So condition 2 above¹¹¹ is also important. Too often writers have tried to justify an action with two effects merely because a good effect was intended; but intending the evil effect must also be excluded.¹¹²

Before passing on to other matters, I should like to comment on three other statements of Canon Leclercq cited and apparently accepted by Fr. Huftier. It is alleged as a charge against moralists that they often start with a pre-established, prejudged (connoting prejudiced?) conclusion and then seek or think up reasons to justify their conclusion.¹¹³ Aside from defects to which all moralists, being human, are subject, there are cases where such a procedure is legitimate, and in precisely those matters where moralists differ from ethicists. Theologians begin with the data of revelation.¹¹⁴ And often enough what is revealed is more in the nature of what Leclercq would con-

¹¹⁰ The example is not a good one if it is of a justly condemned criminal, because he can will the carrying out of the sentence as a fully justified and morally good act.

¹¹¹ That is number 2 as listed above; the order of the conditions is not fixed, and the wording can certainly be different, too; but however worded, one condition should definitely exclude intending the evil effect.

¹¹² Cf. *supra*, on boxing, those who try to justify the sport because it has good effects; also THEOLOGICAL STUDIES 21 (1960) 611-12; 22 (1961) 630.

¹¹³ *Art. cit.*, p. 301; original pp. 61-62. Leclercq may have a point here with regard to Vermeersch, although not on the matter in question. Joseph Creusen, S.J., long-time associate of Vermeersch, often said that Vermeersch would almost regularly answer a proposed problem from a sort of moral sense or intuition, and then try to link it up to accepted principles.

¹¹⁴ Ethicists can and should use such conclusions as negative guides at least, to check the correctness of their reasoning and/or the truth of their premises or other data.

sider conclusions. But then the conclusions are the most certain part of this process; the reasons for the conclusions are often products of fallible human thought.

The other strange Leclercq statement is in his answer to a complaint. It had been objected that Catholic moralists disagree: some will say that suicide is absolutely wrong and always forbidden, while others will say that it is allowed in some cases. Leclercq's explanation is that Catholic moralists all teach the same, that suicide is wrong as a general rule but that there are exceptions to the rule.¹¹⁵ This would be typical of a situational-ethics mentality. Certainly, a better way to state the Catholic doctrine is to say that all agree on a rule which contains several distinctions: direct suicide is always wrong; indirect suicide will be wrong or lawful depending on fulfilment of the conditions of the principle of the indirect voluntary.

The last of Leclercq's complaints attributes the differences between Catholic and non-Catholic moralists¹¹⁶ to ambiguities in Catholic moral theology.¹¹⁷ No doubt, lack of clarity in statements of doctrine leads to confusions not only for non-Catholics but for Catholics as well. But differences between Catholic and most non-Catholic moralists are far more fundamental, in my judgment. And most fundamental is a rejection of, or a refusal to face up to, basic principles. Too many non-Catholic writers on moral questions hold or at least write as if they hold the principle that the end justifies the means.¹¹⁸ Many, too, reject natural law as a basis of morality.¹¹⁹ And, of course, in these days very many are influenced by existentialism and its corresponding moral teaching, situational ethics. But most basic, I would say, is the teaching authority of the Church.¹²⁰ Since this is outside the field of moral theology, it does not leave much common ground for discussion of our differences on moral problems.

As must be evident from the foregoing, I object strenuously to a disregard for basic moral principles on the part of anyone writing on moral problems.

¹¹⁵ *Art. cit.*, pp. 301-2; original, pp. 62-63.

¹¹⁶ Moralists as such are rare outside the Catholic Church. R. C. Mortimer, Anglican bishop, is one of the few, and I believe even he would consider himself more a canonist.

¹¹⁷ *Art. cit.*, p. 301.

¹¹⁸ For examples of two Protestant seminary professors, see my comments, *THEOLOGICAL STUDIES* 16 (1955) 239, on Joseph Fletcher; and *ibid.* 21 (1960) 604-5, on William E. Hulme. On the other hand, R. C. Mortimer, *The Elements of Moral Theology* (London: Black, 1947), holds the same principles as we.

¹¹⁹ E.g., Hulme, *supra* n. 118.

¹²⁰ R. C. Mortimer hints at this with regard to contraception. He considers it against the natural law, but in the face of episcopal statements to the contrary and without a deciding authority, he is forced by his acceptance of probabilism to acknowledge that its liceity is at least extrinsically probable; cf. *op. cit.*, p. 180.

Leclercq was actually trying to do what he complained of in others. He seemed to *feel* that a heroic act of suicide by which a man sacrificed his life for the good of his fellow men was praiseworthy, not only for the subjective heroism of the man—with which all would agree—but for the act itself. This procedure of working from what one feels is right to an attempt to reconcile it with traditional Christian teaching is not necessarily to be rejected either. But trying to justify the suicide by rejecting the principle of the indirect voluntary was not a proper method.

A more acceptable way of establishing what he had set out to do would have been in the way Huftier suggested,¹²¹ by studying the intrinsic malice of suicide and seeing whether this malice is contained in a directly voluntary taking of one's life for a heroic purpose. In other words, since the intrinsic malice of suicide is the usurpation of the radical dominion over one's life which God reserves to Himself, Leclercq's attempt should rather have been to show that God delegates or gives a man dominion in circumstances of such a heroic act for others, just as some have argued for the liceity of live organic transplantation.¹²²

The direct killing of oneself is not so wrong that God could not permit it. It is wrong because it is a usurpation of a right reserved to God. So God can order or permit it. All moralists hold this, and suggest it as a possible explanation of the strange martyr cases. But all who mention it explain that one must have clear and certain knowledge of God's inspiration, since it is against a universal and certain law. Apart from direct and certain divine inspiration or the debatable matter of acting for the state as one's own executioner, all theologians have always taught that the direct killing of oneself is always morally wrong. Nor can one legitimately say that, as U-2 planes were not known until a few years ago, this teaching of theologians could not have taken into account a case like that of Gary Powers.¹²³ Theologians have considered cases of heroic acts for the common good and have still taught that the direct killing of oneself cannot be justified for any reason. Limits of space and time would not permit a full proof of this statement here, but I do not think that any *auctor probatus* would challenge it.

¹²¹ Cf. *supra*, text connected with n. 102.

¹²² Cf. B. J. Cunningham, *The Morality of Organic Transplantation* (Washington: Catholic Univ. of America, 1944); J. McCarthy, "The Morality of Organic Transplantation," *Irish Ecclesiastical Record* 67 (1946) 192-98; H. Jone, *Moral Theology* (Westminster: Newman, 1953) n. 209.

¹²³ New discoveries can necessitate the changing of the wording of a previously universally stated law, where the circumstances are substantially different on moral grounds. Cf. my notes on the universality of the prohibitions of direct sterilization and contraception, *THEOLOGICAL STUDIES* 22 (1961) 628-29; also *infra*.

As a final appendix to this consideration, it might be noted that the current campaign to liberalize abortion laws is but another application of "the end justifies the means."¹²⁴ In a recent panel discussion on such an attempt in California, a non-Catholic doctor accused Catholics of trying to force Catholic doctrine on non-Catholics. I tried to appeal rather to the American principle that all men are endowed by their Creator with certain inalienable rights, among which is the right to life; that a fetus is a human being and not a mere part of its mother (as biologists have long known and U.S. courts are beginning to acknowledge).¹²⁵ That is coming nearer to common ground.

STERILIZATION AND MORAL PRINCIPLES

Problems involving the use of anovulants will undoubtedly be with moralists for a long time to come. Studies are still being made on the possible side-effects of the drugs.¹²⁶ But of greatest interest is an announcement of a new progestational agent, Isopregnenone, which is described briefly as having effects like Enovid, except that it does not inhibit ovulation.¹²⁷ Further evaluation of its uses and effectiveness may be of great interest to moral theology. It would seem that it would no longer be moral to use anovulants for any therapeutic purpose which could be achieved as effectively and safely and economically with the new drug without causing sterility.

A good summary of Catholic theological opinion on the uses of anovulants is presented by R. A. McCormick, S.J., in the *Homiletic and Pastoral Review* for May of last year.¹²⁸ After giving the general principles on straight therapeutic uses and straight contraceptive uses, he notes that their use to suppress ovulation during lactation is still debatable; to promote fertility is cer-

¹²⁴ Cf., e.g., THEOLOGICAL STUDIES 21 (1960) 595-96; P. C. Stichbury, "Therapeutic Abortion in Dunedin Hospital," *New Zealand Medical Journal* 60 (Dec., 1961) 559-64; esp. on psychiatric indications. According to the author, doctors are concerned with the question because they would feel justified in doing the abortions only if they felt sure that the mother would benefit thereby.

¹²⁵ E.g., cf. T. R. Taylor, "A Lawyer Reviews Plan for Legalized Abortions," *Linacre Quarterly* 26 (1959) 137-40.

¹²⁶ A. Rubin, M.D., "New Progesteronic Hormones in the Control of Fertility," *Pennsylvania Medical Journal* 65 (May, 1962) 581-83; W. C. Andrews, M.D., and M. C. Andrews, M.D., "The Use of Progestins for Oral Contraception," *Southern Medical Journal* 55 (May, 1962) 454-56; E. J. DeCosta, M.D., "Those Deceptive Contraceptives," *Journal of the American Medical Association* 181 (July 14, 1962) 122-25; R. L. Holmes and A. M. Mandl, "Oral Contraceptives: An Assessment of Their Mode of Action," *Lancet* 1 (June 2, 1962) 1174; summarized, *JAMA* 181 (Aug. 11, 1962) 219.

¹²⁷ M. H. Backer, Jr., "Isopregnenone (Duphaston): New Progestational Agent," *Obstetrics and Gynecology* 19 (June, 1962) 724, summarized in *JAMA* 181 (Aug. 11, 1962) 233.

¹²⁸ "Anti-fertility Pills," *Homiletic and Pastoral Review* 62 (May, 1962) 692-700.

tainly licit; to postpone menstruation for convenience' sake is licit for a proportionate reason, even if it is necessary to inhibit ovulation for this purpose; and to regularize an irregular period is licit. On this last point, he cites with favor J. R. Connery, S.J., in showing that regulating the time of ovulation is not sterilization because it is not suppressing ovulation.¹²⁹ In my judgment, this takes care of the possible source of wrong in the violation of the principle of totality; i.e., it is not a mutilation. But I think that one must also consider whether it involves the evil of contraception. In this I like the categorical statement of John J. Lynch, S.J., in the last issue of the Notes: "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."¹³⁰

In my judgment, such immediate contraceptive intention must be absent. A woman who wishes to regulate her period so as to make rhythm effective in avoiding pregnancy may find it hard to eliminate such an intention. I think that it is psychologically possible if the treatment gives hope of establishing a spontaneous regular cycle. But if there is no hope of establishing a spontaneous rhythm and the woman decides to keep on taking the pills indefinitely to keep her period regular so as to avoid pregnancy, it would seem psychologically impossible not to have a contraceptive intention. The mere fact that it is not wrong in itself to keep a period regular does not justify a contraceptive intention. In other words, if a woman who had no intention of having intercourse had some reason for wanting her period perfectly regular, I would see no difficulty. But if the precise reason why a woman wants the ovulation at a set time is so that acts of intercourse at other times will not result in conception, then her intention on the days on which she takes the pills is contraceptive.

G. B. Guzetti¹³¹ of Milan pleads for accuracy in applying the principles of the indirect voluntary and of totality. And on the whole he does pretty well. But on at least one point he could be a little more accurate himself. He states of the anovulants that "whatever be the type of action which they exercise, if they are used to impede ovulation, their use is immoral."¹³² It would have been more accurate to say: if they are used to prevent concep-

¹²⁹ THEOLOGICAL STUDIES 19 (1958) 550; here, p. 7.

¹³⁰ THEOLOGICAL STUDIES 23 (June, 1962) 242.

¹³¹ "Antifecondativi ormonali e morale," *Scuola cattolica* 90 (May-June, 1962) 235-44.

¹³² *Ibid.*, p. 241: "... qualunque sia il tipo d'azione che esse esercitano, se si usano per impedire l'ovulazione il loro uso è immorale."

tion from a voluntary act of intercourse, or, if they are used to cause sterility, or something of the kind.¹³³

He reports the authors as against suspending ovulation for reasons of sport. He cannot be blamed for a little inaccuracy here, since about the same time as he wrote two authors came out favoring the liceity of suspending ovulation as a means of delaying menstruation for proportionately important reasons of sport.¹³⁴ He is against the use of anovulants during lactation, and challenges the idea that irregularity during this period is in any true sense abnormal. He thinks rather that it is called abnormal because it does not fit a preconceived notion of periodicity desired for practice of the rhythm.¹³⁵ He insists that any use of the pills must exclude any intention of suppressing fecundity, and he is inclined to extend this even to a woman who has a founded fear of rape.¹³⁶

In this he is rejecting the solutions proposed by three writers in *Studi cattolici*,¹³⁷ at least two of whom are well-known authorities in moral theology, F. Hürth, S.J., of the Gregorian, and P. Palazzini of the Lateran. *Studi cattolici* is not available to me, but if the solutions are correctly reported,¹³⁸ there could be reason to challenge them. At any rate, Fr. Guzzetti is on defensible ground when he judges that the taking of the pills would be a direct sterilization and so forbidden.¹³⁹

Also rejecting the *Studi cattolici* solutions for the same reason is D. Squilacci,¹⁴⁰ who is accurate enough in this, but who seems to think that the principle of totality is an application of the principle of the indirect voluntary. He says:

Since the vitality and existence of a member is for the good of the whole body, the excision or sacrifice of it is licit, when this is required to save the whole organism of which it is a part. Then there is a legitimate act from which result immediately

¹³³ Intentional impeding of ovulation can be perfectly licit for curing certain menstrual disorders. It is not the equivalent of direct sterilization, which, in the sense of being forbidden, is the intention of causing sterility, i.e., of making conception impossible. Cf. my note, *THEOLOGICAL STUDIES* 22 (1961) 631.

¹³⁴ McCormick, *loc. cit.*; M. Zalba, S.J., *Periodica de re morali, canonica, liturgica* 51 (2, 1962) 182.

¹³⁵ *Loc. cit.* ¹³⁶ *Ibid.*

¹³⁷ F. Hürth, S.J., "Il premunirsi rientra nel diritto alla legittima difesa," *Studi cattolici* 5 (1961) 64-67; P. Palazzini, "Si può e si deve proteggere l'equilibrio della persona," *ibid.*, pp. 63-64; Lambruschini, "E legittimo evitare le conseguenze della aggressione," *ibid.*, pp. 68-72, as cited in various articles.

¹³⁸ By Philippe de la Trinité, O.C.D., *Palestra del clero* 41 (Mar. 1, 1962) 268-69, as part of an article to be discussed infra.

¹³⁹ *Art. cit.*, p. 244.

¹⁴⁰ "Sterilizzazione," *Palestra del clero* 41 (Jan. 15, 1962) 113-16; rejection, pp. 115-16.

two effects, of which one is good, which is the one at which one aims, the other evil (the loss of a member), only permitted . . . for a proportionately grave reason, which is the present need to save the whole body.¹⁴¹

Obviously, in excising a member there is a direct intention of doing just that as a means to a good end. The loss of the member is, in the circumstances, not a moral evil, but at most a physical evil. Perhaps Guzzetti is thinking of the very confusing use of the terms *voluntarium simpliciter* and *secundum quid* as found in St. Thomas. The man would rather not have to lose the member, but in the circumstances he intends it to be removed to save his life. The circumstances here change the morality of the act itself. It is not an application of the indirect voluntary.

It is my hope that all these challenges of mine and an interchange of ideas will lead to greater clarification of issues. I shall be glad to consider any theological (not emotional) arguments against any of my statements, and I trust that most of my fellow moralists feel the same way. But a Discalced Carmelite, Fr. Philippe de la Trinité,¹⁴² does not seem to want any such challenges. At least, while rejecting the *Studi cattolici* solutions, he concludes his own solution by declaring it not probable but certain. He would be willing to reconsider if the Holy See insisted, but apparently not for anyone else.¹⁴³ I trust that he said all this in jest, because I think that he has misapplied three of the most basic principles of moral theology: the indirect voluntary, material co-operation, and probabilism.

Fr. Philippe's initial explanation, with diagram, of the principle of the indirect voluntary seems clear and accurate enough. But his application becomes rather involved. He tries to line up the *Studi cattolici* rape-defense case solutions into (1) act, (2) intended effect, (3) not-intended effect. The act is the taking of the pills; the desired effect is avoiding pregnancy; the not-desired effect is the "copula rendered sterile artificially," which is also a means.¹⁴⁴ Since the means must be intended, the principle is violated. And several times he strongly rejects the indirectly voluntary principle as absolutely inapplicable in any way.¹⁴⁵ Whereupon he proceeds to propose a

¹⁴¹ *Ibid.*, p. 114: "Poichè la vitalità ed esistenza di un membro è per il bene del corpo intero, è lecito farne il taglio o il sacrificio, quando questo si esiga per salvare l'intero organismo di cui il membro fa parte. Si ha allora un atto legittimo dal quale conseguono immediatamente due effetti, di cui uno buono, che è quello a cui si mira, l'altro cattivo (la perdita di un membro) permesso soltanto . . . per un motivo proporzionatamente grave, quale la necessità attuale di salvare tutto il corpo."

¹⁴² "Un dibattito morale relativo alle pillole anticoncezionali," *Palestra del clero* 41 (Mar. 1, 1962) 264-69.

¹⁴³ *Ibid.*, p. 267. ¹⁴⁴ *Ibid.*, p. 267.

¹⁴⁵ *Ibid.*, also p. 268 on Lambrusini, and p. 269 on Palazzini.

solution on the basis of licit material co-operation—which is nothing but an application of the principle of the indirect voluntary. If the conditions of the principle of the indirect voluntary are not fulfilled, the co-operation is illicit.

Perhaps less confusion would arise from the distinction between formal and material co-operation if we could use the terms “direct” and “indirect” again, but the classical terminology is so widely accepted that there seems to be no use in advocating a change in terminology. But at least we should hope for accurate definitions and applications. The terms really refer to direct and indirect voluntary with regard to another person’s sin, not with regard to the act of the co-operator. They have nothing in common with the terms of formal and material sin, as is often supposed. Co-operation in sin is helping another person to do a sinful act. It is formal if the co-operator intends the sin of the other person; it is material if he does not intend the sin of the other but foresees that the other person will be helped to commit sin by his action. Co-operation does not become licit merely by being material. It must fulfil the conditions of the principle of the indirect voluntary, remembering that the evil “effect” is the sin of the other person: the act of the co-operator must in itself be good or at least indifferent; the sin of the other person must not be intended; the good which is intended must not result from the sin of the other person; the good intended must be commensurate with the evil involved.

Fr. Philippe’s solution has some further weaknesses. He apparently wants to avoid the danger of approving direct sterilization, so he puts all the blame for the sterile copula on the aggressor. I think that this is evading the issue. What intention of sterility is present is certainly on the part of the woman. The rapist is certainly guilty of grave sin, but hardly of sterilization.

If Fr. Philippe’s outline of the opinions of Lambruschini and Palazzini is accurate, he is correct in criticizing their application of the principle of the indirect voluntary: the sterility is certainly directly intended, as is the interruption of ovulation. That fear is removed¹⁴⁶ is certainly by *means* of the sterility. The fact that the sterility will not make any difference unless intercourse takes place does not mean that it is not present before.

Fr. Hürth’s solution on the basis of probability of licit self-defense is rejected by Fr. Philippe “because we are in matter of natural law, where probabilism is not valid.”¹⁴⁷ Thus Fr. Philippe sets himself in opposition to the vast majority of moralists throughout the world.

The Spanish Jesuit moralist M. Zalba, in a rather lengthy *casus conscientiae*,¹⁴⁸ treats the same type of case and also rejects the *Studi cattolici* solu-

¹⁴⁶ Palazzini. ¹⁴⁷ *Art. cit.*, p. 269.

¹⁴⁸ “Casus de usu artificii contraceptivi,” *Periodica de re morali, canonica, liturgica* 51 (2, 1962) 167–92.

tions. Although he is talking about the placing of a gold or platinum ring inside the uterus, he writes on the assumption that the effect of the ring is to inhibit ovulation; so his solution fits the anovulant case quite closely.

Fr. Zalba correctly opines that the principle of the indirect voluntary is not applicable because the sterility is certainly intended *in se*, even if not *propter se*, as a means.¹⁴⁹ But he justifies the sterilization on the principle of totality, in that the functioning of ovulation would be a threat to the mental equilibrium of the woman. At the same time, he argues that there is not only no obligation for the rape victim to have a child but actually an obligation not to have one in circumstances which would be unfit for the proper bringing up of a child.¹⁵⁰ Of course, a voluntary use of the sexual function in any but proper circumstances for bringing up a child would be a sinful misuse of the function.

My only objection to Fr. Zalba's article is a terminological one. He does not want to call the act of inhibiting ovulation a direct sterilization. His purpose is to say that it is not a direct sterilization of the kind forbidden by the natural law as taught by the Holy Office and Popes Pius XI and XII. As I proposed in the December, 1961 Notes,¹⁵¹ I think that he should have admitted that it is a direct sterilization, since sterility is directly intended; but that it is of a type not intended to be included in the general prohibition, because on examination of the malice of sterilization it is evident that it is wrong on either or both of two scores: a violation of the principle of totality or a violation of chastity by sinful contraception. And the malice of contraception is in the intention of deliberately placing contradictory acts, i.e., an act (or several) of intercourse and an act to frustrate the effects of intercourse.

Therefore, my analysis of the rape-defense case would agree basically with Fr. Zalba's but with the change in terminology. I would admit that the woman intends to inhibit ovulation; that she intends a direct but temporary sterilization;¹⁵² but that in the supposition that she intends to avoid any act of intercourse, this is legitimate self-defense against the unjust aggression of rape. The act is certainly a direct sterilization and is contraceptive in intent, but in the circumstances does not contain the evil for which sterilization and

¹⁴⁹ *Ibid.*, pp. 174-75. ¹⁵⁰ *Ibid.*, pp. 176 and 180.

¹⁵¹ THEOLOGICAL STUDIES 22 (1961) 628-29.

¹⁵² Fr. Zalba's comparison with ovariectomy or orchidectomy to inhibit metastasis of cancer is invalid (p. 178). These do cause sterility and the operation is directly intended, but the sterility in itself is not intended. What is intended is to stop the internal secretory action of these glands, and therefore they are not direct sterilizations in the moral sense of the word.

contraception are generally sinful. As sterilization, it is an interruption of a natural function of the ovaries even as parts of the body by stopping certain hormone secretions, but this is (at least, probably) justified as far as the principle of totality is concerned, because it is for the good of the whole person. It is contraceptive but avoids the sinfulness generally implicit in contraception, because it avoids the intention of placing contradictory acts, in that the woman positively intends to resist any act of intercourse.

In the face of general negative prohibitions, it must be shown that the case in point was not intended to be included in the condemnation, i.e., that it does not contain the malice of what is condemned. Many moralists agree that the use of a diaphragm contraceptive as self-defense against a real danger of forcible rape is justified. And quite a few hold that the general good of the whole person is sufficient to justify a mutilation, provided that there is a reasonable proportion between the good to be achieved and the (physical) evil of the mutilation.¹⁵³ To me, this is the weakest link in the solution. I incline rather to consider the principle of totality as referring strictly to the functioning of a part of the body as such, and therefore not to the function of the ovary as a part of the reproductive function. For this reason, I would allow the use of anovulants as protection against a real danger of rape only on the basis of probabilism, which certainly applies to natural-law morality as well as to human positive law.

A somewhat related problem is discussed by A. Doolan, O.P.¹⁵⁴ May a Catholic nurse give instruction on the methods of birth prevention to government trainees? Fr. Doolan thinks not, because such instruction would be intrinsically evil when the purpose of the instructions is to have the trainees put them into practice. On the other hand, he would allow the same nurse to assist at contraceptive sterilizations, provided that her co-operation was mediate and material and was done for a proportionate reason, which may well be to keep a position of possible influence for good and to avoid discrimination against Catholics in the future. I would agree with his second conclusion, but do not see why the same conditions could not apply to the instructions. Could she not show the various methods in use, explain why she thinks that only rhythm should be advised, on both religious and physical grounds, and indicate that no method is absolutely safe?

SIXTH COMMANDMENT: CHASTITY

Complaints about negativism in moral-theology manuals are probably justified more in the area of chastity than in any other area. From conversa-

¹⁵³ Cf. McCormick, *art. cit.*, and his references.

¹⁵⁴ "Catholic Nurses and Immoral Practices: When Co-operation Would Be Formal," *Irish Ecclesiastical Record* 97 (May, 1962) 327-30.

tions with other moralists, I believe that many who teach the course try to accentuate the positive without eliminating the negative. Help towards the positive side has been constant in specialized books and periodical literature. C. Gallagher, M.S.S.S.T., writing on "Sexual Pleasure: Its Proper Setting in Christian Marriage,"¹⁵⁵ gives a good explanation of the ends of marriage and the consequent place of sexual activity in marriage, and so also of sexual pleasure, in relation to procreation, mutual love, and relief of concupiscence.

D. J. B. Hawkins, in an effort to answer non-Catholic arguments that sexual intercourse can have meaning for a couple even apart from procreation, reasons from the fact that the act of intercourse is essentially procreative, that it can have meaning only between a man and woman in circumstances that are at least potentially procreative. Comparing the duty of preserving life as contrasted with the sinfulness of attacking life, expressed in Clough's well-known couplet:

"Thou shalt not kill; but needst not strive
Officiously to keep alive,"¹⁵⁶

he shows that the act of intercourse need not always be performed for the purpose of procreation, but "anything in the act itself which contradicts this, destroys its moral propriety."¹⁵⁷ Further, from "a religious view of morality it is clear that our powers are given to us to be controlled and used for the purposes of the Creator and not to be abolished or suspended for motives of personal expediency or pleasure."¹⁵⁸ "The religious man sees his powers, as indeed his whole life, as gifts which he holds on trust from God and which he must administer in accordance with the will of his Creator. Reflecting on his sexual powers, he sees them as bestowed upon him to enable him to take his part in the work of creation itself."¹⁵⁹

That the uniqueness of married love is precisely in the sharing of giving life is also emphasized by Enda McDonagh in a review of recent books on

¹⁵⁵ *American Ecclesiastical Review* 146 (May, 1962) 315-26.

¹⁵⁶ "Arguments in Sexual Ethics," *Clergy Review* 47 (Feb., 1962) 65-73; citation, p. 69.

¹⁵⁷ *Ibid.* Cf. also letter to editor, *ibid.* 47 (June, 1962) 477-78.

¹⁵⁸ *Ibid.*, p. 71.

¹⁵⁹ *Ibid.*, p. 70. A letter to the editor by a Protestant clergyman, W. P. Wylie, gives an interesting approach. He admits that contraception is ordinarily wrong, but in exceptional cases may be allowed as the lesser of two evils—the other evil being the lack of fostering union by intercourse. *Ibid.* 47 (Apr., 1962) 244-48. As examples of non-Catholic approach with no concern for morality, cf. A. Guttmacher, M.D. (President of the Planned Parenthood Federation of America), "How Safe are Birth Control Pills?" *Ebony* 17 (Apr., 1962) 123-28; anon., "Birth Control No Longer Exclusively for the Rich," *ibid.*, p. 129.

the positive side of married love and chastity.¹⁶⁰ As St. Ignatius put it in the *Spiritual Exercises*, "love consists in a mutual sharing of goods,"¹⁶¹ and sharing in the function of giving life is the greatest possible expression of human love. Fr. McDonagh cites an interesting observation from Freud: "The common characteristic of all perversions . . . is that they have abandoned reproduction as their aim. Everything that has given up this purpose and serves the pursuit of pleasure alone, must carry the term 'perverse' and as such be regarded with contempt."¹⁶²

The books, besides stressing the generative nature of the sexual act, also stress the need for control of sex in marriage, which, if approached with a proper attitude, far from being a frustrating experience, can be an even greater and more human demonstration of love. Not mentioned by Fr. McDonagh, but explicitly mentioned in Archbishop Suenens' book and commented on rather indirectly by an *Ave Maria* article, is the practice of *amplexus reservatus*.¹⁶³ This subject was treated amply and well by Fr. Lynch in the last issue of these Notes.¹⁶⁴ My own opinion has not changed. I am inclined to think that intentional *amplexus reservatus* is morally wrong, although I admit the probability of the more liberal opinion.¹⁶⁵ My inclination towards this stricter opinion is somewhat strengthened by a comment of Fr. Cruchon in the article mentioned earlier. Without mentioning *amplexus reservatus* by name, he does say that it is against nature to have sexual union without full satisfaction and that, as being against nature, it can be an underlying cause of later guilt feelings. He also recommends learning to control emotions and, if abstinence is necessary, learning to express affection and love in other, less stimulating ways.¹⁶⁶

¹⁶⁰ "Moral Theology Today—Marriage and Family Planning," *Irish Theological Quarterly* 29 (Jan., 1962) 68–78, reviewing especially the following books: J. deFabrégues, *Christian Marriage* (London, 1959); S. deLestapis, S.J., *Family Planning and Modern Problems* (London, 1961); B. Häring, C.S.S.R., *Die Ehe in dieser Zeit* (Salzburg, 1960); Leon J. Suenens, *Love and Control* (London, 1961).

¹⁶¹ "Contemplation to Attain the Love of God," n. 2; tr. by L. J. Puhl, S.J. (Westminster: Newman, 1954) p. 101. Consider, too, how sharing a meal is a special mark of friendship, because it is sharing in a vital function.

¹⁶² S. Freud, *A General Introduction to Psychoanalysis* (New York, 1920) p. 273; citation, McDonagh, *art. cit.*, p. 73.

¹⁶³ Suenens, *op. cit.*, e.g., p. 82; G. Maxwell, "Love and Control," *Ave Maria* 95 (Feb. 10, 1962) 5–8; cf. also K. Hörmann, "Pflicht der Eheleute zum Kind?" *Theologisch-praktische Quartalschrift* 110 (1, 1962) 1–16, esp. p. 15. For a different and simpler ideal of control, see D. F. Miller, C.S.S.R., "Must Sex Be Controlled in Marriage?" *Liguorian* 50 (Mar., 1962) 1–8.

¹⁶⁴ THEOLOGICAL STUDIES 23 (June, 1962) 253–59.

¹⁶⁵ *Ibid.* 16 (1955) 267. ¹⁶⁶ *Art. cit.*, pp. 222–23.

Suppose that one spouse undergoes a sinful¹⁶⁷ sterilization, may the innocent party initiate marriage relations? And may the guilty party, after repentance? At least four regular writers on moral matters treated the question last spring.¹⁶⁸ All agree on the ordinary doctrine, with the distinction between permanent and temporary sterilization: if the sterilization is permanent and the guilty party is repentant, relations are licit. If the guilty party has not repented, there is question of co-operation in sin, but for the innocent party a grave reason will justify material co-operation. If the sterilization is temporary and the cause is easily removed, the guilty party must remove it.¹⁶⁹ If the guilty party insists on continuing the sterility when it could easily be removed, for a grave reason the other may still seek relations, but must not show approval of the sin and should try to persuade the guilty party to rectify the situation.¹⁷⁰

If the sterilization is by vasectomy or fallopectomy, theoretically there is an obligation to repair the tubal connection if it can be done relatively easily and effectively. In practice this is not obligatory, at least not yet.¹⁷¹ That repair of vasectomy is becoming feasible is reported by Ernest Lachman, M.D., who states that fertility can be re-established in one third to one half of the operated cases. Spontaneous reunion of the tubes is reported fairly often. The article also recalls that vasectomy may be done for other than sterilizing reasons.^{171a}

A related final note on marital chastity is in the nature of an appendix to Fr. Lynch's Notes of last June. There he mentioned that A. Boschi, S.J., had revised his earlier stricter view and now allowed, with proper precautions, the possibility of licit material co-operation of a husband with a wife who uses a diaphragm. Likewise joining the majority opinion on this case are three other well-known Jesuit moralists, Frs. Zalba, Iorio, and Paquin.¹⁷²

¹⁶⁷ If the sterility is natural or the result of legitimate therapeutic measures, relations are licit. A. M. Carr, O.F.M.Conv., "Wife Uses Infertility Pill," *Homiletic and Pastoral Review* 62 (May, 1962) 731; M. Zalba, S.J., "Casus de usu artificii contraceptivi," *Periodica de re morali, canonica, liturgica* 51 (2, 1962) 183-84 (whole article, pp. 167-92).

¹⁶⁸ Carr, *art. cit.*; Zalba, *art. cit.*; D. F. Miller, C.S.S.R., "Consequences of Sterilization," *Liguorian* 50 (Apr., 1962) 23-24; J. Madden, "Sterilization and the Marriage Rights," *Australasian Catholic Record* 39 (Apr., 1962) 125-32.

¹⁶⁹ Zalba, *art. cit.*, p. 184, on the uterine ring; Carr, *loc. cit.*, on the pills.

¹⁷⁰ Zalba, *art. cit.*, pp. 184-85; Carr, *loc. cit.*

¹⁷¹ Madden, *art. cit.*, pp. 31-32 on fallopectomy.

^{171a} "Anatomy As Applied to Clinical Medicine," *New Physician* 11 (May, 1962) 150-52. The success figure seems high, but it is to be noted that the basis is operated cases. Operations are only done when there seems good hope of success.

¹⁷² M. Zalba, S.J., "Boletín canónico-moral de 1961," *Razón y fe* 165 (Apr., 1962) 403-16; on this, pp. 413-14, where he reports without references the revisions on the part of Thomas Iorio, S.J., of Naples, and Jules Paquin, S.J., of Montreal.

SEVENTH COMMANDMENT

Commentaries on *Mater et magistra* continue. One of the editors of the *Liguorian* summarized the main points of the Encyclical under six headings: (1) socialization, (2) profit sharing and ownership, (3) private property, (4) social security, (5) foreign aid, (6) population problem.¹⁷³ The use of the word "socialization" apparently caused some who merely glanced hurriedly at the Encyclical to think that Pope John was advocating some form of socialism. All commentaries make it clear that this is a misreading of the word, as a careful reading of that section of the Encyclical makes quite clear. And as Donald Campion, S.J., one of the translators of the America Press edition of the Encyclical, points out, Pope John early in the Encyclical confirmed the teaching of Pius XI that "Catholics can in no way give approval to the tenets of those who support a form of moderate socialism."¹⁷⁴ Commenting on the same point, Msgr. George G. Higgins of the NCWC indicates three possible mistakes, two which liberals might make and one to which ultraconservatives would be apt to tend: (1) extreme liberals would like to read an approval of socialism; (2) moderate liberals might like to take it as favoring governmental action exclusively; and (3) conservatives may tend to think that only nongovernmental action is meant.¹⁷⁵ The truth, as is clear from the Encyclical itself, is that the Pope is speaking of all forms of social groupings on all levels, private and public. His earlier espousal of the principle of subsidiarity makes it clear that Catholic social teaching is against the government or any group taking over a function which can be done as well by private individuals or smaller groups. But here he also shows, as earlier encyclicals had too, that some functions can only be carried on safely and effectively by government.

"A Protestant's View of 'Mater et Magistra'" was presented in *Social Order* last year.¹⁷⁶ The author praises the Encyclical highly, considering its most distinguishing marks its consideration of the human element in all classes of society and, for the first time in papal encyclicals, a special emphasis on farmers and on undeveloped countries. He feels that the two main deficiencies are a failure to treat the problem of inflation and a not sufficiently vigorous denunciation of communism.

Of course, Pope John did reaffirm the condemnation of communism and

¹⁷³ "Bystander," "Pope John XXIII Tells the World," *Liguorian* 50 (Feb., 1962) 34-38.

¹⁷⁴ "The Pope and 'Socialization,'" *America* 106 (Mar. 10, 1962) 749-52, citing *Mater et magistra*, n. 34 on p. 751.

¹⁷⁵ "The Implications of the New Social Encyclical," *Social Action Digest* 5 (Feb., 1962) 1-7; on this, pp. 5-6.

¹⁷⁶ W. Roepke, *Social Order* 12 (Apr., 1962) 162-72.

socialism as incompatible with Christian beliefs, as had been taught so clearly and forcefully by Pius XI in *Quadragesimo anno* and especially in *Divini Redemptoris*. In celebration of the twenty-fifth anniversary of this latter Encyclical, John F. Cronin, S.S., in a NC News Service feature release,¹⁷⁷ emphasized the fact that *Divini Redemptoris* is still pertinent. Among the significant points still applicable, besides the absolute incompatibility of communism with Christianity, Fr. Cronin mentions "the insight into the conspiratorial nature of Communism . . . the tactics used to deceive the innocent and the unwary . . . specifically . . . united-front tactics," as well as "the need for a vigorous and positive program of Christian social reform as a counter to Communist propaganda and infiltration."

These two points, the necessity of being aware and wary of communist-front tactics and other means of subversion, and the need for positive social action, especially now on racial justice and on social and financial aid to underdeveloped countries, are both proposed in a booklet by Fr. Cronin entitled *Communism: Threat to Freedom*.¹⁷⁸ But the emphasis is so much stronger on the positive social action that the booklet seems almost to deny any danger from internal communism. This occasioned some attacks by more conservative elements, who apparently were irked at the playing down of the internal danger.¹⁷⁹

Awareness of how many were duped by communism in the past has led to a burning desire on the part of many Americans to do something about communism. Taking advantage of this widespread desire, some strange characters have organized groups under anticommunist auspices which are directly opposed to Christian social principles on many points. Best known of such groups, of course, is the John Birch Society. Many articles¹⁸⁰ have pointed out these anti-Christian principles: denial of racial equality, denial of obligations to aid foreign countries, denial of civil government as a natural society; in other words, denial of much of what is taught in *Mater et magistra* and earlier papal encyclicals.

Because of some such evident abuses, some Catholic writers have joined the ultraliberals in condemning all anticommunist groups. E. Duff, S.J., former editor of *Social Order*, did so in an article entitled "There IS a Conspiracy."¹⁸¹ Perhaps he feels that editors should be permitted something

¹⁷⁷ E.g., San Francisco *Monitor*, Mar. 16, 1962, p. 5; *Divini Redemptoris* was dated Mar. 19, 1937.

¹⁷⁸ New York: Paulist Press, 1962.

¹⁷⁹ Editorial, "About a Controversial Booklet," *Priest* 18 (May, 1962) 393-97.

¹⁸⁰ For the period under discussion, cf. Kirk Russell, "Conservatives and Fantastics," *America* 106 (Feb. 17, 1962) 643-45; B. L. Masse, S.J., "Can Catholics Tag Along?" *ibid.*, pp. 645-47.

¹⁸¹ *Social Order* 12 (Apr., 1962) 142-52.

like poetic license to exaggerate. At least he seems to do some of the things which he finds so hateful in anticommunists. He lumps all anticommunists together and then proceeds to charge them with helping the communist cause, being "agents of anarchism," attacking "our schools, our sources of public information and the churches."¹⁸³ He cites a statement of John B. Sheerin, C.S.P., to the effect that anticommunist meetings give out a "mish-mash of misinformation,"¹⁸³ in spite of the fact that some such meetings feature experts in the field. He cites with high praise Fr. Cronin's booklet, mentioned above, and *Communism Today: Belief and Practice* by Victor Ferkiss, Associate Professor of Political Science at St. Mary's College in California.¹⁸⁴ He hopes that these and other "book-length studies of Communism . . . will show that aggressive global Communism is the enemy, not the little old lady next door who likes the U.N."¹⁸⁵

Fr. Duff should not overlook the fact that many anticommunists are very good, loyal, and intelligent people. After all, every good Catholic must be anticommunist if he is to be loyal to the teachings of the papal encyclicals. And what can possibly be wrong in learning more about communism and communist tactics of infiltration and subversion? The very studies which Fr. Duff praises so highly, as well as the book-length studies by J. Edgar Hoover, head of the F.B.I., who Fr. Duff seems to admit is an expert on communism,¹⁸⁶ while certainly exhorting to positive social action as more important, still list as important, learning more about communism and its tactics of infiltration and subversion.¹⁸⁷

In his excitement to vent his outrage on some obvious abuses, Fr. Duff is guilty of a common fallacy. From the fact that one thing is more important than another, it does not follow that the other is wrong, nor even that it is not important, but only that it is less important. To accommodate the words of our Lord, "The weightier things of the law . . . you ought to have done without omitting the others."¹⁸⁸ In one of the citations from Fr. Cronin's booklet, Fr. Duff apparently overlooked one word. He cites: "It is a pathetic misdirection of energy when citizens study Communism *only* in terms of internal subversion."¹⁸⁹

It should be obvious that just as favoring social legislation or foreign aid is not being socialistic, so also judging that present government bureaucracy

¹⁸³ *Ibid.*, p. 148. ¹⁸⁴ *Ibid.*, p. 149. ¹⁸⁵ New York: Paulist Press, 1962.

¹⁸⁶ *Art. cit.*, p. 149, citing Fr. Sheerin again.

¹⁸⁷ *A Study of Communism and Masters of Deceit* (New York: Holt, Rinehart and Winston, 1962 and 1958).

¹⁸⁸ Ferkiss, e.g., pp. 165, 169-70; Cronin, pp. 61-65; Hoover, *A Study of Communism*, pp. 185-88. That there is still a very real internal danger, *ibid.*, p. 157: "... the Communist Party, USA, is, and will continue to be a serious threat to our internal security."

¹⁸⁹ Mt 23:23. ¹⁹⁰ Duff, p. 150; emphasis added.

is too big¹⁹⁰ or that present income-tax laws are unfair does not make a man an anarchist.¹⁹¹

EIGHTH COMMANDMENT

One of the most important forms of positive social action in the fight against communism is the promotion of racial justice, or the elimination of racial discrimination. It is hard to present a picture of the blessings of freedom when millions of our citizens are denied their full rights as human beings. Discrimination against a person merely because of his race or national origin is a violation of justice and comes naturally under the eighth commandment, because it is fundamentally a denial of the honor to which every human being has a right in strict justice. Often, also, it involves depriving the victim of material goods to which he has a right or at least for which he has a right to try. Cardinal Rugambwa and the Bishops of Tanganyika reaffirmed this doctrine in a pastoral letter on the role of a Catholic in a mixed society: "Discrimination against any nationality, race or tribe would be clearly contrary to the natural law."¹⁹²

Bishop Victor J. Reed of Oklahoma City and Tulsa is another successor of the apostles to add his voice to the confirmation of this doctrine—the more forceful perhaps as coming from one raised in a segregated society. In an address to the National Catholic Conference for Interracial Justice, he emphasized Pope John's affirmation in *Mater et magistra* that the social doctrine of the Church must be reduced to action, and racial justice is a place to begin. "As a bishop," he said, "I have felt obliged to give clear and forceful expression to the only view I feel a Christian can hold with reference to racial injustice—one of condemnation."¹⁹³ He pointed out that no harm has come to the Christian cause from being firm on this issue. While admitting difficulties in some local situations, he urged fortitude in action,

¹⁹⁰ Cf. R. A. Freeman, "Leviathan and the Moral Order," *Catholic Mind* 60 (May, 1962) 40–48; B. L. Masse, S.J., "Big Government," *ibid.* 60 (Apr., 1962) 41–50; and "Is Government Doing too Much?" *America* 105 (Aug. 26, 1961) 657–60.

¹⁹¹ Cf. W. D. Mills, "Are You a Pet or a Patsy?" *Life*, Nov. 23, 1959, pp. 51–60; T. Fleming, "Can You Change the Tax Laws?" *American Weekly*, Apr. 10, 1960, p. 2; D. M. Keezer, "Our Scandalous Income Tax Snarl," *This Week*, Apr. 10, 1960, pp. 19–21; H. H. Martin, "What's Wrong with Our Income-Tax Laws?" *Saturday Evening Post*, July 15, 1961, pp. 25, 50–56.

¹⁹² "The Church in a Pluralistic Society," *Catholic Mind* 60 (Jan., 1962) 59–63; citation, p. 60. The Bishops of South Africa have issued a similar statement; cf. NC news release, San Francisco *Monitor*, Mar. 9, 1962, p. 5.

¹⁹³ "You Are All One," *Catholic Mind* 60 (Jan., 1962) 43–46; citation, p. 44.

which may serve as a good example to others in this country and also abroad.¹⁹⁴

John LaFarge, S.J., long a vigorous promoter of racial justice, reaffirmed the same doctrine in *Social Order*,¹⁹⁵ while William J. Kenealy, S.J., of the Loyola University School of Law, expressed himself in favor of Federal enforcement of the rights of Negroes, against William Buckley, who wants to leave it to the states and who seems to think that the whites have a right to use whatever means are necessary to maintain white supremacy.¹⁹⁶

Three specific areas of discrimination were also treated in the period of this survey: employment, housing, and voting. Louis F. Buckley discussed "Discrimination Practices in the Labor Market,"¹⁹⁷ and an editorial in the *Catholic Mind* indicated how discrimination in housing and employment leads to the development of slum areas, which in turn foster delinquency.¹⁹⁸

Richard J. Roberts, S.J., speaks up for "Fair Housing Laws: A Tool for Racial Equality."¹⁹⁹ One of the main complaints against selling to Negroes is that it would lower property values. Factual studies show that values really are a little higher for the type of housing. Often Negroes and other minority groups can only get into run-down areas and so give the impression that the property values have dropped. The drop came before the Negroes moved in, not after.²⁰⁰

Some feel that fair housing laws, like prohibition, will lead to more violation. But Fr. Roberts denies the parity, because most people agree that discrimination is morally wrong. A law would give them the moral support to live up to their beliefs. And actual contact with the minority groups tends to break down prejudice.²⁰¹

In an editorial in the *Catholic World*, John B. Sheerin, C.S.P., gives examples of how Negroes in the South are sometimes deprived of their right to vote.²⁰² One way is to demand literacy tests for Negroes, whether educated

¹⁹⁴ *Ibid.*, pp. 44-45.

¹⁹⁵ "American Catholics and the Negro, 1962," *Social Order* 12 (Apr., 1962) 153-61. Cf. also R. L.-G. Deverall, "The Way It Was, 7" *ibid.* 12 (Jan., 1962) 35-41, who is good on this point and some others, but whom I would class as an extremist on many points, along with the *Catholic Worker* group with whom he has been associated. I admire their heroic spirit of charity, but I judge many of their teachings, such as absolute pacifism and anarchism, to be contrary to Christian doctrine.

¹⁹⁶ "Desegregation," *Social Order* 12 (June, 1962) 249-56.

¹⁹⁷ *Catholic Mind* 60 (May, 1962) 17-27.

¹⁹⁸ "Patterns of Injustice," *ibid.*, pp. 2-3.

¹⁹⁹ *Social Order* 12 (Jan., 1962) 20-34.

²⁰⁰ *Ibid.*, pp. 32-33.

²⁰¹ *Ibid.*, pp. 33-34.

²⁰² "The Negro's Right to Vote," *Catholic World* 195 (June, 1962) 132-35.

or not, forcing them to wait in line for hours or even days to take the test. If the system were just, it should apply to whites as well as to Negroes. Indirect methods include intimidation by threatening disclosure of registration to employers.²⁰³

Another matter falling under the eighth commandment is that of brainwashing. J. H. Crehan, S.J., writing on "The Ethics of Brainwashing,"²⁰⁴ maintains that it is ordinarily illicit to try to change a person's opinion by force or artificial means. Persuasion by presentation of valid reasons is the only licit way. Failures of servicemen taken prisoner in Korea led Army psychologists to try to train the men to resist, even by getting them to repeat constantly to themselves: "I am an American fighting man." Most failures were due to a lack of firm conviction of the principles for which they were supposed to be fighting.

This seems borne out by the fact that most priest prisoners of the Chinese communists, who were determined to resist, were able to do so. Some few yielded and confessed being spies for imperialism or confessed other crimes at the bidding of their captors, justifying themselves that there was no question of lying, since there was no real communication. The communists knew the truth, so there was no deception. And actually they were opposed to the communist government.²⁰⁵

But one of those who successfully resisted for three years tells of the great scandal given by such confessions. The poor oppressed masses are disillusioned with Western ideals and Christianity when they see a priest confess to being an imperialist spy and hence they become easier victims for communist propaganda. And even the communists themselves feel that they have vindicated their materialistic philosophy if they can force an apparently upright man to do their will. On the other hand, resistance to the end is a great frustration to them, and for some a refutation of the philosophy which they have been taught to believe.²⁰⁶

²⁰³ For other notes on racial justice, see J. E. O'Neill, S.J., ed., *A Catholic Case against Segregation* (New York: Macmillan, 1961), reviewed and recommended by J. E. Coogan, S.J., *Homiletic and Pastoral Review* 62 (Mar., 1962) 549-51; R. M. Gasnick, O.F.M., "Franciscan Pledge to Interracial Justice," *Social Order* 12 (Apr., 1962) 173-77; D. Clark, "City Catholics and Segregation," *America* 107 (May 19, 1962) 269-71.

²⁰⁴ *Catholic Medical Quarterly* 14 (Jan., 1962) 6-10.

²⁰⁵ F. X. Legrand, "Why I Confessed," *Month* 200 (Nov., 1955) 271-84. He admits he should not have confessed.

²⁰⁶ J. Clifford, S.J., "The Damage of 'Confessions,'" *America* 107 (May 5, 1962) 203-4; K. Becker, S.J., *I Met a Traveller: The Triumph of Fr. Phillips* (New York: Farrar, Straus and Cudahy, 1958). Such also is the experience of a number of other fellow California Jesuits who spent years in Chinese communist prisons.

A form of lying which also causes quite a bit of scandal is the practice said to obtain even in some Catholic schools of upgrading a student's transcript to help him get into a university or to get a job. Similarly, false letters of recommendation or testimonials not only violate truthfulness but cause scandal in the disregard for honesty.²⁰⁷ I would add, they often do harm to the effectiveness of the school or affiliated group for the future. And if a person undeservedly gets a position for which he is not qualified, he can also be the occasion or cause of harm to others who come to him for help.

CHURCH PRECEPTS

Does Metrecal break one's fast? Thomas F. McMahon, C.S.V., answers that as a liquid nourishment it may not be taken between meals on a fast day, but may be substituted for meals. If four cans are to be taken in a day, take one each for breakfast and lunch and two for dinner. Of course, a person who needs such a strict regimen would be excused or at least have reason enough for a dispensation.²⁰⁸

Such a question may become almost purely academic soon. As of last year, all Canadian bishops and at least four U.S. dioceses had done away with all fasting obligations except for Ash Wednesday and Good Friday.²⁰⁹ Many bishops dispensed from fast for December 7th.

E. Garrigou thinks that travelers are bound by the general law of abstinence on Friday, even though it is not binding where they happen to be.²¹⁰ Apparently he had the *Bulla cruciata* in mind, which is supposed to be personal for those who fulfil the conditions of the Bull, and not directly territorial. Ordinary doctrine holds that a traveler may take advantage of a territorial dispensation while in the territory. I agree with Fr. Garrigou that traveling is not an excusing cause in itself these days, unless it is really difficult to get nonmeat foods.²¹¹

A number of bishops and pastors have tried or are trying to introduce a system of tithing in their jurisdictions. As far as I know, no bishop imposes it by law. It is merely an exhortation to the faithful. And the amount suggested varies from 2½% to 10%, but the latter figure usually includes all religious and charitable donations, such as to the Community Chest, to the St. Vincent de Paul Society, and to Catholic school tuition. One parish sug-

²⁰⁷ F. J. Connell, C.S.S.R., "Giving Recommendations and Testimonials," *Liguorian* 50 (Feb., 1962) 44-45.

²⁰⁸ "Metrecal' and the Fast," *Priest* 18 (Mar., 1962) 231-34.

²⁰⁹ Cf. *America* 106 (Mar. 31, 1962) 849.

²¹⁰ "Sur l'abstinence," *L'Ami du clergé* 72 (Feb. 8, 1962) 92-93.

²¹¹ *Ibid.*, p. 93: "aliment maigre."

gests 4% to the parish, which then has no drives and no special collections, no bazaars, sales, or bingo. Stole fees are still accepted. This 4% can be called tithing in a proper but broader sense of the term.

As F. J. Connell, C.S.S.R., explains, there is no present universal law of the Church requiring tithes in the strict sense.²¹³ In fact, he might well have said that there is no law of the Church, either general or particular for the United States, which requires monetary support of a parish, pastor, or diocese. It is a sort of anomaly that the Baltimore catechism lists "support of the Church" as one of the precepts of the Church, when it is not.²¹³ What obligation there is, is from the natural law confirmed implicitly in Christ's teaching that those who preach the gospel should live by it.²¹⁴ Canon 1496 states the Church's *right* to exact support from the faithful for the clergy and the needs of religious worship. Canon 1502 states that as far as tithes and first fruits are concerned, local statutes and customs should be kept. Unless I have overlooked something, no canon legislates any regular support. Nor does any decree of any of the Councils of Baltimore. Fr. Connell cites the only reference in n. 292 of the Third Plenary Council of Baltimore, which expressed horror at the report that some priests are said to deny absolution to those who refuse to contribute to the Church.

SACRAMENTS

The opinion expressed by Fr. Lynch in these Notes a couple of years ago²¹⁵ that nonpracticing Catholics still have a duty and therefore a right to have their children baptized was reaffirmed by A. Bride, a regular writer on moral matters in *L'Ami du clergé*.²¹⁶

Canon 788 indicates that about seven years is the proper age for confirmation. Actually, the canon says that it should be put off until then, unless grave reasons exist for conferring it earlier. And in a reply in 1932, the Sacred Congregation of the Sacraments indicated that the mind of the Holy See is that confirmation should be conferred before first Communion:

... the Sacred Congregation declared it was truly opportune and even more conformable to the nature and effects of the sacrament of confirmation, that

²¹³ "The Obligation of Paying Tithes," *American Ecclesiastical Review* 146 (May, 1962) 346-50.

²¹⁴ Which undoubtedly accounts for such false statements as "The Church clearly commands all loyal Catholics to contribute to the support of their pastors." *Liguorian* 47 (July, 1959) p. 2.

²¹⁵ 1 Cor 9:14; cf. Mt 10:10.

²¹⁶ THEOLOGICAL STUDIES 21 (1960) 242-45. Cf. *ibid.* 16 (1955) 259.

²¹⁷ "Faut-il baptiser un enfant né de père protestant et de mère non-pratiquante?" *L'Ami du clergé* 72 (Jan. 18, 1962) 44-45.

children should not approach the sacred table for the first time unless after the reception of the sacrament of confirmation, which is, as it were, the complement of baptism and in which is given the fulness of the Holy Spirit (St. Thomas, III, q. 72, a. 2).²¹⁷

Further, in 1952, the Code Commission was asked "whether, considering canon 788, a mandate of the local Ordinary forbidding that the Sacrament of Confirmation be administered to children who have not reached the age of ten years should be sustained." The Commission answered "in the negative."²¹⁸

As though this were not enough, a long list of moralists and canonists have held that this law and the replies should be followed.²¹⁹ Now Charles Connors, C.S.Sp., joins the list and urges the reception before first Communion to prepare the child for adolescence.²²⁰ He mentions what is apparently the reason for holding to a later age in this country: the hope of thus holding the children for catechism beyond first Communion. In my judgment, it is precisely for this reason that the bishops would do well to restore the canonical practice. At present a public-school child attends catechism until confirmation and then stops. It is very hard to get them to come during their high-school years. But if confirmation preceded first Communion, it should not be difficult to get seven- and eight-year-olds to continue instruction. Then there would not be a stopping point at the age of twelve. It should be easier to keep them coming through adolescence.

The pastor's indult to confirm in danger of death does not apply to assistants. But A. Bride²²¹ expresses the hope that the Council will extend the privilege to all priests under the conditions of the earlier decree. To which I say amen.

Many would like to see the Council also declare that extreme unction is the sacrament of the seriously sick rather than of the dying. But by present legislation it may only be administered in danger of death from some cause present in the body. Sometimes it may be difficult to say when such danger

²¹⁷ AAS 24 (1932) 271; *Canon Law Digest* 1, 348-49, citation on p. 349.

²¹⁸ AAS 44 (1952) 416; *Canon Law Digest* 3, 314-15.

²¹⁹ R. Bidagor, S.J., *Monitor ecclesiasticus* 27 (1952) 408-10; A. Delchard, S.J., *Nouvelle revue théologique* 74 (1952) 1085-86; P. Aguirre, S.J., *Periodica de re morali, canonica, liturgica* 42 (1953) 156-58; M. Tynan, *Clergy Review* 41 (1956) 201-6; B. Leeming, S.J., *ibid.*, pp. 649-63, who admits that contrary custom can allow a later age; D. Granfield, O.S.B., *American Ecclesiastical Review* 137 (1957) 342-43; C. L. Parres, C.M., *Homiletic and Pastoral Review* 59 (1959) 574-78.

²²⁰ "Sacrament As Weapon?" *Homiletic and Pastoral Review* 62 (Feb., 1962) 413-18.

²²¹ "Les 'vicaires paroissiaux' seraient-ils ministres de la confirmation?" *L'Ami du clergé* 72 (Apr. 19, 1962) 251-53.

is present. A. M. Carr, O.F.M.Conv.,²²² after outlining the principles well, opines that a heart condition which will probably cause death within a year or two does not constitute the danger required. I do not see this. If an ailment is actually present which will prove fatal within a year or two, I should think that the person could be anointed now. This would fit in with the opinion of P. De Letter, S.J., who argues that the important reason for giving the sacrament early is not so much to give it a chance to bring about bodily health, but "the more important reason is rather the spiritual victory over sickness which the sacramental grace ensures by the strength and comfort it gives to overcome the sufferings and disability of sickness."²²³ It is not a mere future danger; it is present now, although it will probably not bring death right away.

In accord with fairly common teaching mentioned before in these Notes, the sacrament could be repeated at intervals and especially when death seemed immediately imminent. It may and should be repeated if a *new* danger arises. If no appreciable recovery is discernible but only steady decline, quite a few authorities have allowed repetition after one month.²²⁴ In a long, lingering illness, whether heart ailment, tuberculosis, cancer, or whatever, I would recommend repetition at six-months intervals and again at signs of imminent death.

Almost a curiosity is the formula in the ordination ceremony which threatens with excommunication any of the candidates who leaves before the last blessing of the ordination Mass. According to A. Bride,²²⁵ this amounts to a personal precept by the local ordinary (in whose name it is always given, even when some other bishop is ordaining) to each ordinand. However, scruples need never arise, since it is not *latae sententiae*, and of course even if it were, grave guilt would have to be present to incur the penalty. Further, "leaving" means leaving definitively. So it can be all right to leave for a few minutes, if one does not miss any of the main rites of ordination, even without the permission of the bishop.

²²² "Extreme Unction O.K. Here?" *Homiletic and Pastoral Review* 62 (Feb., 1962) 453.

²²³ "Is Extreme Unction the Sacrament of Healing?" *Clergy Monthly* 26 (June, 1962) 157-65; citation, p. 165. Cf. *THEOLOGICAL STUDIES* 17 (1956) 194-95 for references to similar articles by De Letter and others.

²²⁴ J. J. Lynch, S.J., *THEOLOGICAL STUDIES* 20 (1960) 262-63; also J. Madden, *Australasian Catholic Record* 29 (1952) 144; 32 (1955) 131-34; E. F. Regatillo, S.J., *Sal terrae* 41 (1953) 665-70; W. Herbst, S.D.S., *American Ecclesiastical Review* 127 (1952) 208; J. R. Quinn, *ibid.* 135 (1956) 292-99; P. R. Coyle, *Priest* 14 (1958) 848-51. Stricter is F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 121 (1949) 222-23: after a year, if no appreciable improvement.

²²⁵ "L'Excommunication au pontifical des ordinations," *L'Ami du clergé* 72 (May 17, 1962) 317-18.

EUCCHARIST

An interesting case on the matter of the Eucharist is proposed and solved in a German periodical. A priest noticed at the Communion of his Mass that the wine tasted somewhat sweeter than usual. After Mass he checked the bottle and found that a bottle of berry wine had been accidentally used. It was surely invalid matter and consequently most probably an invalid Mass. Since Mass was over, there was nothing to be done. Had he been sure of the invalidity before Mass was over, he should have taken means to complete the sacrifice: if before the second Consecration, or at least before consuming the host, he should have got valid wine, even if he had to wait a while, offered it mentally, and proceeded as usual beginning with "Simili modo." If after consuming the host, he should have got a fresh host and wine, offered them mentally, and started over from "Qui pridie." To avoid *admiratio populi* with a congregation present, he could omit the second host, and in all cases omit the genuflections and elevation at the Consecration of the chalice. If valid wine could not be had, he should continue the Mass to the end anyhow, omitting words and signs pertaining to the chalice.²²⁶ If he wanted to be sure of the validity of his regular wine, he could check it according to the principles explained in an article by myself and Thomas D. Terry, S.J., who holds a doctorate in enology.²²⁷

May Communion ever be administered in the Latin rite under the species of wine? Two possible cases were discussed last year. For viaticum, it is judged that the divine law to receive Communion in danger of death supercedes the ecclesiastical law, and so for one who could swallow only a little liquid and no solid at all, it seems licit to use the consecrated species of wine. *Admiratio populi* and irreverence should be avoided as far as possible.²²⁸

But what of an otherwise healthy person who has a severe allergy to wheat in any form? Fr. Carr²²⁹ cites a rescript of the Holy Office for such a case. It permits the petitioner to "receive Communion under the species of wine

²²⁶ J. Obernhumer, "Eine Messweinverwechslung und ihre Folgen," *Theologisch-praktische Quartalschrift* 110 (1, 1962) 33-35, and *De defectibus in celebratione Missae occurrentibus*, tit. 4, "De defectu vini," nn. 4-9 in the new form, or nn. 4-8 in the old. The only change in 1962 was to split n. 5 into two numbers.

²²⁷ "Altar Wine," *American Ecclesiastical Review* 146 (Feb., 1962) 73-88. The old spelling may make "oenology" more recognizable.

²²⁸ J.-C. Didier, "A propos du viatique," *L'Ami du clergé* 72 (Apr. 26, 1962) 259-63, who cites Cappello, *De sacramentis* 1, n. 485 (5th ed., 1947, p. 344); A. Bride, "Viatique," *Dictionnaire de théologie catholique* 15, 2858.

²²⁹ "Allergy and Communion under One Form," *Homiletic and Pastoral Review* 62 (Apr., 1962) 641-42.

only, in an Oriental rite, taking precautions to avoid *admiratio populi*.²²⁰ Fr. Carr seems to take this to mean that a Latin-rite priest could administer the sacrament using the ritual of an Oriental rite. I would rather take it to mean that the lady was being told that she could receive in an Oriental-rite church—which is always allowed to Latin-rite Catholics under both species. This would cause much less complication and less danger of wonderment. And in a city like Washington, this should not be difficult to arrange.

Many questions are asked about the possibility of taking solid food within the three-hour limit in the Eucharistic fast on the plea of needing something solid in the stomach rather than mere liquid, and finding the three-hour limit a grave inconvenience. Such cases include diabetics, pregnant women, ulcer patients, and even priests who have to binate or trinate. I would answer all these questions by explaining to the questioner what is allowed under the ordinary rules. Too many, even among priests, take "liquid" in these rules to mean the same as liquid allowed between meals on a fast day. But as Fr. Carr points out well,²²¹ liquids allowed between meals in the Lenten fast mean nonnutritive liquids or what would ordinarily be called beverages: coffee, tea, milk, and such. But for the Eucharistic fast, all that is specified is that what is taken be in liquid form and be nonalcoholic. It is understood that what is taken may be for the purpose of nourishment. Hence, anything which can be drunk is permitted. It need not be a thin liquid. Fr. Carr suggests Metrecal for diabetics who need nourishment within a short time after taking their insulin.²²² This can help, but more apt to satisfy in somewhat the same way as solid food, as far as avoiding stomach upset, can be oatmeal mush or soft-boiled eggs, or a thick nonalcoholic egg-nog, provided only that they are truly in liquid form. To avoid scruples, one might put such things in a cup and drink them, although of course one may use a spoon. And that a few solid bits are floating therein does not matter, provided that the whole is in liquid form.²²³

Lest this sound like obnoxious casuistry, I hasten to add that this is not even against the spirit of the law. The purpose of the difference in time limit between solid and liquid is based on a presumption of how long it takes

²²⁰ Cited from *Jurist* 21 (1961) 114: "Pro gratia, qua oratrix S. Communionem sumere valeat sub specie vini tantum in ritu orientali, adhibitis opportunis cautelis ad vitandam fidelium admirationem." (Archdiocese of Washington.)

²²¹ "Potus: What Is It?" *Homiletic and Pastoral Review* 62 (Feb., 1962) 454-56.

²²² "Solid Food Ever a Medicine?" *ibid.* (Apr., 1962) 638-44.

²²³ Definition of "per modum potus" by Holy Office, Sept. 7, 1897 (*Canon Law Digest* 4, 268-69), allows "semolina, grated bread and the like provided the whole mixture continues to have the nature of liquid food." (I have substituted the original "semolina" for "wheat meal.")

for the stomach to empty afterwards. And food already in liquid form is digested much more quickly than similar food in solid form.

Incidentally, it might be noted that although Fr. Connell wrote in April of 1962 that he thought that fresh chewing gum would break the Eucharistic fast and have to conform to the time limit,²²⁴ at a session of moralists at the Catholic Theological Society of America in Pittsburgh last summer he expressed agreement with the opinion of Regatillo mentioned in a previous edition of these Notes.²²⁵ The opinion: whatever juices or sweetening which might be swallowed from chewing ordinary stick gum could be considered as taken *per modum salivae* and so not break the fast at all.

Msgr. Madden, asked whether an ulcer patient could take some crackers and milk under the heading of medicine, answered correctly in the negative.²²⁶ It is clearly nourishment and solid. But instead of insisting on three hours, I do not see why he did not suggest crushing the crackers and adding them to the milk. The whole would then have the nature of liquid food allowed by the Holy Office's definition mentioned above.

S. Tumbas, S.J., also goes to unnecessary lengths, in my judgment, in trying to argue an analogy from the Lenten fast to allow some solid with a beverage "ne potus noceat."²²⁷ Of course, it may be true that in Italy mush and eggs are difficult to get, but at least one could take a thick soup with some semolina in it.

FIRST COMMUNION

Just as an apparent abuse has become common in this country of holding up confirmation beyond the age set down by the Church, so also a less extensive but real delay of first Communion seems to be growing more common. Canon law requires mainly that children know that receiving Communion is receiving our Lord and that they know according to their capacity the mysteries of the faith which are necessary for salvation *necessitate medii*.²²⁸ It is up to the confessor and parents to decide when a child is ready.²²⁹ The pastor should see that there are no abuses and may examine a child to see if he has this minimum of knowledge and can distinguish right from wrong. Granted that the child does, it is the pastor's duty to see that he receives

²²⁴ "Chewing Gum and the Eucharistic Fast," *American Ecclesiastical Review* 146 (Apr., 1962) 269-70.

²²⁵ THEOLOGICAL STUDIES 21 (1960) 117.

²²⁶ "Sick Priest and the Eucharistic Fast," *Australasian Catholic Record* 39 (Apr., 1962) 136-37. At least I am presuming that "biscuit" refers to what we call "crackers."

²²⁷ "Ne potus noceat" e il digiuno eucaristico," *Palestra del clero* 41 (May 15, 1962) 521-30.

²²⁸ Canon 854, §§ 2, 3. ²²⁹ *Ibid.*, § 4.

his first Communion as early as possible.²⁴⁰ To settle any doubts, a Belgian writer²⁴¹ recommends a rereading of the decree *Quam singulari* of the Sacred Congregation of the Sacraments under Pope St. Pius X,²⁴² which is still in effect. And its statement that the law of Easter Communion is binding on children as soon as they have the required minimum of knowledge, even before the age of seven, was reaffirmed by a reply of the Code Commission,²⁴³ as M. Huftier recently recalled.²⁴⁴

A pastor (and a fortiori a school sister) has no right to hold up first Communion until the age of eight. His only right is to see that no abuses take place. The parents and confessor have the right to determine when the child is ready. And none of these parties should require more knowledge than the Church requires. Even before seven, the child has a right to receive Communion (in fact, an obligation to receive Easter Communion) if he has the minimum required knowledge, disposition, and use of reason. In summarizing all this, F. Timmermans, S.J., also cites earlier authorities to show that the pastor's power of vigilance may be exercised only when there is well-founded doubt concerning the dispositions of a particular child.²⁴⁵

How many priests acquaint their people with these rights and obligation? Certainly, first solemn Communion can be made in a group once a year, but parents should be informed that if their child is ready, it may and should receive earlier, even before the age of seven. And in no case does there seem to be sufficient reason for holding up first Communion until almost eight, as so many parishes do.

1962 RUBRICAL CHANGES

Theoretically, the latest edition of the Roman missal merely applies the 1960 Code of Rubrics to the actual text of the missal. However, some points were clarified or made explicit where before there were doubts, and a few rubrics were adjusted to make allowance for somewhat common violations in the past. By now, most have seen summaries of these seeming changes, but a couple of points seem worth further comment.

²⁴⁰ *Ibid.*, § 5: "quamprimum."

²⁴¹ J. Bulckens, "Vers une pastorale de la première communion," *Collectanea Mechliniensia* 47 (3, 1962) 247-60.

²⁴² V. A. Yzermans, ed., *All Things in Christ: Encyclicals and Selected Documents of Saint Pius X* (Westminster: Newman, 1954) pp. 245-50.

²⁴³ Jan. 3, 1918; *Canon Law Digest* 1, 53-54.

²⁴⁴ "Obligation de la messe du dimanche pour les enfants," *L'Ami du clergé* 72 (Mar. 22, 1962) 190-91.

²⁴⁵ "Casus," *Clergy Monthly* 26 (June, 1962) 172-75. Cf. J. F. Marbach, *Priest* 13 (1957) 294-96; M. M. Crotty, *The Recipient of First Holy Communion* (Washington, D.C.: Catholic Univ. of America, 1947).

From the fact that the *Ritus servandus* of the new missal omits the words "versus crucem" and "versus librum" for bows in a number of places, a great number of rubricists²⁴⁶ immediately concluded that the rubric was somehow reversed, whereas the only legitimate conclusion is allowance of greater freedom. At least one canonist and an Italian writer recognized that some freedom of choice was allowed.²⁴⁷ They allow the celebrant to bow in the direction he happens to be facing. According to the contrary-concluding rubricists, if the celebrant was saying the *Communicantes* by memory, he would have to turn to the book to bow at the name of Jesus. I feel sure that none of them meant this, but it is what their words say.

A moralist, M. Zalba, S.J., and an anonymous French writer recognize the freedom which the revised rubric gives: one does not have to turn to the cross any longer for the bow at "Oremus" or at the name of Jesus in the conclusions of Collects or Postcommunions, but he may continue to do so if he wishes.²⁴⁸ This should be obvious from reading the text, and undoubtedly much of the confusion came from commenting on summaries and other commentaries rather than on the actual text. If the rubric demanded a bow to the book instead of to the cross, it would have said "versus librum" in the place of the former "versus crucem." But it does not do this. It simply says "caput inclinat." Nor may one argue that the text eliminated the phrases "versus crucem" and "versus librum." It did not. Those words still occur in some places, where they were not so commonly violated before.²⁴⁹

So, also, freedom is allowed in wearing the biretta or not. And the position of the hands when extended no longer need be with palm facing palm, although of course one may certainly continue to hold them that way if he

²⁴⁶ J. Rabau, "Wijzingen angebracht in de rubrieken van het celebreren van de H. Mis in het nieuw Romeins Missaal van 1962," *Collectanea Mechliniensia* 47 (1, 1962) 70-75; also *ibid.* (2, 1962) 185-89; P. J. Muldoon, "The Typical Edition of the Roman Missal," *Irish Ecclesiastical Record* 97 (Mar., 1962) 191-93; J. P. McCormick, S.S., "Changes in the Rite of the Mass," *American Ecclesiastical Review* 146 (Apr., 1962) 264-67 and 146 (May, 1962) 351-54; J. B. O'Connell, "The New Roman Missal," *Clergy Review* 47 (Mar., 1962) 147-52; W. J. Schmitz, S.S., "Changes in the Missal," *Priest* 18, (May, 1962) 434; F. McManus, "New Missal Rubrics," *Worship* 36 (May, 1962) 403-5; anon., *Clergy Monthly* 26 (Apr., 1962) 104.

²⁴⁷ J. I. O'Connor, S.J., "New Mass Rubrics," *Review for Religious* 21 (July, 1962) 357-63; L. Trimeloni, S.D.B., "Varianti e semplificazioni di rubriche nella nuova edizione del messale," *Perfice munus* 37 (Apr., 1962) 215-21.

²⁴⁸ "Boletín canónico-moral de 1961," *Razón y fe* 165 (May, 1962) 500; anon., "Modificaciones au missel," *L'Ami du Clergé* 72 (June 21, 1962) 396-97.

²⁴⁹ E.g., *Ritus servandus in celebratione Missae*, tit. 6, n. 2, at the Gospel: "Cum autem nominatur IESUS, caput versus librum inclinat"; and in the Gloria and Credo, "cruci" for all the bows.

wishes. However, from the omission of the words saying that the hands should not be above nor beyond the shoulders, I do not quite see how one can conclude that now they may be so extended,²⁵⁰ since the rubric still says "manus extendit ante pectus." Surely "ante pectus" is not merely retained to keep the priest from stretching his hands behind his back, and I find it hard to see how above the head or far out to the side can be considered "ante pectus."

The freedom for the direction of bows seems to allow the celebrant at the singing of the Gospel in a solemn Mass to bow in the direction in which he is facing, i.e., towards the deacon and the book, if he wishes. But if a genuflection is to be made during the Gospel, the deacon is told to genuflect "versus librum," the rest, including the celebrant, "versus altare."²⁵¹

When the new Code of Rubrics was first published in 1960, most commentators concluded that former rubrics about a medium voice ("aliquantum elata") had been eliminated. Actually, except for the Sanctus, the *Rubricae generales*, the *Ritus servandus*, and the rubrics in the Ordinary of the Mass all remain exactly as before. The general rubrics specify only two voices, loud and secret, and list under "loud" the words still given in the *Ritus servandus* and Ordinary as to be said "voce aliquantum elata": *Orate fratres, Nobis quoque peccatoribus*, and the *Domine, non sum dignus* before the celebrant's Communion. As far as I can see, it is a contradiction, and one may take his choice on medium or loud for those three phrases.²⁵² The Sanctus-Benedictus is definitely to be said aloud, that is, so that all present may hear it easily.

The one exception to saying aloud the parts so designated is when one is celebrating at a side altar and might bother others celebrating nearby. Three commentators²⁵³ point out that this introduction of the qualification of side altar is confirmation that the priest at the main altar, saying Mass for a congregation, should still say the loud parts loud enough for the congregation to hear. Those celebrating at side altars should just put up with the distraction patiently. With this I agree. A scheduled Mass for any group should take precedence.

²⁵⁰ E.g., *inter alios*, Muldoon, *loc. cit.* ²⁵¹ *Rubricae generales*, n. 519.

²⁵² Rabau, *loc. cit.*, wants to keep the medium voice.

²⁵³ J. P. McCormick, S.S., "Masses at Side Altars," *American Ecclesiastical Review* 146 (Feb., 1962) 135-37; A. M. Carr, O.F.M.Conv., "Lower Your Voice, Father," *Homiletic and Pastoral Review* 62 (Feb., 1962) 456, 458; P. J. Muldoon, "Celebrant's Tone of Voice at Principal Altar," *Irish Ecclesiastical Record* 97 (June, 1962) 410.

As a closing note, I offer a further bit of evidence tending to confirm my opinion expressed in these notes in December of 1961.²⁸⁴

The cardinal archbishop of Toledo, Spain, published the following notice, which is dated 20 May, 1961, in his *Boletín oficial del Arzobispado de Toledo*, 25 May, 1961, no. 5, p. 99.

The Sacred Congregation of Rites was consulted as to whether, after the publication of the new Code of Sacred Rubrics, the *Bulla Cruciata* privilege obtaining in Spain ceases or not, sc., whereby all ecclesiastics, whether they be seculars or religious, may recite Matins and Lauds of the following day immediately after noon, after having said Vespers and Compline. His Eminence, the Cardinal Prefect of the Sacred Congregation of Rites, has officially informed us that until the Holy See has resolved the question definitively: for the present, the said existing privilege remains in force.²⁸⁵

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²⁸⁴ THEOLOGICAL STUDIES 22 (1961) 641-42.

²⁸⁵ *Canon Law Digest*, 1961 Supplement, canon 2, p. 119. Cf. E. F. Regatillo, S.J., *Sal terrae* 49 (1961) 498; M. Zalba, S.J., *Razón y fe* 165 (May, 1962) 497.