

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY

PSYCHIC PRIVACY

Speaking at a seminar session of the 1962 convention of the Catholic Theological Society of America, W. C. Bier, S.J., discussed the principal moral problems associated with various psychological tests currently being utilized by many an institution in an effort to predetermine more accurately the aptitude of aspirants to one or another academic, industrial, professional, or vocational status. Because most of the questions he proposed are relatively new to the theological scene, and because he dealt with them from the vantage point of long clinical experience, his comments are especially noteworthy.¹

Quite evidently, as Fr. Bier states, it is the personality test—as distinguished from the intelligence, aptitude, or achievement tests—that invites closest moral scrutiny, since it is this kind of excursion into another's secret self which provides basis for the allegation that psychological testing is at times an unwarranted invasion of psychic privacy. These personality tests are administered in the form either of self-report inventories or of so-called projective techniques.² The former are designed principally to distinguish

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

AUTHOR'S NOTE.—Expression of appreciative thanks is owed the editors of the following periodicals for their courtesy in providing complimentary copies of their respective journals for use in the preparation of these Notes: *African Ecclesiastical Review*, *American Ecclesiastical Review*, *Atlanta Economic Review*, *Australasian Catholic Record*, *Blackfriars*, *Canadian Journal of Theology*, *Catholic Lawyer*, *Catholic Mind*, *Catholic World*, *Clergy Review*, *Cross Currents*, *Downside Review*, *Furrow*, *Gregorianum*, *Heythrop Journal*, *Homiletic and Pastoral Review*, *Hospital Progress*, *Irish Ecclesiastical Record*, *Irish Theological Quarterly*, *Jurist*, *Linacre Quarterly*, *Month*, *Palestra del clero*, *Periodica*, *Priest*, *Review for Religious*, *Revue de l'Université d'Ottawa*, *Sal terrae*, *Sign*, *Studi cattolici*, *Vie spirituelle: Supplément*.

¹ W. C. Bier, S.J., "Psychological Tests and Psychic Privacy," *Proceedings*, Seventeenth Annual Convention of CTSA (June 25-28, 1962) pp. 161-79.

² In the self-report inventory, as the very name would suggest, the subject is asked to volunteer certain information about himself by responding truthfully "yes" or "no" to a series of questions or statements as these relate to his personal past or present. The Minnesota Multiphasic Personality Inventory represents one of the more commonly known tests of this type. Projective techniques are more varied. Generally speaking they provide a number of vague stimuli in the form of words, pictures, etc., and the subject is directed to record his honest reactions to or interpretations of these ambiguous suggestions. As Fr. Bier explains, "The underlying hypothesis is that the way in which the individual perceives and interprets the test material or 'structures' the situation, will reflect fundamental aspects of his psychological functioning." The Rorschach Inkblot Test is but one example of projective techniques.

persons who are essentially normal psychologically from those who have notable psychological problems or latent neurotic tendencies. The latter are more detailed in their character analysis and purportedly provide data sufficient for an evaluation of the total personality. But in any case it is the ultimate aim of personality tests in general to penetrate even to the unconscious depths and to discover character traits which may be altogether hidden from the subject's closest associates and are perhaps entirely unsuspected by the subject himself. In other words, the individual who submits to personality testing will very often reveal more secret information about himself than he is aware of communicating, and it is consequently beyond doubt that by means of these techniques the psychologist endeavors to probe that inner world of the psyche of which Pius XII spoke when he insisted so strongly on the right to psychic privacy.³

In view, therefore, of the nature and purpose of personality testing, Fr. Bier very correctly postulates several conditions which must be observed before these procedures can be vindicated as morally irreproachable: (1) knowledgeable consent on the part of the subject; (2) warranty, or sufficiency of reason for this psychic probing; and (3) restraint on the part of the psychologist, i.e., reasonable care not to explore further than individual circumstances require. (Although this third condition is perhaps reducible to the second, there should be no quarrel about the wisdom of making explicitly imperative the *tantum-quantum* character of ethically good testing.) In all likelihood theologians would readily agree with this enunciation of principle, although certain differences of opinion would doubtlessly be expressed on the matter of its proper fulfilment in concrete cases. How much antecedent information, for example, regarding the nature and function of the personality test should be provided the subject in order to guarantee that his consent be a truly informed decision? Fr. Bier himself accepts, as at least sometimes sufficient, this sort of preliminary instruction as suggested by L. J. Cronbach in his depiction of an imaginary psychological interview:

It might help to solve your problem more rapidly if we collect as much information [about yourself] as we can. Some of our tests use straightforward questions whose purpose you will readily understand. Some of our other tests dig more deeply into the personality. Sometimes they bring to light emotional conflicts that the person is not even conscious of. Few of us admit, even to ourselves, the whole truth about our feelings and ideas. I think I can help you better with the aid of these tests.⁴

³ Allocation on applied psychology, April 10, 1958, AAS 50 (1958) 268-82; *Catholic Mind* 56 (1958) 353-68; *The Pope Speaks* 5 (1958-59) 7-20.

⁴ L. J. Cronbach, *Essentials of Psychological Testing* (2nd ed.; New York: Harper, 1960) pp. 461-62; quoted by W. C. Bier, S.J., *art. cit.*, p. 173.

Instruction of this kind is certainly a step in the right direction of candor, and should often enough suffice as a safeguard against even inadvertent deception of subjects. This concession can the more readily be made with respect to individual testing, i.e., in treatment undertaken exclusively in the interests of an individual client who, already aware of his psychological unrest, has instigated proceedings by requesting professional help and who alone will be the recipient of the clinical data to be compiled. Presumption rather heavily favors the willingness of such a person to reveal himself most extensively, for his own ultimate benefit, to the psychologist alone.

But particularly in instances of institutional testing (i.e., testing undertaken for the benefit of an organization to which the individual belongs or aspires to belong), there would appear to be in at least some cases serious reason to question the sufficiency of the information imparted antecedently to the client in Cronbach's imaginary interview. And with this observation Cronbach himself might readily agree. For there are still some people—perhaps a minority now among average adults—who may not have even rudimentary knowledge of the nature of the data which these tests profess to yield. Such terms as “personality” and “emotional conflicts” are all but meaningless to them, at least as regards their ability to translate them into the specific details which might subsequently appear on the psychologist's report—allegations perhaps of latent sexual conflicts, aggressions, hostilities, resentments, and the like. When dealing with subjects of this kind, at least when institutional testing is entailed, more explicit information as to the purpose of the test may well be an ethical requisite, for it may not be presumed that people generally are willing to reveal their inner selves to any considerable extent for the benefit of third parties. Accordingly, unless it be reasonably certain beforehand that a subject is already aware of the generic kind of information about self that he is likely to divulge—and undoubtedly a considerable number of those who at present submit to psychological testing have no illusions in this regard—adequate precautions should be taken to repair this defect in knowledge with an explanation which is intelligible to the subject. Otherwise his consent to personality testing will be proportionately defective.

This item of valid consent to psychic probings is one which Pius XII had declared with unmistakable emphasis:

Just as it is illicit to appropriate another's goods or to make an attempt on his bodily integrity without his consent, so it is not permissible to enter into his inner domain against his will, no matter what techniques or methods are used. . . .

If the consent is unjustly extorted, any action of the psychologist will be illicit;

if the consent is vitiated by lack of freedom (due to ignorance, error, or deceit), every attempt to penetrate into the depths of his soul will be immoral. . . .⁵

In view of this categorical principle, Fr. Bier would appear to be unquestionably correct in his moral appraisal of certain instances of institutional testing. To give students, for example, the erroneous impression that they are undergoing intelligence or aptitude tests, whereas in reality it is their personalities that are being scrutinized, is beyond doubt a deceitful and illicit invasion of their privacy. Likewise illicit, on grounds of extorted consent, would be any compulsory testing of students, even in conjunction with guidance and counseling programs. Obligatory intelligence, aptitude, and achievement tests certainly have their rightful place in our academic curricula, but the same concession cannot be granted for personality tests—even when recognized as such by the examinees—if submission to them is made anything less than entirely optional.

Fr. Bier would also in most instances challenge the right of business and industry to require personality tests of prospective employees and candidates for promotion. Although it was not to his purpose in this discussion to go into detail on this phase of the question, he would most probably endorse as partial reason for his own ultimate conclusion certain relevant observations offered by a fellow psychologist, Cameron Fincher.⁶ Dr. Fincher develops his theme by first summarizing the criticisms leveled against psychological testing in both the popular and professional literature.⁷ He then proceeds to cite the reasons why in his opinion a considerable amount of such adverse criticism is altogether valid. Some business and industrial concerns, he contends, have no real need of psychological tests and in using them are merely subscribing to a prevalent fad. In other cases the tests are being utilized as substitutes for thoughtful human judgments based upon the tangibles of an employee's past performance and proven worth. Overly zealous test distributors, unprofessional testing services, lack of qualified

⁵ *AAS* 50 (1958) 276-77.

⁶ "Abuses of Psychological Tests in Industry and Business," *Atlanta Economic Review* 12 (Aug., 1962) 3-8.

⁷ Dr. Fincher cites the following as among the hostile critics of psychological tests: W. H. Whyte, Jr., "The Fallacies of 'Personality' Testing," *Fortune*, Sept., 1954, p. 117, and *The Organization Man* (New York: Simon & Schuster, 1956); M. L. Gross, "The Brain Pickers Can Cost You Your Job," *True*, Mar., 1959, p. 62; R. Bendiner, "Can They Really Test Your Personality?" *Redbook*, Sept., 1960, p. 30; S. W. Gellerman, "The Ethics of Personality Testing," *Personnel* 35 (Nov.-Dec., 1958) 30-35; R. Stagner, "The Gullibility of Personnel Managers," *Personnel Psychology* 11 (Autumn, 1958) 347-52; M. D. Dunnette, "Use of the Sugar Pill by Industrial Psychologists," *American Psychologists* 12 (1957) 223-25. To these in all probability he would now add M. L. Gross, *The Brain Watchers* (New York: Random House, 1962).

personnel to administer and interpret the tests, and the use of testing materials as yet unvalidated have all contributed to the development of a sorry situation which demands instant correction and future control. Toward this end Dr. Fincher concludes with a bill of rights for examinees which would in his opinion guarantee against violation of personal prerogatives in this matter. If those stipulations of his—especially the several which relate to the genuine necessity of personality testing—are interpreted as rigorously and observed as scrupulously as they should be out of respect for an employee's psychic privacy, it would seem to follow, as Fr. Bier insists, that warranty for compulsory testing in business and industry could be established only with relative infrequency.

Far less difficult, however, to exculpate are the personality tests sometimes administered by competent personnel to applicants for admission to seminary or novitiate. The very nature of the priestly or religious life in one respect narrows in aspirants to either state the right of psychic privacy. For it is mandatory that local ordinaries and major religious superiors should satisfy themselves to the best of their ability that candidates are positively suited for the status of sanctity to which they aspire. Consequently these authorities are required to probe to some considerable extent into the moral and ascetical past of each candidate and thereby to provide rational foundation for the judgment that all essential elements of a genuine vocation are verified to a sufficient degree. Since proper personality testing (identifiable as such by the examinee) would appear to recommend itself as a helpful adjunct to the more established methods of procuring this vitally necessary information, there is a growing tendency to impose this form of scrutiny as a prerequisite of admission to seminary or cloister. Candidates remain always free to seek admission or not as they choose. But they can claim no strict right to be accepted, nor can they deny the right of bishop or major superior to acquire such knowledge of an applicant's character as is relevant to the formulation of a prudent decision to ratify or to reject his application for acceptance. To this extent is the candidate, by the very fact of his applying for admission to seminary or novitiate, restricted in his right to psychic privacy and presumed willing to reveal his secret self to proper authority. His only rightful alternative, if fact in a given case disproves this presumption, is to withdraw his application.

It should be noted most carefully that, as Fr. Bier readily admits, reliable psychologists lay no claim to infallibility for even the most cherished of their personality tests.⁸ Partially for this reason testing of this kind must never

⁸ For a scathing appraisal of one of the more popular psychological tests as viewed by psychologists, cf. R. Sternbach *et al.*, "Don't Trust the Lie Detector," *Harvard Business Review* 40 (Nov.-Dec., 1962) 127-34.

be allowed to supplant the traditional methods of evaluating the asceticomoral character of those who aspire to the priesthood or religious life.⁹ The principal value of the psychological report in this respect would seem to consist in its potential for either (1) confirming a verdict, whether favorable or adverse, based on the more ordinary type of interview and testimonial documents or (2) facilitating a decision in borderline cases. Occasionally perhaps an extremely inauspicious report might suffice to negate a favorable decision derived most confidently from evidence obtained by traditional methods. But it is quite unthinkable that even a highly flattering psychological evaluation would of itself be sufficient to justify reversal of a decidedly negative *ex aliunde* verdict.

Attention should also be called emphatically to the fact that in this portion of his discussion Fr. Bier is concerned exclusively with the testing of aspirants to the priesthood or religion prior to their admission to the seminary or to the profession of religious vows. What he says, therefore, about a religious superior's right both to require personality testing of candidates and to make use of testing data in formulating his decision to accept or to reject candidates is not intended to apply necessarily to an essentially different circumstance wherein a religious superior is dealing with a subject who has already professed the vows of religion. It is this latter situation that J. C. Ford, S.J., envisions when he writes of "Religious Superiors, Subjects and Psychiatrists."¹⁰

A major question proposed by Fr. Ford under this title is that of a religious superior's right of access to the detailed content of a psychiatrist's report as compiled from confidential information elicited from a religious subject in the course of psychiatric interviews, tests, and treatment. Does that right exist and, if so, by what restrictions should it be qualified?

Fr. Ford approaches this problem by noting the triangular relationship created when a religious subject, with the approbation of his superior,

⁹ One mandatory device, for instance, to be employed in the selection of candidates for seminary or novitiate is recourse to the proper local ordinaries for testimonial letters. J. F. Marbach, who serves in the military ordinariate in New York, treats of this matter in "Veterans As Clerical and Religious Candidates: A Word of Caution," *Jurist* 22 (Oct., 1962) 448-67. Except for a very brief introduction and conclusion, this article consists totally of a litany of over one hundred "John Doe" samples of case histories, most of them devastatingly unfavorable, actually remitted in response to requests from various seminary rectors and religious superiors for testimonial letters for applicants to their respective institutions. In conclusion Fr. Marbach writes: "... for some reason there are some seminaries and novitiates which never contact us—to them ... may this article serve as a word of caution!"

¹⁰ *Proceedings*, Seventeenth Annual Convention of CTSA (June 25-28, 1962) pp. 65-129.

consults a medical doctor in the interests of physical health. Among religious it is commonly and correctly understood that the local superior is immediately responsible for the health of his subjects and that consequently religious obedience extends to this area of personal health. It is also acknowledged that any physician consulted in these circumstances thereby assumes a responsibility both to the individual religious as his patient and to the superior whose duty it is to provide within reason for the medical care of his community. Almost without exception this dual responsibility of the physician does not eventuate in any conflict of loyalties as owed to either party. It is taken for granted, without resentment on the part of religious subjects, that the doctor will report to the superior the discovery of any serious malady which medical examination may reveal. That the superior has a right to that information as coming from the physician is beyond legitimate question; that in the vast majority of cases subjects are most willing that superiors possess the knowledge would be universally admitted by reasonable religious. This triangular relationship between medical doctor, subject, and superior is as a very general rule entirely peaceful and devoid of any conflict.

Superficially it might appear that the same is true of the relationship between psychiatrist, subject, and superior. Actually, as Fr. Ford points out, this is not entirely the case. Many a religious who consults a psychologist or psychiatrist is genuinely *sui compos* and by no means insane in the sense which that term has had in moral, canonical, and ecclesiastical usage. Emotionally disturbed and maladjusted to a greater or less extent, he is still able to express himself rationally and to function at a tolerably high level of normal efficiency. With every hope and expectation of finding a solution to their problems, patients of this kind will confide in their psychiatrists in much the same way in which they might communicate with a confessor or spiritual advisor, though with an essentially different purpose in mind. They may also submit to psychological tests calculated to bring to the psychiatrist's attention personality traits and tendencies of which the patients themselves were never previously aware.

This element of psychic self-revelation is crucial to an appreciation of the problem presented by Fr. Ford, for much of what is divulged qualifies technically as conscience matter. It is the sort of knowledge about self to which one has inviolable right of secrecy, except insofar as its disclosure might be required in sacramental confession or as a necessary means of discharging some other obligation. It is the kind of self-revelation which, in accordance with canon 530, §1, religious subjects are altogether free to make or to decline to make to their superiors, for that canon strictly forbids

superiors not only to demand a manifestation of conscience from their subjects but likewise even to induce subjects in any way so to reveal themselves.¹¹ It stands to reason that this prohibition applies not only to superiors in their direct dealings with subjects but also to any vicarious intrusion on the part of superiors into the conscience secrets of subjects. Just as the superior cannot legitimately be the recipient of confidences made by a subject to his spiritual director alone, so also the same kind of self-revelation made to a psychiatrist is beyond the superior's lawful reach. Consequently a superior would not be allowed to command or induce a subject to confide conscience matter to a psychiatrist with the intention of availing himself freely thereafter of the content of that self-revelation.

Such briefly is the substance of Fr. Ford's principal difficulty as regards the relationship created between psychiatrist and religious superior when a religious subject enters upon psychiatric treatment. The superior is *ex officio* responsible for the mental health of subjects no less than for their physical well-being. But he cannot function effectively as guardian of mental health without reliable information as to diagnosis, prognosis, and progress in therapy of those of his subjects who may be undergoing psychiatric treatment. Since the patient himself would as a general rule be an extremely poor source of such information, the psychiatrist's report becomes a practical necessity. Yet that report will in many cases inevitably contain, or at very least be partially based on, revelations of conscience as made by the patient. And since the superior is forbidden by canon law to require—even vicariously, it must be granted, unless one abdicates logic—a manifestation of conscience from a subject, or even induce him to make one, how is the seeming dilemma to be solved?

Fr. Ford first suggests the possibility that a given religious subject, recognizing his superior's predicament, might on his own initiative waive his right to psychic privacy and voluntarily agree beforehand that the psychiatrist's report in its entirety may be submitted to the superior. This prior waiver, if given, should be a truly knowledgeable consent in the sense already explained, i.e., the patient should be previously aware of the type of allegation, some of it perhaps unfavorable to himself, which the report may contain: unpropitious personality traits, unsavory compulsions, shameful tendencies, the diagnosis of severe mental illness, etc. However, granted this general awareness of what he is relinquishing in terms of personal right to psychic privacy, this sort of informed consent could conceivably provide a solution of the problem in a limited number of cases. If so, the superior

¹¹ "Omnes religiosi Superiores districte vetantur personas sibi subditas quoquo modo inducere ad conscientiae manifestationem sibi peragendam."

must then assume the serious obligation of restricting his use of this knowledge to the paternal forum only.

However, it is not hard to understand how a considerable number of even the best religious might be markedly reluctant to share such intimate secrets of soul with even the most understanding of superiors. Accordingly Fr. Ford makes an additional recommendation which would seem to facilitate a partial solution, at least in clerical institutes. He suggests first of all—and with seeming good reason—that the role of psychiatrist in relation to a patient is more that of counselor than that of physician. Consequently the proposal is made that the psychiatrist treating a religious subject be considered as ancillary to the spiritual director rather than as a deputized assistant of the religious superior. More specifically Fr. Ford recommends that, whenever a religious subject is undergoing psychiatric treatment and is at all reluctant to waive entirely in favor of his superior the right to psychic privacy, the superior should remove himself to some degree from that triangular relationship. In his place the superior would authorize some qualified member of the community or institute to receive as spiritual director the detailed report of the psychiatrist as regards the subject undergoing therapy—with, of course, the knowledge and consent of the patient. This deputy of Fr. Superior, bound to strictest secrecy by the traditional rules applicable to all spiritual directors, would then proceed with the subject in a spiritual way, guided both by the psychiatrist's report and by his own appreciation of the meaning and requirements of religious life. He would also supply the superior with a synopsis of the psychiatric report, but in such generic terms as, e.g., the gravity of the malady, prognosis, therapeutic progress, etc., without communicating those details which would constitute conscience matter as revealed by the patient to the psychiatrist or to himself.

In this way the interests of both the religious subject and the religious institute can be adequately protected. The subject's psychic privacy is not invaded by the superior, for only the psychiatrist and the spiritual director, both under onus of strictest secrecy, share those secrets which the subject may have revealed. The patient, however, is by no means emancipated from the restraints of religious obedience and sound spiritual guidance. In this single area of psychic readjustment he remains religiously dependent upon the spiritual director functioning exclusively in the inviolable internal forum. The superior in his turn is sufficiently well informed through the spiritual director so as to be able to make reasoned decisions as regards the patient without intrusion upon the latter's secrets of conscience.

The problem as described is relatively new and its solution is far from being total or definitive. But recognition by all concerned of the existence of

the difficulty is the essential first step towards its satisfactory settlement. Fr. Ford has contributed substantially to a discussion which deserves the serious attention not only of theologians but of religious in general, subjects as well as superiors, and of those who serve as confessors and directors of religious.¹²

By way of appendage to these comments on the psychotherapy of religious, it may be recalled that a year ago in these Notes¹³ attempt was made to differentiate between strict psychoanalysis and other psychotherapeutical methods—a distinction prompted by the wording of the 1961 *Monitum* in whose fourth and final directive the Holy Office forbids priests and religious to consult psychoanalysts without prior permission of the proper ordinary.¹⁴ It then was and still is my own conviction that this conditioned prohibition applies only to instances wherein psychoanalysis in the strictly technical sense of the term would be a form of therapy employed. Since that time there has come to my attention no commentary which certainly maintains the contrary of that opinion, though it is not entirely clear that B. Frisón, C.M.F.,¹⁵ would agree with it totally. His description of psychoanalysis (§5) would seem to equate it to any and every revelation of the unconscious, yet in the course of his article he does speak disjunctively of psychoanalysts, psychologists, and psychiatrists (e.g., §17 & §32). On the other hand, G. Cruchon, S.J.,¹⁶ quite unmistakably opts for a highly restricted interpretation of psychoanalysts as the term occurs in that final sentence of the *Monitum*.

BUSINESS ETHICS

Among those who give serious thought to the need of a sound and effective code of business ethics there should be instantly unanimous agreement that the essential first constituent of any such device must be general acceptance of a single and objectively valid norm of morality. Yet perhaps the surest

¹² What is contained in my last several paragraphs does not reflect the totality of Fr. Ford's thinking as expressed (pp. 101-29) in the third section of his paper under the heading, "Towards a Solution"; nor is the matter of a religious subject's psychic privacy the only problem which he considers in the entire course of his discussion. My own concentration on this one phase of a most complex question should not be allowed to distract readers from other notable features of Fr. Ford's article which, for want of space, have not been mentioned here.

¹³ THEOLOGICAL STUDIES 23 (June, 1962) 237-39.

¹⁴ AAS 53 (1961) 571; cf. Bouscaren-O'Connor, *Canon Law Digest, Supplement*, sub. can. 129.

¹⁵ "Psychoanalysis apud clericos et religiosos secundum Monitum Sancti Officii," *Commentarium pro religiosiis et missionariis* 41 (1962) 82-102.

¹⁶ "Annotationes [ad Monitum S. Officii]," *Periodica* 51 (1962) 207-46.

way of losing an audience of varied religious convictions is to preface any ethical discussion of such matters with a naked reference to natural law. So closely identified with Catholicism has the natural-law concept become in popular estimation that more often than not we stand suspect of proselytic intent if we invoke it in the presence of others. Perhaps we should rather take as our explicit point of departure an even more elementary concept—one which no theist would ever concede to be our monopoly—and attempt first to refurbish an effectual realization of man's fundamental status as creature of God. That thought emerges as anything but trite from the convictions of Episcopalian layman J. E. McMillin:¹⁷

The primary responsibility of an advertising man is *not* to either business or society. His primary responsibility is to God and to principles which are higher than self, society or business. According to Christian teaching, the first and greatest commandment is to "love the Lord thy God with all thy heart and soul and mind." Only when this is obeyed is it possible to carry out the second commandment, to "love thy neighbor as thyself." I believe that failure to recognize this elementary Christian principle has been responsible for more of the moral and ethical dilemmas besetting the business community than any other single cause.

When modern sociologists, psychologists and other contemporary thinkers attempt to lay down rules of social behavior and responsibility which are divorced from any concept of divinity, they contribute nothing but intellectual chaos.

The burden of Mr. McMillin's subsequent observations on the ethics of advertising warrants further consideration after several items bearing on the more generic phases of business have been acknowledged.

The classical concept of natural law as it applies to the business world is most ably explained by R. F. X. Cahill, S.J.¹⁸ Although Fr. Cahill evidences thorough familiarity with specific business problems, he makes no attempt to solve them but contents himself with a model exposition of Scholasticism's notion of an objective, imperating norm of morality. W. J. Byron, S.J.,¹⁹ likewise postulates a back-to-natural-law movement as prerequisite of any consequential codification of business ethics, but devotes the bulk of his consideration to demonstration of the fact that certain industries and individual companies in this country have already formulated rules of con-

¹⁷ "Ethics and Advertising," *America* 107 (Sept. 29, 1962) 806-9.

¹⁸ "Criteria for Business Morals," *Atlanta Economic Review* 12 (June, 1962) 8-10. This is the second in a symposium of five articles appearing successively from May to September under the general title "Business Ethics" (cf. *infra* nn. 20 and 21). The fourth instalment in this series (Aug., 1962, pp. 14-17) is a most impressive contribution on "The Ethics of Conspiracy" by W. F. Kennedy.

¹⁹ "Needed: Clear Codes," *America* 107 (Dec. 8, 1962) 1208-11.

duct which—at least to the partial extent to which they govern the totality of business transactions—represent valid derivatives of natural law.

Both Fr. Cahill and Fr. Byron are exponents of that disciplined process of transition from universal principle to consequent particular conclusion which is distinctive of the Scholastic philosopher. Perhaps some of our hardheaded businessmen need first to be psychologically conditioned to so unrelenting a logic as it applies to the market place. If so, they might profitably reflect in self-appraisal upon several basic attitudes which W. R. Knight²⁰ proposes as norms of one's sincerity of preliminary commitment to a habit of good business conduct. Dr. Knight would have the businessman advert consciously and often to these ethical prerequisites: (1) the idea of our stewardship under God; (2) deep respect for every person regardless of status; (3) acknowledgment of others' high potential together with recognition of human frailties; (4) humility, or confinement of one's ego; and (5) welcome acceptance of hard work. In discouraging contrast to this positive approach to a moral creed for business, R. Freedman²¹ finds escape in an ethical nihilism:

It may be that it is psychologically unsatisfactory, if not impossible, for thoughtful people to be five-day sinners and two-day saints. However, so long as it remains true that the mandates of the business system are often in conflict with the moral imperatives of the Judaeo-Christian tradition, and so long as the business system is thought to be the best realistic alternative, the businessman has no option but to follow the rules of his occupation. In his role as citizen, the morally responsible individual should direct himself to the improvement of the general climate of social life.

When the businessman learns to give up the personal quest for standards of moral action in his role as businessman and permit society its proper role in this area, he may then be freed to go about the task which justifies his control of society's resources—the creation of wealth.

The reason for reviewing these typically divergent expressions of opinion as regards the basics of business morality is merely to accentuate again the need of an accepted common denominator to serve as a stable point of reference for specific ethical directives. At least that need is imperative if we hope to devise ethical codes which provide intellectual satisfaction at the speculative level. From a sheer pragmatic point of view, however—i.e., if one is content merely to prevent unethical conduct, or to lessen its incidence, without bothering to formulate provable canons of proper comportment—

²⁰ "The Basics of Practical Business Ethics," *Atlanta Economic Review* 12 (Sept., 1962) 12-16.

²¹ "The Challenge of Business Ethics," *ibid.* (May, 1962) 7-12.

perhaps W. L. Cary,²² chairman of the Securities and Exchange Commission, offers an effective answer. Mr. Cary is momentarily intent principally upon conflict-of-interest problems as encountered by upper-middle management, but his "principle of disclosure" could also be applied with little or no adaptation to most other moral perplexities of the business world:

1) The executive should act as if all the facts of a particular transaction were going to be disclosed.

2) Even though a transaction might be legal, if an adverse public reaction were anticipated, the executive should decide against the transaction because this adverse reaction might translate itself into a legal prohibition.

3) If the disclosure test still does not discourage going ahead with the transaction, but if the deal raises a question of propriety, the executive should ask himself if actual disclosure would not be appropriate.

Reduced to rule-of-thumb proportions, this touchstone of business morality is expressible in the one question, "Would you care to have all the details of this transaction printed in the *Wall Street Journal*?" While such a criterion does not, as Mr. Cary implicitly admits, represent a constitutive norm of morality, it nevertheless could, if faithfully observed, have some salutary effects in the practical order.

At the more specific level of advertising, J. E. McMillin²³ speaks from professional experience when he reduces to four categories the basic moral obligations of advertising men. Presupposing recognition of the common duty of all human creatures to love both God and neighbor, Mr. McMillin spells out the latter obligation as it pertains to advertising in terms of (1) responsibility to multiple neighbors, (2) responsibility for objective truth, (3) responsibility to speak the truth with love, and (4) responsibility to seek improvements. The first postulate is merely a reminder that clients and their stockholders are not the only rightful claimants to the benefits of proper advertising; the interests of prospective customers and of the public at large must also be served and safeguarded. Consequently there follows the rudimentary obligation to represent with nothing short of objective truth the product or service advertised. These two considerations are already quite familiar to anyone who has reflected at all seriously upon the matter in question. The pertinence of the third stipulation, however, is no less noteworthy.

For, as ingenuous as the expression might sound if ever uttered on Madison

²² "The Case for Higher Corporate Standards," *Harvard Business Review* 40 (Sept.-Oct., 1962) 53-59.

²³ *Art. cit.* (cf. *supra* n. 17).

Avenue, the phrase "to speak the truth with love" singles out a genuine obligation in charity—most significant in its implications and applications—which is very often ignored by advertisers. No one who has suffered through such fatuous commercials as prevail on American television should have any difficulty in perceiving the relevance of fraternal charity to the advertising scene. Perhaps the most irritating feature of many of our TV commercials is the resentment they provoke by their flagrant disregard of or disrespect for even average human intelligence. This is matter subject to the law of charity; or, as Mr. McMillin sums it up, "Any advertising man who approaches his work as though his audience were composed of people less rational, less perceptive, less entitled to thoughtful explanation than he is himself, is evading his responsibility to speak the truth with love." One might add that, since charity also prohibits scandal, sexually suggestive advertisements—not uncommon in our various advertising media—would likewise qualify as violations of this duty of fraternal love.

In this context of business morality, at least brief tribute should be paid to perhaps the most significant theological contribution yet made to the literature in this field. In *Morality and Business*,²⁴ H. J. Wirtenberger, S.J., writes out of ten years' experience in teaching a formal course in business ethics to university students of commerce. Theologians will very likely agree that the volume is highly representative in its compilation and prudent application of moral principles. How many grey-flanneled arms will be raised to salute it makes for interesting conjecture, particularly in view of certain trends in the periodical literature over recent years.²⁵

MEDICAL QUESTIONS

Although the recent medical literature yields very little that is truly novel in terms of moral issues, certain familiar problems of medical morality are constantly being reviewed in the professional journals. These discussions are often enough quite significant, either because of their conspicuous success in comprehending and explaining the ethical implications of a particular medical situation or because of the danger they threaten to the practice of morally sound medicine by reason of their erroneous theological views. In either case it is to the advantage of priests in general to be conversant with various trends of professional thought on matters which so closely touch on our own priestly responsibilities.

It is often assumed, for example, that among those non-Catholic physicians who do not agree with certain of our moral principles and con-

²⁴ Chicago: Loyola Univ., 1962.

²⁵ Cf. THEOLOGICAL STUDIES 23 (June, 1962) 247-53; *ibid.* 22 (June, 1961) 238-41.

clusions there is universal disregard of or even contempt for our Catholic doctrine. Nothing could be farther from the truth, as those will attest who deal at all frequently with doctors at the professional level. True it is that there are some, perhaps even many, individual cases of bigotry with respect to characteristically Catholic teaching on the morals of medicine. But this attitude is by no means predicable of the total non-Catholic segment within the profession, some of whom agree with us even as to principles and many of whom are scrupulously observant of our ethical directives when treating Catholic patients.²⁶

The spirit of genuine respect for alien religious convictions is aptly demonstrated in three editorials wherein J. H. Talbott, M.D.,²⁷ summarized in turn Jewish, Catholic, and Protestant thinking on those medical procedures which occasion most pronounced divergence of ethical views among those denominations. His synopsis of Jewish teaching takes the form of a warmly sympathetic expository review of the superb *Jewish Medical Ethics* by Rabbi Immanuel Jakobovits,²⁸ pre-eminent among spokesmen for Judaism in matters of medicomorality. The book itself is as detailed in its consideration of specifics as are most of its representative Catholic counterparts, and the treatment accorded it by Dr. Talbott offers strong inducement to the reader to acquaint himself firsthand with the Rabbi's application of Hebraic law to the practice of medicine. The same irenic tone characterizes the doctor's exposition of Catholic teaching, as without any tinge of animus and with remarkable substantial accuracy he outlines our conclusions on such provocative topics as euthanasia, sterilization, contraception, abortion, artificial

²⁶ Particularly in the areas of obstetrics and psychiatry, Catholics frequently receive from priests the unqualified counsel to "consult a Catholic doctor." This is not always the best possible advice. While presumption favors the supposition that a Catholic physician will function professionally always in accordance with acceptable moral principles, the regrettable fact of the matter is that, for one or another reason, not all professedly Catholic doctors do so act. Furthermore, the designation "Catholic" is of itself no guarantee of professional competence—an admission which surely can be made without prejudice to the many excellent physicians who profess our faith. Many a non-Catholic doctor, on the other hand, is conspicuous for his appreciation of and adherence to our ethical directives, especially when treating Catholic patients. Hence it is to the advantage of all concerned that priests in the ministry make it their business to know and, as occasion warrants, to recommend doctors in their area who are acknowledged to be both competent and conscientiously observant of principles and practices which are consistent with sound morality.

²⁷ "Jewish Medical Ethics," *Journal of American Medical Association* 180 (May 5, 1962) 403-5; "Catholic Medical Ethics," *ibid.* (June 9, 1962) 834-35; "Ethics of a Protestant Physician," *ibid.* 181 (July 21, 1962) 253-54.

²⁸ New York: Philosophical Library, 1959. A second printing, "with the addition of an *Index* and some corrections of the work in 1959," was published in 1962 by Bloch (New York).

insemination, and the like.²⁹ Finally, after candid admission that as a Protestant he can speak only from personal beliefs and not as one committed by faith to the authority of a church, Dr. Talbott applies his own religious credo ("absolute obedience to God") to the same medical procedures. As would be expected, his conclusions emerge not as absolutes but as the conscience commitments of one who perceives the objective norm of morality as ever variable and varying according to changing circumstances. As inadmissible as this digression from total truth must be according to our principles, it is at least intelligible in a context of Protestant thought.³⁰ Less easy to understand, however, in any theistic environment, is Dr. Talbott's passing reference to Joseph Fletcher's medicomoral theories³¹ in terms no more censorious than "liberal."

One practical problem which has long concerned most doctors, regardless of individual religious beliefs, is that of the limits of the physician's duty to prolong human life. As was noted by Fr. Gerald Kelly, S.J.,³² when he was first writing on the subject, respectable medical opinion on this question divides itself roughly into two persuasions. The first would consider it the doctor's bounden duty to preserve life as long as humanly possible, by whatever means available, and regardless of how hopeless the case may appear to be by medical standards. The second would more readily accept our established distinction between obligatory and nonobligatory means of obstructing the advent of death and with good conscience apply it as circumstances warrant. That these two schools of thought are still both extant and articulate is quite evident in the current literature.

²⁹ In a subsequent letter to the editor (*JAMA* 182 [Oct. 6, 1962] 94), L. C. Voge, M.D., apparently takes umbrage at Dr. Talbott's treatment of legalized abortion as viewed by Catholic theologians. Dr. Voge professes to "refute" Dr. Talbott on this point with a doubtfully relevant quotation from J. D. Conway, *Modern Moral Problems* (Notre Dame, Ind.: Fides, 1961). But except for terminology which in an instance or two may be slightly less than ideally precise, Dr. Talbott's paragraph would seem to be quite representative of our theological position.

³⁰ For an appreciation of characteristically Protestant thinking as regards one specific moral obligation, cf. J. L. Thomas, S.J., "Contemporary Protestant Attitudes on Contraception," *Proceedings, Fifteenth Annual Convention of CTSA* (June 20-23, 1960) pp. 51-61. Much of what Fr. Thomas says of the Protestant mentality in relation to contraception has application also to their convictions with respect to other phases of the moral law.

³¹ *Morals and Medicine* (Princeton, N. J.: Princeton Univ., 1954). For some penetrating appraisals of the Rev. Dr. Fletcher's moral theology, cf. *Journal of American Medical Association* 157 (Mar. 12, 1955) 974-75; *Thomist* 18 (Jan., 1955) 89-101; *America* 92 (Feb. 19, 1955) 538; *Linacre Quarterly* 22 (May, 1955) 58-60.

³² "The Duty to Preserve Life," *THEOLOGICAL STUDIES* 12 (1951) 550-56.

Arguing most strenuously in favor of the more benign opinion, F. J. Ayd, M.D.,³³ makes effective use of our relevant theological concepts as he pleads the right of terminal patients, beyond reasonable hope of cure, to be spared those medical procedures whose only effect is to prolong the process of dying. On the whole this article is exceptionally well phrased from the theological standpoint. One example, however, which Dr. Ayd introduces in illustration of means which, in his estimation, are certainly extraordinary would perhaps have to be refined a bit more precisely before it would be blessed with the unanimous approbation of theologians:

Suppose that a person, whose death from an incurable disease is imminent, develops an intercurrent infection such as pneumonia. Treatment of the infection with antibiotics, in this situation, does not preserve life, it merely postpones death. Since this could mean an extension and an increase of suffering, the patient may licitly refuse treatment if his action does not harm others.

Over twenty years ago Canon John McCarthy³⁴ discussed an analogous case and reached a conclusion contrary to that of Dr. Ayd's. In the problem presented to the Canon, a diabetic dependent upon insulin developed an inoperable malignancy and faced the prospect of very painful death six months in the future. The question then proposed inquired as to the licitness of discontinuing the insulin injections, thereby guaranteeing a quicker and less painful death in diabetic coma. It was Canon McCarthy's conviction at the time that the insulin diet represented ordinary means of prolonging life, and that consequently its discontinuation in the circumstances would be objectively sinful suicide. In a subsequent commentary on this solution, J. C. Ford, S.J.,³⁵ showed preference at that time for this same opinion.³⁶

Although the two cases just described are markedly similar, they are not altogether identical. Dr. Ayd stipulates that for his imaginary patient death from incurable disease is already imminent; and though he does not specify that last term mathematically, "imminent" death implies for the theologian death in the very near future—a matter perhaps of hours or very few days

³³ "The Hopeless Case," *Journal of American Medical Association* 181 (Sept. 29, 1962) 1099-1102.

³⁴ "Taking of Insulin to Preserve Life," *Irish Ecclesiastical Record* 58 (1941) 552-54. This discussion is also included in the same author's *Problems in Theology 2: The Commandments* (Dublin: Browne & Nolan, 1960) pp. 150-52.

³⁵ *THEOLOGICAL STUDIES* 3 (1942) 591.

³⁶ Some few years later, G. Kelly, S.J., reviewed this case and expressed legitimate doubt as to the certainty with which the use of insulin in the circumstances could be designated ordinary means of prolonging life: "The Duty of Using Artificial Means of Preserving Life," *THEOLOGICAL STUDIES* 11 (1950) 203-20, at 215-16.

rather than of weeks or months. It is a term which connotes an even closer proximity to death than need necessarily be inferred from the expression "in periculo proximo." Canon McCarthy, on the other hand, visualized a patient some six months removed from predictable death, i.e., one "in periculo remoto." Except for this element of time, the two cases would appear to be in all respects identical as far as theological principle is concerned, for in the circumstances cited the use of insulin is morally the equivalent of the use of antibiotics as a means of preserving life. Consequently the ultimate question to be decided is whether the difference in time element is so decisive a factor as to sustain essentially different solutions for two otherwise duplicate problems.

Although the conjecture is both unprovable and irrefutable from extrinsic authority, it is my own surmise that theologians generally would favor Canon McCarthy's solution of his case as he stated it. But the same theologians surely would not require treatment of pneumonia in a patient who is already *in articulo mortis* because of cancer. Accordingly it seems altogether safe to say that the element of time-to-death can on occasion be a conclusive consideration in judging correctly whether one is dealing with ordinary or extraordinary therapeutic agents. In prudence, of course, no one would presume to measure the time factor with mathematic accuracy. But in circumstances where death from some irresistible cause is imminent or very proximate in any reasonable sense of those words, even the most ordinary positive means of further prolonging life can become virtually useless, hence extraordinary, and therefore nonobligatory. Understood in these terms,³⁷ Dr. Ayd's moral evaluation of his case would seem to be altogether valid.

Although I. H. Page, M.D.,³⁸ editorializes staunchly in favor of the right to die with dignity, he does not explicitly invoke the distinction between ordinary and extraordinary therapies when he charges physicians with their obligation to respect that right of terminal patients. He does, however, speak of "reasonable and unreasonable" efforts on the part of doctors to stay the advance of death, and the several arguments he employs in defense of

³⁷ My reason for so qualifying my agreement with Dr. Ayd's illustration of extraordinary means is merely to indicate the restrictions which would perhaps have to be made before theologians generally would be willing to endorse this example of his as certainly legitimate. It is not my intention, therefore, to deny the probability of Fr. Kelly's tentative opinion (cf. *supra* n. 36) that the continued use of insulin in Canon McCarthy's case would likewise constitute extraordinary means of prolonging life. Despite my present inclination to favor the contrary view, the doubt created against it by Fr. Kelly cannot be disregarded.

³⁸ "Death with Dignity," *Modern Medicine* 30 (Oct. 15, 1962) 81-82.

his position would likewise admit of ready reduction to the more familiar wording of the principles we apply.

In defense of the more strict professional attitude toward the physician's duty to prolong life, both M. Samter, M.D.,³⁹ and D. Karnofsky, M.D.,⁴⁰ leave no doubt as to their unalterable convictions in this regard. The former interprets the Hippocratic Oath to mean that "physicians *must*, without qualifications, prolong life, and, consequently, prolong death," and he more than implies his belief that it is universally the desire of dying patients that their doctors abide by this principle.⁴¹ Beyond any doubt Dr. Samter would be challenged on this last point even by many among those of his professional colleagues who themselves prefer always to employ extraordinary measures up to the moment of death whenever the decision to do so devolves upon the attending physician. Certainly it must be the experience of doctors generally, as it is that of priests, that many a person would prefer earlier death to the morally unnecessary prolongation of life.

In acknowledgment of this fact, Dr. Karnofsky restricts his discussion to the presentation of medical data calculated to persuade physicians and their patients of the advantages of extraordinary measures in the treatment of advanced cancer. His article is a model of professionally dispassionate restraint even as it explores the most cogent reasons favoring an "aggressive" approach to these cases. One impressive device which Dr. Karnofsky employs merits specific mention. In graph form he illustrates with dramatic clarity the likely medical progress of a fictional case of cancer of the large intestine. At successive stages of the disease this graph indicates the probable outcome, in terms of length and quality of life expectancy, predicated first on the supposition of consent to new therapy and then on the presumption of refusal of further treatment. This is the sort of information which, if communicated honestly and objectively by doctors, can be of tremendous help to patients in formulating a knowledgeable decision whether to utilize or to forgo certain medical procedures which qualify morally as optional.

³⁹ "To Doctors, Death Is Always the Opponent," *New Medical Matera* 4 (Sept., 1962) 48-49.

⁴⁰ "Rationale for Aggressive or Extraordinary Means of Treatment of Advanced Cancer," *CA* 12 (Sept.-Oct., 1962) 166-70.

⁴¹ In reference to a summary (*Journal of American Medical Association* 180 [Apr. 28, 1962] adv. pp. 23-24) of a paper delivered last year by G. Kelly, S.J., at the annual scientific assembly of the American Academy of General Practice, Dr. Samter dismisses as "sincere yet naive" and "removed from the simple facts of everyday dying" Fr. Kelly's assumption of the evident fact that many a person would choose not to make use of extraordinary means in an effort to prolong life.

When some doctors criticize theologians who propound our principles on the preservation of human life, they seem to assume that we are unalterably opposed to any and all use of extraordinary therapies. This simply is not so. Our principles are designed merely as norms to determine the extent of one's strict duty under pain of sin to preserve his own life. No dictum of moral theology need discourage any individual from going beyond the call of duty in his own regard if he reasonably so chooses. But the right to make that decision for himself is reserved to each individual; and only when there is some reason for interpreting his will as agreeable should extraordinary measures be employed to prolong the life of a dying person unable to speak for himself.

No bibliography of the literature on the proper care of the dying will now be complete without reference to a remarkably comprehensive and scholarly paper which at last summer's London meeting of the International Congress of Catholic Doctors merited for E. G. Laforet, M.D.,⁴² the Pope John XXI International Prize for Medical Ethics. In addition to a solid presentation of the theology of ordinary and extraordinary medical procedures, Dr. Laforet discusses with equal competence the questions of sharing medical information with patients, experimentation, organ and tissue transplants, and the spiritual care of the dying. Not the least valuable feature of this impressive article is its long list of references to medical and theological sources.

Except for a certain amount of new medical data, there is mercifully little of theological importance to report on the anovulant drugs. If one may rely on the statistical specialists who function on behalf of one popular news weekly,⁴³ total sales of oral contraceptives are expected this year to gross some twenty-five million dollars as compared with eighteen million in 1962. Partial credit for the increase will be claimed by Ortho Pharmaceutical Corporation—acknowledged to be the world's largest manufacturer of contraceptives—which earlier this year marketed Ortho-Novum in competition with the more commonly known Enovid. The two products are chemically similar and their calculated effects are essentially the same. For theological purposes any distinction between the two is unnecessary.

It remains to be seen whether current suspicions of serious side-effects to be feared from continued use of these compounds will be verified. Despite assurance last summer from American Medical Association's Council on Drugs⁴⁴ that Enovid is not conducive to thrombophlebitis (a potentially

⁴² "The 'Hopeless' Case," *Linacre Quarterly* 29 (Aug., 1962) 126-43.

⁴³ *Time* 81 (Feb. 15, 1963) 84-86.

⁴⁴ "Enovid Cleared by AMA Council on Drugs," *Journal of American Medical Associa-*

fatal clotting of the blood), an NCWC dispatch reported last February that the federal Food and Drug Administration had appointed a committee of medical experts to investigate the cases of more than thirty women who died of embolisms after taking the drug. Writing in July of 1962, in a sincere effort to present objectively the medical pros and cons of the progestational steroids, E. J. DeCosta, M.D.,⁴⁶ stated:

There is only one hint that Enovid may not be completely safe, since several cases of thrombophlebitis, some with fatal embolism, have occurred in patients while they were taking oral contraceptives. However, these cases have not been reported in the literature to date. Whether there was a causal relationship or whether this occurrence was coincidental has not been established. At present there is no indication that Enovid predisposes one to thrombophlebitis. But should the coagulation mechanism be proved to be disturbed, the oral contraceptives, as we know them today, would soon be only another memory in man's vain attempt to control his own destiny.

Entirely apart from the yet unverified possibility that protracted use of Enovid may predispose to any fatal malady, Dr. DeCosta also discusses a number of established medical facts which should considerably dampen enthusiasm for the steroids even among avowed advocates of contraception. Many of the discomforting concomitants of early pregnancy (e.g., fatigue, nausea, vomiting, bloating, lower abdominal distress, etc.) also often enough accompany the pseudopregnancy induced monthly by the pills and have so affected many women that they have abandoned Enovid. Sometimes the occurrence and recurrence of breakthrough bleeding leaves the gynecologist no defensible choice but to suspect a malignancy, verification or disproval of which will probably require curettage and cervical biopsy. Occasionally also menstruation will fail to occur as scheduled when the pills are withdrawn temporarily on the twenty-fifth day of the cycle. Consequently an unwanted pregnancy may be suspected and the usual pregnancy tests required. And at the level of sheer conjecture, there are likewise those who still wonder whether regular suppression of ovulation over long periods may prolong the functional life of the ovaries beyond the age of natural menopause. Such

tion 181 (Aug. 25, 1962) adv. pp. 23-25. Similar statements were subsequently issued by G. D. Searle & Co., manufacturers of Enovid (*ibid.* [Sept. 29, 1962] adv. p. 29; *ibid.* 183 [Jan. 26, 1963] adv. p. 32). This last report added that "caution continues to require the constant consideration of this possibility, and the above facts and statistics should be given particular attention if Enovid is considered for administration to patients with thromboembolic disease or a history of thrombophlebitis."

⁴⁶ "Those Deceptive Contraceptives," *ibid.* 181 (July 14, 1962) 122-25.

considerations as these make it quite clear that the ideal oral contraceptive is not yet a reality.⁴⁶

One final note is provided by E. T. Tyler, M.D.,⁴⁷ who assures a medical consultant that there is reason to believe that another progestational compound, dydrogesterone (Duphaston), may have beneficial effects upon abnormal uterine bleeding without any inhibition of ovulation. On the supposition that this should prove true, one of the currently licit uses of Enovid may be ruled out. For, as noted already by J. J. Farraher, S.J.,⁴⁸ there would be no justification for resorting to anovulant medications if such disorders could be treated as satisfactorily in every respect without even indirect induction of temporary sterility.

CHASTITY AND MARRIAGE

The most important single factor underlying the departure of contemporary Protestant thought from traditional Catholic teaching on the immorality of contraception is to be found in the substantial difference of attitude with respect to the several essential purposes which both marriage as an institution and the marital act as a physical entity share in common. Despite mutual agreement that these ends comprise the proper procreation and education of children, the expression and cultivation of mutual love, and the relief of concupiscence, there is marked interdenominational dissension as to the relationship between the procreative and the personalist constituents of this teleological complexity. Whereas we have always granted primacy to the generative purpose of marriage, modern Protestant theologians maintain the personalist values of the conjugal state to be at least its independent equal in essential status. As a consequence of our premise we are logically compelled to hold that what we call the secondary ends of

⁴⁶ A February 12, 1963, press release from the Medical and Pharmaceutical Information Bureau in New York quoted Dr. E. Rice-Wray as stating that her four years' experimentation with Ortho-Novum indicates that its side effects are "slight," and that only nineteen of some six hundred women withdrew from the experiment because of them. The same release also quotes Dr. E. T. Tyler on the matter of undesirable side effects: "... in the early stages of norethynodrel contraceptive use, many doctors complained that side effects were so disturbing to them that they were afraid to prescribe the medication because patients would call them day and night complaining. I can assure you at this point that there will be no such problem with Ortho-Novum. This compound is extremely well tolerated by patients. . . ."

⁴⁷ "Synthetic Progestational Compounds," *Journal of American Medical Association* 182 (Nov. 3, 1962) 598.

⁴⁸ THEOLOGICAL STUDIES 24 (Mar., 1963) 79. Although Fr. Farraher's source of information speaks of isopregnenone rather than dydrogesterone, the common brand name (Duphaston) argues to chemical identity.

marriage may never licitly be sought by means of any sexual act which is so performed as positively to exclude by human intervention the achievement of that act's primary purpose. The Protestant postulate leads to no such conclusion.

P. C. Rule, S.J.,⁴⁹ develops this point at some length in substantiation of his contention that any debate between Catholic and incredulous non-Catholic on the moral issue of contraception is doomed to failure if conducted in polemical fashion. First obstacle to the success of any such dialogue is, in Fr. Rule's estimation, to be found in Protestantism's rejection of our concept of natural law in favor of a situationist ethic ruled ultimately by individual conscience. No less an impediment to satisfactory discussion, he maintains, is the unshakeable conviction among Protestant intellectuals that we have inverted the order of essentials by relegating to a secondary and dependent status the personalist values of marriage.⁵⁰ To agree with Fr. Rule that no amount of logic and rhetoric can compensate for this divergence in fundamental principles is but to acknowledge a sad fact of reality. No less true, however, is the fact that our Catholic literature, especially at the popular level, has not yet exhausted the pastoral potential of our theology as it relates to the secondary ends of marriage viewed in their proper total perspective.

Theological history has demonstrated the risks inherent in any overemphasis of these secondary ends. In 1944 the Holy Office, with the approbation of Pius XII, declared untenable "the opinion of certain modern writers . . . who either deny that the primary end of marriage is the generation and education of children or teach that the secondary ends are not essentially subordinate to the primary end, but are equally principal and independent."⁵¹ Subsequently, in his October, 1951, address on the moral problems of marital life, Pius XII again rejected the same doctrine.⁵² But on this latter occasion and in this very context the Pope insisted that "this

⁴⁹ "Don't Debate Contraception!" *Homiletic and Pastoral Review* 62 (Sept., 1962) 1050-61.

⁵⁰ Another very practical point to be remembered in any attempt to appreciate the Protestant mentality in regard to contraception (or in any endeavor to expound correctly our own theology of the matter) is the lack in Sacred Scripture of any indisputably clear rejection of the practice as a violation of God's law. As most recently demonstrated by A.-M. Dubarle, O.P. ("La Bible et les Pères ont-ils parlé de la contraception?" *Vie spirituelle: Supplément* 15 [1962] 573-610), sound exegesis leaves still uncertain the precise nature of the sin for which Onan was slain by God after the incident described in Gn 38:9.

⁵¹ AAS 36 (1944) 103; T. L. Bouscaren, S.J., *Canon Law Digest* 3, 401-2.

⁵² AAS 43 (1951) 849; *Canon Law Digest* 3, 403.

[certainly does not] mean that we must destroy or depreciate what is good and right in the personal values which result from marriage and its use." Secondary and subordinate though they are, these personal ends are no less of the essence of marriage and the marital act than are the procreative. To ignore them or to grant them less than their due importance is likewise to distort the essential meaning of marriage.

If, as E. McDonagh asserts in the course of "Marriage: Source of Life,"⁵³ the above-quoted reply of the Holy Office was "a fresh invitation to understand more fully the purposes of marriage and the relations between them," Pius XII's reference to the personal values of matrimony should be understood as virtually a mandate to initiate the same project. In communicating his own thoughts on the subject, Fr. McDonagh observes that the work of Herbert Doms and others was but the inevitable reaction—regrettably exaggerated—to an antecedent theological attitude which stressed the biological and juridical aspects of marriage at considerable sacrifice of the concept of a love-union whose most intimate self-expression is the procreational act. Biologically it is altogether evident that the essential purpose of sexual intercourse is the production of new life. Psychologically, and even ascetically, it should likewise be evident that to be worthy of human nature this procreative act should proceed only from mutual conjugal love which prompts each partner to give totally of self to the other. Consequently, as Fr. McDonagh reasons, unless this consummated act of love is allowed to retain its natural tendency to seek its perfection in the generation of new life, the integrity of the mutual act of giving is spoiled and love to that extent denied.

This approach to the nature of marriage, which is by no means entirely new, serves two purposes. It helps to illuminate as essential the personal objectives of the conjugal state without exaggerating their significance, and it provides a supplementary argument in proof of the immorality of contraception.⁵⁴ Although this argument would appear to be valid, intellectually cogent within limits, and emotionally perhaps more appealing than is the traditional proof based on the primary end of marriage, it may prove to be no more effective than the other in counteracting the very strong emotional considerations with which many attempt to defend the licitness of onanism both in theory and in practice. Let us suppose, for example, a married couple genuinely in love with each other and faced with the knowledge that pregnancy will bring serious threat of death to the wife. It does not seem likely

⁵³ *Irish Theological Quarterly* 29 (Oct., 1962) 273-87.

⁵⁴ For an excellent detailed presentation of this argument, cf. P. M. Quay, S.J., "Contraception and Conjugal Love," *THEOLOGICAL STUDIES* 22 (Mar., 1961) 18-40.

that their decision thereon to resort to contraception would be altered by any effort to convince them that the practice would constitute a denial or abdication of their mutual love. In the circumstances, both parties would more probably contend in all sincerity that conjugal love is, on the contrary, most exquisitely demonstrated by insuring against the wife's untimely death, without however denying each other that mutual love-offering which is the conjugal act of intercourse. Although the fallacy in this line of reasoning may be clinically provable by intellectual analysis of the nature of marital love, it must be conceded that emotional convictions are often impervious to refutations of a purely rational kind. Certainly no one would begrudge the argument whatever success it may achieve in persuading people of the immorality of contraception, but doubt remains in my mind as to the degree of its practical effectiveness.

Fr. McDonagh goes on to consider how sexual restraint in conjugal life also contributes to the virtuous achievement of the several ends of marriage. Although the spontaneity of marital love is a precious commodity, it is not to be identified with unbridled instinct, but must always be temperately controlled by reason. And because procreation and education constitute one indivisible parental obligation, conjugal partners cannot virtuously assume responsibility for generating offspring unless they can reasonably foresee the means available to provide for them properly. Periodic continence, therefore, becomes at times an exercise of prudence which should serve to strengthen rather than destroy conjugal love:

... where [the observance of continence] is inspired by love and combined with the desire to serve life through adequate education, the protection of the health of the mother or children and so on, it is clearly in harmony with the demands of the married state. The discipline which continence involves gives the parties an opportunity to mature in their love of each other and in its expression as well as in their sexual attitudes. As a mode of family-regulation, the avoidance of the fertile period through periodic continence differs essentially from the use of contraceptives. The life-directed tendency of the physical act is preserved intact and the complete self-giving in love which the act expresses is in no way frustrated. And where this restriction is practiced from love to promote life, the total value of the marriage commitment is recognized and strengthened.⁵⁵

⁵⁵ It should be noted in passing that throughout this article the term "life" (perhaps at times also even the term "procreation") is used in a very broad sense. If one gets a first impression that Fr. McDonagh's concept of marriage as a source of life indicates exclusive concern for the generation of new physical life, this assumption must undergo revision as his thesis evolves. Apparently Fr. McDonagh means also to include the notion of the perfecting of extant life, not only through the adequate education of children already born of a marriage but also by the promotion of the total *bene esse* of the spouses.

Whenever the pros and cons of licit family limitation are under discussion, one can expect to hear it said—often less thoughtfully than it should be said—that the large family is the Christian ideal.⁵⁶ This maxim, however, is not universally applicable to every marriage indiscriminately; it obtains in truth only in circumstances wherein the decent raising of a large family is reasonably possible. Certainly it is nobody's ideal to have large families born and raised in an environment which precludes the reasonable expectation of their being reared in a manner consistent with human dignity. This observation is made in no criticism of parents whose extraordinary love, industry, and self-sacrifice enable them to overcome severe handicaps in their successful efforts to bring up large families properly. Nor does it imply that only the exceptionally wealthy are justified in having many children. But it does call attention again to the fact that the adequate education of children—and the term "education" is used in its plenary sense—is no less an essential responsibility of marriage than is their procreation, and that magnitude of family size is not of itself necessarily indicative of parental virtue in the objective order. As remarked by J. C. Ford, S.J.,

... the discovery of rhythm as a legitimate and effective means of family planning enlarges the responsibilities of the married couple. ... Those who can avail themselves of this method with reasonable facility have much less justification now than formerly in leaving the whole matter of the number of their children in the hands of Providence. They are required by Christian prudence ... to exercise their human providence, too. ...⁵⁷

One of the best available treatments of the moral aspects of periodic continence is provided collaboratively by J. C. Ford, S.J., and G. Kelly, S.J.⁵⁸ After first tracing the theological development of the question as it evolved prior to Pius XII's 1951 Allocution to the Midwives, the authors then comment at considerable length on the theological significance of that portion of the Allocution which relates to the use of rhythm as a method of family limitation. This discussion concerns itself particularly with the consideration of several still extant doubts relative to the affirmative duty of married people to procreate. Although it is now altogether certain that

⁵⁶ This is a premise invoked several times, for example—not, it would seem, with total felicity—by A. Zimmerman, S.V.D., in the course of his article, "Regulation of Offspring for the Common Good," *American Ecclesiastical Review* 147 (Nov., 1962) 289–307 and *ibid.* (Dec., 1962) 403–18.

⁵⁷ *America* 107 (Dec. 15, 1962) 1253. These observations from Fr. Ford occur in the course of his review of Dr. I. E. Georg, *The Truth about Rhythm* (New York: Kenedy, 1962).

⁵⁸ "Periodic Continence," *THEOLOGICAL STUDIES* 23 (Dec., 1962) 590–624.

such an obligation does exist, there is still lack of agreement among theologians as to its gravity, its limits, its imperating virtue(s), and its precise source of derivation. On all of these points Frs. Ford and Kelly offer characteristically thoughtful opinions as the product of careful theological reasoning.

It is their firm conviction, for example, substantiated by most impressive arguments, that the marital state itself imposes on married people the obligation per se to procreate, if they can—an obligation, of course, which admits of excusing causes. The two authors do not profess to find this thesis expressly enunciated in the Allocution, and they are not unmindful of the fact that certain other theologians have consistently predicated this duty to procreate only of those married couples who make complete use of marriage habitually.⁵⁹ But if one may venture to indulge in prophecy, it is most likely that the argumentation presented by Frs. Ford and Kelly will win many a convert to their way of thinking.

Those who are experienced in the priestly ministry are well aware of the many pastoral problems which are encountered among married people who with good reason are attempting to observe periodic continence for purposes of prudent family planning. Apart from the amount of medical advice and supervision usually necessary for the effective application of the rhythm theory, recognition must also be taken of the fact that for many it can be an extremely difficult regimen to follow while living in such intimacy as is characteristic of the lives of most married couples. Psychological tensions and conflicts can easily develop to threaten the happiness of entire households, and often it is only by exercising the maximum of natural and supernatural care that some will manage to keep their marriage from serious jeopardy. Others apparently find it simply impossible to maintain marital harmony while subject to the privations imposed by the practice of periodic continence.

It is of this sort of problem that L. N. Moss, M.D.,⁶⁰ speaks most realistically as he calls upon doctors and priests alike to consider what can be done in a practical way to help these individuals to adjust properly to the difficulties inherent in the only licit form of family planning. Although his

⁵⁹ Jesuit theologian J. Fuchs, for example, insists at some length that the duty to procreate does not derive immediately from the state of marriage but rather from the use of marriage in the performance of the consummated conjugal act ("Nicht die Ehe als solche, sondern die im leiblichen Einswerden sich vollziehende Ehe hat die hohe Aufgabe, effektiv dem Leben zu dienen."): "Moraltheologisches zur Geburtenregelung," *Stimmen der Zeit* 170 (Aug., 1962) 354-71, at 355.

⁶⁰ "Catholics and Family Limitation," *Catholic Medical Quarterly* 15 (Oct., 1962) 127-32.

remarks are addressed to a British audience, they are not without application also in other countries. Stressing the fact that we cannot hope to counteract the overt contraceptive propaganda of secular organizations without supplying an alternative method of birth control which is practicable as well as morally acceptable, Dr. Moss goes on to suggest three possible means of conveying information and other effective assistance to all who may be in need of the same: Catholic marriage advisory councils, some form of correspondence center to be manned by thoroughly qualified personnel, and what he calls "marriage rescue squads." The councils referred to would seem already to have their equivalent here in America in our Cana and pre-Cana organizations, as well perhaps in the strictly medical clinics which are beginning to make their appearance under impetus from the Family Life Bureau of the National Catholic Welfare Conference. These latter would probably prove feasible only in the larger cities where Catholic physicians are numerous, and for that reason Dr. Moss proposes a correspondence service principally for the Catholics in more isolated communities. His "rescue squads," to be composed of gynecologists, psychiatrists, psychologists, and the like, would function within a radius of fifty or a hundred miles and stand ready to accommodate with personal professional counsel upon request from parish priests in areas where such medical assistance is not locally available. There is considerable merit in the proposal made by Dr. Moss, and it deserves consideration and perhaps further refinement by parish clergy and members of our numerous Catholic Physicians' Guilds. Already in this country the Planned Parenthood Association is inviting Catholics explicitly to visit their clinics for instruction in the use of rhythm. Unless we are willing to run the risk that some who take advantage of this offer will eventually be enticed instead into adopting contraceptive measures, we would do well to take responsibility upon ourselves for making available to those who truly need and want them reliable information about periodic continence and other practical aids for its effective observance.

Occasion presented itself a year ago to discuss in these Notes⁶¹ a conviction expressed by A. Boschi, S.J., to the effect that in a 1955 communication addressed to bishops in the United States the Holy Office had not resolved the doctrinal dispute as to whether a husband, for sufficiently grave reason, may ever licitly have intercourse with his wife who cannot be dissuaded from using an occlusive pessary. In a subsequent survey of theological opinions on this question, A. Valsecchi,⁶² although agreeing that the matter

⁶¹ THEOLOGICAL STUDIES 23 (June, 1962) 259-61.

⁶² "Su un caso di onanismo coniugale: Un intervento del S. Ufficio," *Scuola cattolica* 90 (Sept.-Oct., 1962) 435-40.

was not decisively settled by the Congregation, nonetheless professes himself unable to find intrinsic justification for this kind and degree of co-operation in an act which for the wife is indubitably an objectively serious sin. It would appear from Fr. Valsecchi's concluding remarks that he considers conjugal intercourse as an act which so unifies two in one flesh as to preclude any valid distinction between principal agent and co-operating cause. In every respect, however, his is a most courteous disagreement with those who defend the milder opinion.

SACRAMENTS

A subsumption made by J. J. Brennan, O.S.C.,⁶³ on a response given some few months earlier by the editor of one of our clerical journals provides an interesting bit of speculation for moralists and canonists. A. M. Carr, O.F.M.Conv.,⁶⁴ in dealing with the hospital chaplain's right to administer the sacraments of baptism, penance, and extreme unction to the unknown "dead-on-arrival," had solved the case in accordance with the legitimate opinion of the many who defend the licitness, *secluso scandalo*, of granting these sacraments conditionally to any unconscious dying person about whose sacramental intentions nothing whatever is or can be known.⁶⁵ In partial substantiation of this solution he had then quoted the Second Council of Baltimore to the effect that "To be baptized are all [unconscious] dying adults whenever it can be prudently judged that they did not certainly reject the grace of faith."⁶⁶ In conclusion Fr. Carr observed: "It would not ordinarily be an obligation for a priest to administer the sacraments to these people—unless maybe in a charitable way."

Arguing exclusively from the imperative connotations of the gerundive construction as used by the Council Fathers in text and context, Fr. Brennan inclines to the opinion that it was their intention not only to concede a right

⁶³ "Obligation to Baptize All the Dying," *Homiletic and Pastoral Review* 62 (Aug., 1962) 942.

⁶⁴ "Anointing D.O.A.'s," *ibid.* (May, 1962) 732-34.

⁶⁵ Fr. Carr invokes, of course, the distinction between medical and theological death (cf. *THEOLOGICAL STUDIES* 22 [June, 1961] 244-45), and sanctions administration of sacraments only to those who are not certainly dead in the latter meaning of the term.

⁶⁶ "Baptizandi etiam sunt adulti omnes moribundi, quoties prudenter judicari potest, eos non certo respuere fidei gratiam; tunc enim *sub conditione* baptizari possunt" (*Concilio plenarii Baltimorensis II acta et decreta* [Baltimore: Murphy, 1868] §230). Fr. Carr's interpolation of "unconscious" into the text is justifiable in light of the nature of the case proposed to him, for the Council certainly intended to include the comatose dying patient under this section of the decree. However, the decree is not restricted to the unconscious, but could also in danger of death be applied, for instance, to a conscious subject who has been insane from some time subsequent to his attainment of the use of reason.

but also to impose an obligation upon priests in this country to baptize in the circumstances described. His only doubt in the matter is expressed in the query as to whether the general failure of priests over all these years to comply with this apparent precept has deprived the law of its binding force.

By way of partial answer to Fr. Brennan's question it should be noted in respectful contradiction that it has long been, and still is, the practice of many a priest to administer sacraments conditionally in the situation under discussion. It may well be that priests in this country have so acted without conscious advertence to the possibility of any positive law to this effect, and even without any suspicion that they might thereby be fulfilling an obligation rather than exercising a right. But many in their pastoral zeal have doubtlessly felt that they preferably should not in charity deny to the dying what legitimate theological opinion allows them to dispense. In any event, if Baltimore did indeed declare an obligation to baptize *in casu*, the reasonable presumption that many priests since that time have in fact complied, at least materially, with that legislation would make impossible of conclusive proof any allegation that the law has lapsed by reason of desuetude. In the resultant state of doubt, "standum est pro valore legis."

Was any such obligation *de facto* imposed by the Council? If we are to interpret legal language first according to its literal sense, as canonically we are required to do, it would seem that Baltimore's intent in present context was truly preceptive and not merely permissive. Such would appear to be the inescapable force of the phrase "baptizandi sunt," especially in its juxtaposition to the "baptizari possunt" in the clause immediately appended by way of theological reason for this directive. In other words, what the Council would seem to have said is literally this: "Because these subjects *can be* baptized conditionally, they *should be* baptized." Or to put it in still another way: "Because it is *possible* that baptism in these cases will be administered validly, it *should be* administered conditionally."

Of what class of baptismal subjects was the Council speaking? "All dying adults, whenever it can be prudently judged that they do not *certainly* reject the grace of faith." Since by present supposition our case is that of an unconscious dying patient about whose religious affiliation or sacramental intentions nothing is known, there can be no certainty whatsoever that he has rejected the grace of faith. Consequently the obligation to baptize would seem to obtain, and burden of proof that proper dispositions are certainly lacking rests with the priest who would claim justification for withholding the sacrament.

Even if one prescind from the element of obligation as perhaps discernible in this decree of Baltimore, it is undeniably true that the Council

at very least approved as licit the administration of baptism despite the lack of all external evidence of intention on the part of the unconscious dying subject. One might in consequence reasonably ask why a national plenary council could be so specifically acquiescent on a point which the Code of Canon Law subsequently passed over in silence.⁶⁷ It must be remembered that the Fathers of Baltimore were legislating for the faithful of a single nation which even at that time was predominantly Christian, though not nearly to that degree Catholic. The Code, on the other hand, was to have application throughout the entire world, inclusive of territories where Christianity was either virtually nonexistent among the natives or else a distinct rarity. Hence the Fathers at the Council had far more reason to presume that even the unbaptized in this country could have been sufficiently exposed to the essential truths of faith to make it possible for many of them to have formulated at least an implicit or virtual desire for baptism. It may have been on the strength of this presumption—certainly valid now as well as then as a general judgment, and beyond conclusive disproof in any particular instance of a person unknown dying in coma—that Baltimore spoke as it did.

This decree of the Council may also have been influenced by the implications of such decisions of the Holy See as the 1850 response from the Holy Office to the Bishop of Perth.⁶⁸ The *dubium* as presented in this instance depicted an adult savage *in articulo mortis* who, because of lack of time, mental retardation, and ignorance of the language of the attending priest, could not be instructed in the minimum essentials of an act of faith or made to understand the meaning of contrition for sin. The Holy Office approved conditional baptism in such circumstances, provided that even by a nod the bushman had indicated desire to be baptized. Since the Congregation required some least expression of intention, it must be presumed that in its estimation the aborigine was a canonical adult. And in view of the highly

⁶⁷ Many theologians and canonists maintain that canon 752, §3 (which allows conditional baptism for one who, prior to losing consciousness, gave probable indication of desire for the sacrament) is intended *sensu aiente* and consequently does not implicitly forbid baptism in instances where such intention was not discernible. These authorities, therefore, contend that the Code makes no explicit provision for the case here under discussion.

⁶⁸ *Codicis iuris canonici fontes* 4, §912: "Se un adulto selvaggio *in articulo mortis* per la brevità del tempo, per mancanza di idee e per ignoranza della lingua, non solo non può essere istruito nelle cose necessarie *necessitate medii* ma neppur formare un atto di contrizione o d'attrizione dei personali peccati possa essere battezzato."

R. "Si antea dederit signa velle baptizari, vel in praesenti statu nutu aut alio modo eadem dispositionem ostenderit, baptizari posse sub conditione, quatenus tamen missionarius, cunctis rerum adiunctis inspectis, ita prudenter iudicaverit."

dubious significance of an uninstructed heathen's "nod" to Catholicism, one can scarcely be criticized for concluding from this response that in the mind of the Holy Office even the most tenuous probability of proper intention can justify the conditional administration of baptism to the unknown and unconscious in danger of death.

This question of judging concretely the dispositions required for valid reception of the sacraments has perhaps its most frequent application in the hearing of confessions. For among the essential duties of a confessor as judge is that of evaluating to the human best of his ability the sorrow and purpose of amendment alleged by the penitent who has pleaded guilty of mortal sin. As F. J. Connell, C.S.S.R.,⁶⁹ reminds his readers, the sole fact of a person's coming voluntarily to confession does not necessarily of itself constitute conclusive proof of proper dispositions. Consequently, if there are positive indications to the contrary, as will sometimes be evident, it is incumbent upon the priest to investigate the matter further. It is not always possible, however, for a confessor even then to achieve certainty beyond reasonable doubt of the genuineness of a penitent's contrition and purpose of amendment. In such a contingency it would seem that Fr. Connell would consider it mandatory to refuse absolution, for he imputes to confessors the "obligation *per se* of having moral certainty that this disposition is present in the penitent before they may impart absolution." This opinion is by no means a doctrinal solecism, since a number of eminent theologians have held it over the years.

However, other moralists of no less repute have felt constrained to defend a less severe doctrine both in theory and in practice. According to their teaching, if after reasonably diligent efforts to assess a penitent's dispositions there remains at least, but no more than, solid probability of their sufficiency, conditional absolution may, and even preferably should, be granted. The principle which these theologians uphold might therefore be stated in such form as this: unless there is moral certitude as to the absence of proper dispositions, absolution may be given, at least conditionally. It goes without saying, of course, that if no reasonable doubt attaches to the sufficiency of proper dispositions, the confessor has no choice but to absolve absolutely.

Those who have conned the standard case books of moral theology will recall the classic type of *casus conscientiae* in which two obliging *buffoni* are centrifugalized to opposite extremes of heterodoxy by way of inducement to Pater Pius Edoctus to defend the interests of sober truth. The fiction

⁶⁹ "The Purpose of Amendment," *American Ecclesiastical Review* 148 (July, 1962) 57-61.

becomes in latter part real in the person of Msgr. James Madden⁷⁰ as, against the inordinations of *parum* and *nimis*, he reviews the moral and pastoral principles which should guide the competent confessor in the proper questioning of penitents prior to absolution.

Perhaps the most common errancy in this regard among neophyte confessors is in the direction of an excessive inquisitiveness conducive to superfluous questions which can be as bewildering and annoying to penitents as they are purposeless, and which can also sometimes be odiously imprudent. The natural cure for this perhaps natural tendency is experience, not merely in terms of numerical hours spent in the confessional but also in the sense of periods devoted to thoughtful reflection on past mistakes, however inadvertent at the time, and on effectual remedies against their repetition. But the young priest who allows his time of early confessional experience to pass without constant reappraisal of self as interrogator in the confessional tribunal either may become confirmed as an offensively officious inquisitor or else, wearying ultimately of his own prattle of questions, may reduce his confessional exertions to habitually subminimal proportions.

As explained by Msgr. Madden, a penitent should be questioned only to the extent necessary to enable the confessor to function properly as judge, physician, and teacher. Information which does not contribute to the fulfilment of one or another of these vital roles is extraneous to the sacrament and should not be sought. Fr. G. Kelly, S.J., once reduced this generic principle to several simple norms which should be most helpful to those who are conscientiously preparing themselves for the confessional ministry:

One way to keep questions to a reasonable minimum is to understand clearly just why you must ask questions. I believe that the reasons for questions can all be reduced to these: (a) to get sufficient matter, in case the penitent has not clearly confessed anything sinful; (b) to help the penitent make an integral confession; (c) to settle a doubt concerning the penitent's disposition; (d) to determine the degree of subjective guilt in some matters; and (e) to judge what penance or what advice to give. If the confession makes these points sufficiently clear, there is no need of questions.⁷¹

In other words, if before formulating a question the young confessor consciously adverts to the precise reason why he requires precisely what information, he will soon find himself instinctively asking only questions with a

⁷⁰ "Obligation of Confessor to Question His Penitents," *Australasian Catholic Record* 39 (July, 1962) 213-22.

⁷¹ *The Good Confessor* (New York: Sentinel, 1951) p. 35.

relevant purpose, and these as a general rule need be no more than brief and relatively few.

One of several differences of opinion which have emerged from recent discussions of the sacrament of extreme unction⁷² relates to the nature and origin of extant legislation which restricts the reception of that sacrament to those of the faithful who are in at least probable danger of death. Is this danger-of-death proviso of divine origin and an immutable determinant of validity, or is it rather of ecclesiastical institution and related only to licitness until such time perhaps as it may be revised or revoked by competent Church authority? It is this question which P. De Letter, S.J.,⁷³ undertakes to clarify in his latest contribution to the literature on extreme unction, and he presents a strong case in favor of the first alternative.

After noting the legitimate sense in which the possibility of dogmatic progress is admissible without doctrinal prejudice to the immutability of the *depositum fidei*, Fr. De Letter first examines the liturgical anointing of the sick as practiced during the first five centuries of Christianity. On the basis of the acknowledged historical fact that two such anointings are discoverable in that era—the one performed either by sick patients themselves or by others of the laity, and the other administered by bishops or priests—he suggests that the first rite, indicative of a minor malaise, was commonly recognized as being only a charismatic anointing, at most the equivalent of our use of sacramentals.⁷⁴ According to Fr. De Letter, only the second rite, which presumably was reserved for more serious illness, was regarded as a sacrament in any sense similar to our understanding of that term. And considering the primitive state of medicine as practiced in those days, it is not difficult to comprehend how easily and how often illness of any considerable gravity could reasonably have been identified in common estimation with at least probable danger of death.

By the ninth century, however—still long before the development of a clearly refined theology of the number and nature of the sacraments—the anointing of the sick was more generally associated with penance and viaticum as an integral part of the Church's last rites for the dying and was principally so used. Fr. De Letter considers this initial stress on the

⁷² References to some of this literature will be found in THEOLOGICAL STUDIES 20 (June, 1959) 261–62; *ibid.* 22 (June, 1961) 264–65; *Furrow* 11 (Sept., 1960) 617–21.

⁷³ "Anointing of the Sick and Danger of Death," *Irish Theological Quarterly* 29 (Oct., 1962) 288–302.

⁷⁴ With no intention of putting words into Fr. De Letter's mouth, it might be suggested that his proposed interpretation of this lay anointing of the sick would make that practice analogous to the recourse of some at present to Lourdes water, the blessing of throats, etc., for the cure or prevention of some bodily affliction.

spiritual purpose of the anointing as "a step closer towards the 'discovery' of the anointing of the sick as a sacrament in the proper sense of the term." Not for another three hundred years was extreme unction explicitly acknowledged in so many words to be strictly a sacrament, exerting its primary causal influence in the *ex opere operato* production of grace designed for healing in the supernatural order. Only at this relatively late date did its remedial effects upon the body become clearly recognized as secondary, subordinate, and conditioned upon the spiritual good of the sick person. And now for the first time also was there clear enunciation of a thesis which explicitly placed the administration of this sacrament in a context of a threat of death.

One relevant conclusion to be derived from Fr. De Letter's presentation of evidence up to this point would seem to be the fact that up to the Thomistic era any real semblance of our present theology of extreme unction as a sacrament invariably associated that rite with danger of death. (It is, of course, matter of uncontested historical fact that between the period of St. Thomas and the convening of the Council of Trent insistence upon this relationship between death and sacramental anointing became so exaggerated in practice as to eventuate in the custom of delaying extreme unction until the recipient was all but clinically dead.) If one then adds to this totality of pre-Tridentine tradition the fact that it was the primary purpose of Trent, when treating of extreme unction, not to settle legitimate differences of theological opinion but to declare against the Reformers the essentials of revelation as touching upon this sacrament, it becomes difficult, in Fr. De Letter's opinion, to interpret as merely disciplinary the restriction of extreme unction to those who are in some danger of death:

... Trent derives from revelation, basically from Scripture as taught her by the apostolic tradition, these two points: the first effect of the sacrament is the spiritual healing of the sick, the bodily effect is secondary and conditional; and the use of the sacrament is restricted to sick persons in danger of death (not, however, at the point of death). The reason for the first is that Extreme Unction is a real sacrament, one of the seven, and not identical with the charism of healing (perhaps to say that its specific purpose is bodily healing might look like identifying it with that charism). The reason for the second is that Extreme Unction is a complement of Penance and meant for the spiritual struggles of the last illness.

Accordingly, the doctrine of Trent on Extreme Unction, on the face of it, takes for granted that the restriction of the sacrament to the sick in danger of death belongs to the very nature of the sacrament; it does not seem to be, in the mind of the Council, a merely disciplinary matter. Apparently, looking back from Trent on the doctrinal development and the life of the Church of the preceding eight cen-

turies (from the time that the strictly sacramental nature of the anointing of the sick was being acknowledged in theory and in practice and particularly once the doctrine on the sacraments became fully developed), there never was any need for the Church to make a disciplinary ruling about this restriction. This had, apparently, spontaneously grown out of the life of the Church and the understanding of the doctrine.

Fr. De Letter concludes this thoughtful analysis by returning to a theme which he and others have treated previously in most impressive fashion:

Nor does this mean that the anointing of the sick is the sacrament of the dying. No, it is the sacrament of the sick who struggle to overcome sickness, either provisionally, by restoration to health after conquering the spiritual drawbacks of sickness, or definitively by sharing in the paschal mystery of Christ's death and resurrection. This struggle for victory over sickness does not begin just at the point of death, *in articulo mortis*; and for that reason, for all its essential orientation to the eventuality of a Christian death, the anointing of the sick is not the sacrament of the dying. The struggle for victory covers the whole time of grave sickness which involves danger of death. The sacrament of anointing of the sick is of its nature the sacrament of the dangerously ill, of the sick in danger of death.

Through inadvertence of one or another sort, J. J. Farragher, S.J.,⁷⁶ makes reference to a paragraph of mine in seeming confirmation of his contention that "quite a few authorities have allowed repetition [of extreme unction] after one month" in a prolonged illness wherein "no appreciable recovery is discernible but only steady decline." Perhaps the easiest and clearest way to correct a resultant misimpression among readers is to quote the passage to which Fr. Farragher refers and thereby again make it clear that I do not subscribe to the practice of which he speaks:

While treating the more familiar question of repeating extreme unction during the same illness, C. L. Parres, C. M., discusses the so-called thirty-day rule whereby some priests every month or so routinely reanoint patients who remain seriously ill over a long period of time. That this practice is sometimes followed is merely another indictment against the indiscriminate use of a rule of thumb in substitution for the exercise of prudent judgment. Canon 940, §2 clearly states that "in one and the same illness this sacrament cannot be repeated, unless the sick person has recovered after the reception of extreme unction and has again fallen into danger of death." In some instances recovery from one danger and relapse into another within even a very short period is clearly discernible. The asthma victim, for instance, could be in serious danger of death today, tomorrow completely recovered from his attack, and again in danger the following day. Beyond doubt such a person is entitled to extreme unction on both occasions; and yet one misapplication

⁷⁶ THEOLOGICAL STUDIES 24 (Mar., 1963) 98.

of the thirty-day rule could result in his being denied the sacrament upon his second attack. At the other end of the scale one could cite the long-term cancer patient who is slowly but perceptibly declining without ever any indication of improvement. In these circumstances there can be no justification for reanointing, since it is evident that it is one and the same danger of death which prevails in progressively more serious degrees. In the intermediate area there can be many cases in which it is truly difficult to judge whether there has been recovery from one danger and relapse into another or merely a continuation of the original danger in perhaps varying degrees. It is for this last doubtful situation that many authors suggest by way of practical guide that if the patient over a notable period (and they commonly suggest a month as illustrative of what they mean) seems to have improved, one can legitimately conclude that danger of death has at least probably ceased. If the sick person thereafter lapses again into danger of death, there is justification for repeating extreme unction.⁷⁶

In the sentence immediately following this paragraph it was conceded that "Genicot, whom Iorio cites with apparent approval, maintains that after a truly long period of time, such as a year, a patient may again be anointed even though danger of death is still physically one and the same, since 'in common estimation it is considered a morally distinct crisis.' "

Annually it is with the realization of having unavoidably omitted mention of certain significant publications that the final paragraph of the Notes is written. Perhaps that deficiency in present instance can be partially repaired with a few additional references by way of terminal footnote.⁷⁷ Even this *effugium* does not, of course, pretend to make of the Notes an exhaustive survey of even the most important articles to have appeared during any given period.

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⁷⁶ *Ibid.* 20 (June, 1959) 262-63.

⁷⁷ Anon., "La morale à l'heure du Concile," *L'Ami du clergé* 72 (Sept. 13, 1962) 529-33; G. Gilleman, S.J., "Primacy of Charity and Pastoral Approach," *Clergy Monthly* 26 (Nov., 1962) 361-71; A. P. Hennessy, C.P., "Maturity and Spirituality," *Proceedings, Seventeenth Annual Convention of CTSA*, pp. 181-94; A. Caron, O.M.I., "Canon Law and Moral Theology," *Jurist* 22 (July, 1962) 319-32; J. M. Díez-Alegría, S.J., "Normae ac praecepta iustitiae in Litt. encyclicis 'Mater et magistra' pronuntiata," *Periodica* 51 (1962) 265-87; R. A. McCormick, S.J., "Is Professional Boxing Immoral?" *Sports Illustrated* 17 (Nov. 5, 1962) 70-82; M. Huftier, "Suicide, mensonge, essai d'éviter le mal," *L'Ami du clergé* 72 (Sept. 13, 1962) 540-44, and "Le mensonge," *ibid.* (Nov. 22, 1962) 689-700 and *ibid.* (Nov. 29, 1962) 705-16; G. Guzzetti, "Sciopero e dottrina cattolica," *Scuola cattolica* 90 (Nov.-Dec., 1962) 517-30; H. Rocco, S.J., "Natura et gravitas susurationis," *Periodica* 51 (1962) 301-8; M. Zalba, S.J., "Hacia una revisión del concepto de 'Obra servil,'" *Razón y fe* 166 (July-Aug., 1962) 19-32; G. Lobo, S.J., "Brother-Sister Arrangement in Invalid Marriages," *Clergy Monthly* 26 (Nov., 1962) 372-77; J. R. Keating, "The *Caput nullitatis* in Insanity Cases," *Jurist* 22 (Oct., 1962) 391-411.