

## CURRENT THEOLOGY

### NOTES ON MORAL THEOLOGY

"Father, does the pope use ghost writers?" A seminarian asked the question after I had given an informal lecture on the life of a theologian during the reign of Pope Pius XII. Without realizing it, this seminarian was helping me to formulate a problem that had intrigued me (and many others, I am sure) ever since I had done my graduate studies in Rome. There were always rumors to the effect that Father X or Y or Z had done the basic composition of a certain encyclical or an allocution or a decree of a congregation. No doubt some of this was just rumor, but it would be unrealistic to look upon it all as rumor. There can be little doubt, for instance, that both Pius XI and Pius XII used the services of well-known specialists in preparing some of their important official statements. At any rate, certainly those of us who studied in Rome had strong suspicions in this direction; and, as a result, we have had a problem which might be formulated in words that sound like an irreverent pun: "Where does the ghost writer step out and the Holy Ghost step in?"

Speaking for myself, I can say that I thought of this problem with particular reference to Francis Hürth, S.J., who died at the Gregorian University, Rome, May 29, 1963. At the time of his death he had been a Jesuit almost sixty-seven years and a priest more than fifty-two years.<sup>1</sup> Yet, when he came to the Gregorian University to succeed Fr. Vermeersch in 1935, he was already in frail health.

Before coming to the Gregorian University, Fr. Hürth was professor of moral theology for twenty years (1915-35) at the Jesuit theologate at Valkenburg, Holland. At Valkenburg, besides writing many articles for periodicals, he had prepared a printed volume *De VII mandato* and a complete set of mimeographed notes on all the other topics pertaining to the course of moral theology. His notes on sexual physiology and psychology and his collection and analysis of replies of the Holy See on the use of the generative faculty comprise the best treatments of these topics that I have ever seen. As far as I know, none of this material was ever made available in strictly "published" form.<sup>2</sup> While he was professor at the Gregorian Uni-

EDITOR'S NOTE.—The present survey covers the period from January to June, 1963.

<sup>1</sup> For my data on Fr. Hürth I am grateful to Marcelino Zalba, S.J., who sent me an advance reprint of his article, "In memoriam P. Francisci Hürth, S.I.," *Periodica* 52 (1963) 411-16.

<sup>2</sup> Some of this material was made available in printed form by the Gregorian University, but the circulation was always at least theoretically limited to the students. For a list of

versity, his publications largely consisted of articles in *Periodica*, especially in the form of commentaries on pronouncements of the Holy See.

Very likely it was not through his writing or his teaching that Fr. Hürth exercised his greatest theological influence. His was the behind-the-scenes influence of consultor to the Holy Office and, it seems, to Pius XI and Pius XII. It was generally supposed in Rome that he had more than a little to do with the composition of *Casti connubii*; and it is hardly a wild guess to assume that he was in some sense a theological ghost writer for Pius XII.<sup>3</sup>

#### ORGANIC TRANSPLANTATION

This brings me back to the problem of distinguishing between the ghost writer and the Holy Ghost. The problem can be illustrated, I believe, by a few words about the morality of organic transplantation from one living person to another. While I was doing my doctoral studies, one of my classmates received an interesting question concerning the licitness of ovarian transplantation. We discussed it with Fr. Hürth. He told us at that time that he and Fr. Vermeersch had often argued about this question. Fr. Vermeersch was strongly inclined to favor organic transplantation on the principle of fraternal charity.<sup>4</sup> Fr. Hürth, on the other hand, thought that such donations of living tissue could not be justified. He thought that no mutilation could be justified except according to the principle of totality, which is enunciated negatively in *Casti connubii* as follows:

... private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their

Fr. Hürth's writings, see *Periodica* 49 (1960) 409-16, with additions noted later by Fr. Zalba, *art. cit.*, p. 416.

<sup>3</sup> Fr. Zalba writes (*ibid.*, p. 416): "Fertur etiam eum, qui tam perlucidis et fere omni numero definitivis commentariis per vicennium illustravit in nostris *Periodica* allocutiones praecipuas Pii XII de re morali et iuridica, necnon et Decreta S.ti Officii, non exiguam partem saepius habuisse in eorum remotiorem elaborationem."

<sup>4</sup> As a reason for the justification of such things as blood transfusions and skin grafts, Fr. Vermeersch had suggested the bond of unity flowing from our common nature. Cf. his *Theologia moralis* 2 (Rome: Gregorian Univ., 1928) n. 323—n. 299 in the 1945 edition edited by Fr. Creusen. From what Fr. Hürth told us it seems clear that Fr. Vermeersch thought this same principle (of charity) might be applied to the case of donating living tissue to a neighbor. Fr. Vermeersch has been unjustifiably interpreted as applying the principle of totality in these cases. The principle of totality is based on a *subordination* of part to whole; Fr. Vermeersch was speaking about an *ordinatio* of one person to another precisely by reason of their common specific nature and not because of any subordination of the persons to one another or to a whole.

natural functions, except when no other provision can be made for the good of the whole body.<sup>5</sup>

We were under the impression at that time (and I believe there was good foundation for the impression) that Fr. Hürth had written that section of the Encyclical for Pius XI. We also thought that, though the negative formulation of the principle of totality presented a strong argument against the licitness of organic transplantation *inter vivos*, it did not necessarily exclude the operation. But, in the supposition that Fr. Hürth had written that section of the Encyclical, would it necessarily follow that Pius XI, in accepting Fr. Hürth's formulation of the principle of totality, would also accept his interpretation of its logical consequences? This is an example of the problem of distinguishing between the ghost writer and the Holy Ghost. As long as an interpretation remains that of a private theologian, it has only the value of his own arguments, no matter what had been his function in the preparation of the papal document. But if it should become clear in an official way that the pope follows the interpretation, then a new element would come into the picture, namely, the special assistance of the Holy Ghost which is given to the teaching Church and which is not given to private theologians. In infallible pronouncements the assistance of the Holy Ghost is such that it demands an absolute assent from all the faithful, even from theologians who may have thought they had strong arguments to the contrary. In noninfallible authentic pronouncements, the guarantee of divine assistance puts the presumption of truth on the part of the magisterium, and all the faithful must give, insofar as reasonably possible, the so-called *assensus religiosus internus*, and they must abstain from publicly questioning the authentically taught doctrine.<sup>6</sup>

The allocutions of Pius XII contained many restatements of the principle of totality. Some of these statements followed an affirmative, nonexclusive pattern which amounts to this: "The part exists for the whole and may be sacrificed for the good of the whole"; while other statements were formulated in a strongly negative, exclusive manner equivalent to: "The part exists *only* for the whole and may *not* be sacrificed *except* for the good of the whole."<sup>7</sup> Despite these repeated negative formulations, controversy over

<sup>5</sup> AAS 22 (1930) 565.

<sup>6</sup> For references to explanations of this *assensus religiosus*, cf. John C. Ford, S.J., and Gerald Kelly, S.J., *Contemporary Moral Theology 1: Questions in Fundamental Moral Theology* (Westminster, Md.: Newman, 1958) 25, n. 7. See also Bernard Häring, C.S.S.R., *The Law of Christ 2* (Westminster, Md.: Newman, 1963) 52.

<sup>7</sup> The various statements are given ample coverage by Martin Nolan, O.S.A., in his discussion, "The Positive Doctrine of Pope Pius XII on the Principle of Totality," cur-

the licitness of organic transplantation became public and more and more extensive. The very existence of this controversy showed that the theologians defending transplantation did not consider any papal statements of the principle of totality to be conclusively against their position. This position was somewhat strengthened when Pius XII, in an address of Sept. 30, 1954, seemed purposely to bypass the question of transplantation *inter vivos*, thus implicitly indicating that he had no desire to end the controversy. And it was further strengthened on May 14, 1956, when, in his address on corneal transplants, he expressly stated that he did not wish to discuss the problem of transplants from living donors—and this despite the fact that his address begins with a clear restatement of his previous teaching on the principle of totality. As I remarked once before in these pages, "If the Pope considered that this teaching absolutely excluded transplants from living donors, why would he take pains to say in his introduction that he did not wish to speak on that subject?"

Recently J. P. Wroe has expressed the opinion that the licitness of altruistic mutilation cannot be squared with the teaching of Pius XII on the principle of totality; and of the defenders of organic transplantation he says: "In view of the evident unsoundness of their reasoning and of the fact that most, if not all, of them wrote before the relevant pronouncements of Pope Pius XII, the proponents of the opinion in question have made it neither intrinsically nor extrinsically probable."<sup>8</sup> One wonders whether Fr. Wroe has kept in touch with *THEOLOGICAL STUDIES*. Throughout the years the "Notes on Moral Theology" and special articles have recorded and contributed to the controversy on organic transplantation; and certainly most of the pertinent papal statements were cited and carefully analyzed.<sup>9</sup> The most scholarly presentation of the case against the licitness of organic

rently appearing in *Augustinianum* 3 (March and June, 1963) 28-44, 290-344. Since I have already written much on this same subject, I should like to comment on Fr. Nolan's articles. Comment now, however, would be premature, because the concluding article will not appear in time for this survey.

<sup>8</sup> *Catholic Medical Quarterly* 16 (April, 1963) 61.

<sup>9</sup> Organic transplantation was discussed in two special articles by the present writer: "Pope Pius XII and the Principle of Totality," *THEOLOGICAL STUDIES* 16 (1955) 373-96, esp. 391 ff.; "The Morality of Mutilation: Towards a Revision of the Treatise," *ibid.* 17 (1956) 322-44, esp. 333 and 341 ff. It was also discussed in the following "Notes on Moral Theology": 5 (1944) 517-18; 8 (1947) 97-101; 12 (1951) 67; 15 (1954) 602-4; 18 (1957) 570-72; 19 (1958) 178-81; 20 (1959) 249-50; 22 (1961) 248-49. These various articles and Notes give a very complete survey of writings for and against organic transplantation. The important papal statements are carefully weighed. For a select bibliography up to 1956, see *Theology Digest* 4 (1956) 163-64.

transplants was made by M. Zalba, S.J.,<sup>10</sup> yet in his latest writings Fr. Zalba clearly concedes the solid probability of the opinion in favor of the licitness of such transplants.<sup>11</sup>

#### AGAIN: THE NEW APPROACHES

In the first volume of our *Contemporary Moral Theology* Fr. Ford and I devote three chapters to the modern criticisms of, and new approaches to, moral theology.<sup>12</sup> The matter is briefly recapitulated in a recent article by James J. Doyle, C.S.C., whose own constructive evaluation is both simple and realistic.<sup>13</sup> He thinks that, since the seminary course in moral theology is primarily intended to form good confessors, emphasis should be on a positive approach and on properly integrating moral, pastoral, and ascetical theology. To do this, more time must be given to ascetical theology. As for moral theology for the layman, the first thing to note is what should be, but is not always, evident: namely, the laity are not being trained as confessors. For the laity, the purpose of a course of moral theology is to give them a dynamic appreciation of the moral teaching of the Church. With special reference to youth, Fr. Doyle says:

At a time when the student, in his middle or late teens, begins to question the rules of conduct which he has previously accepted through blind obedience and at a time when he sees others flaunting these same rules, a vacuum is created, a vacuum that will not be filled by a reiteration of the negative precepts. The vacuum must be filled with a deep understanding of the "why" and an appreciation of the grandeur of the Christian life. The discipline, formerly imposed from without, now becomes a self-discipline which is understood, willed and lovingly embraced. It is here precisely that the "new approaches" seem to offer their greatest possibilities with their strong emphasis on "responsibility-response" and on charity and its implications.

I would agree with Fr. Doyle that the main things in the seminary course are the positive approach and a closer integration of moral, pastoral, and

<sup>10</sup> His principal writings against organic transplantation are: "La mutilación y el trasplante de órganos," *Estudios de Deusto* 3 (1955) 295-325; "La mutilación y el trasplante de órganos a la luz del magisterio eclesiástico," *Razón y fe* 153 (1956) 523-48.

<sup>11</sup> See references given in THEOLOGICAL STUDIES 22 (1961) 248-49.

<sup>12</sup> Cf. *op. cit.* (supra n. 5) chaps. 4-6.

<sup>13</sup> "New Perspectives in Moral Theology," *Homiletic and Pastoral Review* 63 (Feb., 1963) 385-91. A more extensive but much less realistic discussion of the same general topic is given by Philip J. Murnion, "The Renewal of Moral Theology: Review and Prospect," *Dunwoodie Review* 3 (Jan., 1963) 39-65.

ascetical teaching. And I would repeat here what Fr. Ford and I wrote, namely, that much of this can be accomplished by the professor's own attitude. But, having had several more years to think the matter out, I would say that we can accomplish very little unless we have more time, and we are not going to get more time by adding hours of class. We can get the time only by simplifying our present moral theology course. Can we do this? I think we can if some desired reforms in canon law are brought about.

I am told that many of the canon law societies that have been requested to submit suggestions for a revision of the Code have, among many other things, stressed the need of abrogating a large part of the present legislation on penalties. This in itself would greatly help us in our training of confessors, because the complications of penal law affect not only the canon law classes but also the moral theology classes. To cite but one example: how much simpler, and more inspiring too, would be the treatise on the sacrament of penance, if the legislation *de absolutione complicis* and especially *de sollicitatione* were abrogated. No doubt these laws concern very dangerous situations about which those studying for the priesthood should be properly warned. But it may be doubted whether any special laws, particularly of a penal or invalidating nature, are required. When penalties are invoked, subtle distinctions that would not normally be required are almost invariably made because of the principle *Odiosa sunt restringenda*. The vast percentage of seminarians who persevere till ordination are *de facto* destined to become good priests. It seems deplorable that valuable training time must be given over to explaining legalistic distinctions that will never in any way affect their priestly lives.<sup>14</sup>

#### THE MAGISTERIUM AND NATURAL LAW

I would also agree with Fr. Doyle that, in general, courses for the laity are most likely to lend themselves to the use of the "new approaches." But I would definitely not recommend Fritz Tillmann's *The Master Calls*<sup>15</sup> for this. It is often said that this book fails to make sufficiently clear the difference between obligations and ideals. My experience in trying to teach the book agrees with this. But another glaring fault is the book's failure to give proper emphasis to the function of the Church as teacher. It is only

<sup>14</sup> As for the duty of warning a penitent to denounce another priest who may have abused his office as confessor, there is nothing in the complicated legislation of Benedict XIV that could not be properly handled by the application of principles concerning fraternal denunciation and the common good.

<sup>15</sup> Baltimore: Helicon, 1961.

near the end of the book that the Church's teaching mission is explained; and then it is done so briefly that it is stated incorrectly.<sup>16</sup>

It seems to me that no theological textbook is properly orientated unless it makes clear from the beginning that the first argument of Catholic theology is the teaching of the magisterium. This is especially important today, when people have so much "freedom" to think and when they are so definitely inclined to accept only what they see and agree with. The place of doctrinal authority in Catholic life, and perhaps particularly as regards moral questions, needs both stress and explanation. No approach to moral theology, whether new or old, is satisfactory unless it makes clear the function of the magisterium in moral matters.

Perhaps the best known of the new approaches, at least in this country, is *The Law of Christ*, by Bernard Häring, C.S.S.R.<sup>17</sup> His treatise on the virtue of faith contains an extensive and, in general, excellent explanation of the teaching authority of the Church and of the correlative duty of the faithful to accept this teaching.<sup>18</sup> I qualify the excellence of the treatment for one important reason: he says nothing explicitly about the Church's authority to teach the natural law. Moreover, this extensive treatment is in the second volume of *The Law of Christ*. In the first volume, the authority of the Church is briefly mentioned in the treatise on conscience. Then, in his discussion of the norm of morality, Fr. Häring has the following paragraph:

God made His will known to us through Christ, who established the Catholic Church as custodian and interpreter of His revelation. Hence the immediate or proximate norm of morality for us is the will of God revealed in Christ, as it is presented by the Catholic Church (objective norm), and as it is understood by human reason submissive to supernatural revelation and inwardly enlightened by the Holy Spirit (subjective norm).<sup>19</sup>

This capsuled statement of the norm of morality has the same defect as Fr. Häring's more extensive discussion of the teaching authority of the Church: it leaves one wondering where the natural law fits into the picture. In saying this I am not hunting for defects in Fr. Häring's work. I am simply using his very recent work to illustrate a defect that is more or less common

<sup>16</sup> For instance, it is said without qualification that "every member of the Church has the obligation to submit entirely and unconditionally, and joyfully to accept, both interiorly and exteriorly, the decisions of the ecclesiastical teaching office" (*ibid.*, p. 343). I am well aware of the difficulty of explaining in a compact manual the different grades of teaching authority exercised by the Church; but this difficulty is not an excuse for theological inaccuracy.

<sup>17</sup> Westminster, Md.: Newman, Vol. 1 (1961), Vol. 2 (1963).

<sup>18</sup> *Op. cit.* 2, 48-52.

<sup>19</sup> *Ibid.* 1, 229.

to moral theology manuals and (so it seems to me) to the manuals of fundamental theology.

What I am driving at and perhaps not clearly expressing is a problem that may be enunciated in the form of these questions: (1) Is the natural law an object of the teaching authority of the Church? (2) If so, is this because the natural law is considered to be a part of divine revelation? (3) Is the guidance of the Church necessary for an adequate knowledge of the natural law? (4) A pedagogical point: In what part of a theological course should these matters be discussed?

The first question may seem to deal with the obvious. If anything is clear in the practice of the Church, it is that it has the power to interpret the natural law; and this has been authentically stated by many popes, particularly by Pope Pius XII.<sup>20</sup> But I do not think the textbooks make the answer to the second question perfectly obvious. It is clear, of course, that the revelation of the Two Great Commandments and of the Decalogue includes at least some revelation of natural law—that is, some explicit, formal revelation. But what about precepts of natural law that are not explicitly mentioned? Are all these to be considered as implicitly revealed? Or are they at least virtually revealed because the keeping of these precepts is necessary for salvation, and they are thus closely connected with the primary object of the infallible magisterium? I would not say that these basic points are made clear in either our fundamental or moral theology textbooks. But surely they should be made clear, considering the importance of the natural law in any explanation of Christian morality.

As for the necessity of the teaching of the Church for an adequate knowledge of the natural law, it may come as a surprise to some that we can get the answer to this important question only in a sort of roundabout fashion. The First Vatican Council taught the moral necessity of supernatural revelation for knowing the natural truths of religion “with ease, with certitude, and without any admixture of error.”<sup>21</sup> But the Council did not enumerate these truths, nor did it say just how this needed revelation is given. For instance, does the doctrine of the moral necessity of revelation mean that each separate truth of the natural order must be contained in one of the fonts of revelation? Or does it rather mean that, in revealing His Church, with its divine commission to teach all things pertaining to salvation, God is sufficiently satisfying man’s need for divine guidance? I believe the latter is the correct meaning. Hence, an accurate statement of the doctrine of the moral necessity of revelation would be this: the guidance of the Church is a practical, or moral, necessity for obtaining an adequate knowledge of the

<sup>20</sup> Cf. Ford-Kelly, *op. cit.* (supra n. 5) pp. 5–18.      <sup>21</sup> *DB* 1786.



natural law. And the Church (i.e., the magisterium) makes use of the various theological *fontes* in developing and formulating its teaching.

This problem of the moral necessity of the magisterium is of the greatest importance today. We are being asked more and more to prove some truths, e.g., the intrinsic immorality of contraception, from reason. We should try to accommodate those who ask for such proofs. But it is wise to calculate from the beginning just how far we can go in this regard. It seems to me that the moral impossibility of knowing the natural law is just as profound and just as universal as is the moral impossibility of observing the natural law which is explained in the treatise on grace. A professor of dogmatic theology once told me that he thought the moral impossibility of observing the natural law without grace is so unique as to be practically a physical impossibility. I had reached the same conclusion about the difficulty of adequately knowing the natural law without special divine guidance.

Moreover, I think there is a further parallel with the treatise on grace. The possession of sanctifying grace does not perpetuate itself. Concupiscence remains a problem, and perseverance in grace requires special divine help. Why should it not be the same in the sphere of knowledge? I suggest that even in those cases in which we already know a truth because of the teaching of Christ's magisterium, the basic intellectual difficulties may still be operative to prevent us from fully understanding the truth when we examine it under the light of reason alone. A realization that these difficulties still exist and that they can be overcome, just as temptations to sin can be overcome, only by further grace, by prayer, and by hard work, may help us to understand why our fellow Catholics and we ourselves may have difficulties in appreciating natural-law arguments, especially when the arguments themselves are metaphysical and when they concern things that impose great sacrifices on human nature.<sup>22</sup>

The foregoing are very important questions. As for where to teach them, I would suggest that much more be said in fundamental theology on the

<sup>22</sup> "For the truths that have to do with God and the relations between men and God transcend completely the sensible order and, where there is question of their practical application and realization, call for self-surrender and self-abnegation. In the acquisition of such truths the human intellect is hampered not only by the impulses of the senses and the imagination, but also by evil passions stemming from original sin. As a result, men readily persuade themselves in such matters that what they do not wish to be true is false or at least doubtful." Thus Pius XII in *Humani generis* (AAS 42 [1950] 561-62). The Pope is here describing the condition that constitutes the moral necessity of special divine help in *acquiring* adequate knowledge of the natural truths of religion. My point is that the same condition (of concupiscence) remains even after one has accepted the teaching of the Church and that it is an obstacle to our gaining a *deeper appreciation* of the truths.

authority of the Church to teach the natural law and on the pertinence of natural law to supernatural revelation. And it seems to me that all the questions discussed here should form part of the introduction to moral theology.

#### NATURAL LAW ON CONTRACEPTION

In stressing the moral impossibility of knowing the natural law, I did not mean to set up some kind of alibi for weak natural-law arguments. I merely wanted to stress the point that rational arguments are not easy and that God has given us the Church precisely to provide the certainty and security that we would not have if we were left to unaided reason. The certainty and security, however, have to do primarily with the truth itself and not necessarily with the theological or philosophical arguments for the truth. For instance, consider the moral problem of contraception, which is so much discussed today. We have certainty from the teaching of the Church that contraception is intrinsically immoral. This does not mean necessarily that we have arguments from reason alone that prove conclusively that contraception is intrinsically immoral. The development of such arguments may be—and is, to some extent—a challenge to us. But it is by no means a challenge that has been neglected, as some pessimists are all too ready to declare. During the last few years I have had to do much study of this particular point. It seems to me that we already have strong arguments on rational grounds for the Catholic position.

The principal argument is outlined by the popes. The various papal texts against contraception all converge on one principle: the principle of “divine institution,” of “divine design,” of “divinely established order.” In other words, the popes assert that God has written a certain definite plan into the natural structure of coitus, and man is not free to change it. The reason for this inviolability is that the conjugal act (and the generative faculty too) is part of the divine plan for the beginning of new life. This *life-giving* aspect is constantly stressed by the popes. Thus, Pius XI, in *Casti connubii*, speaks of the conjugal act as designed for “the generation of children,” and he speaks of contraception as depriving the act of its natural power of “pro-creating life.”<sup>23</sup> The same idea permeates the introduction of Pius XII’s address to the midwives.<sup>24</sup> He speaks of “the marvelous co-operation between parents, nature, and God, which brings to the light *a new human being made to the Creator’s image and likeness.*” Later he tells the midwives that

<sup>23</sup> Cf. *AAS* 22 (1930) 559, 560. Italics are added in these and subsequent papal quotations in this section.

<sup>24</sup> *AAS* 43 (1951) 835–36.

they must know the order established by God for the "beginning of *human life*." And in still another part of the same introduction Pius XII says: "Nature puts at man's disposal the whole chain of causes that will result in the appearance of a *new human life*." Pope John XXIII also stresses the notion of life-giving. As Linus Grond, O.F.M., wrote of "*Mater et magistra* and the Population Problem":

In considering what means may be employed to regulate conscious parenthood, the encyclical condemns "all expedients that offend against the moral order established by God and do violence to *the very origin of human life*," and it points out once again that "since the transmission of *human life* is effected by a personal and conscious act, it is therefore subject to the laws of God, which are sacred, inviolable and immutable."<sup>25</sup>

Thus, the popes derive from an analysis of nature that contraception is an infringement of the inviolable divine plan for the beginning of human life. Further analyses made by Pius XII suggest that the conjugal act, considered in its totality, is not merely life-giving, but a life-giving act of love.<sup>26</sup> And under both aspects, as life-giving and as expressive of love, it is planned by God and written into nature and is therefore inviolable. Pius XII did not explicitly draw the conclusion that contraception is immoral because it falsifies married love; but he certainly provided the premise for drawing that conclusion.

Among those who have developed the theme that contraception is immoral because it falsifies married love is Joseph S. Duhamel, S.J. In his review of *The Time Has Come*, by John Rock, M.D., Fr. Duhamel makes his point very briefly:

Moreover, contraceptive practices are also a violation of the secondary purposes of marriage. Important as is the fostering of mutual love for the success of married life, it is not given to human beings to choose arbitrarily any kind of act as the full expression of love. That act is determined by the divinely established nature of marriage and the generative faculty. Only that act is the legitimate complete expression of conjugal love which is objectively in accord with God's plan for the

<sup>25</sup> *Catholic Mind* 61 (1960) 8; cf., for papal words, *AAS* 53 (1961) 446, 447.

<sup>26</sup> Thus, in explaining his repudiation of artificial insemination, he said that the conjugal act must be a personal act that expresses self-donation (*AAS* 43 [1951] 850). Later, to delegates to the Second World Congress on Fertility and Sterility, May 19, 1956, he said that any true appraisal of the conjugal act must consider it in its totality, which includes the biological, psychological, and spiritual. He added: "The relationship which unites the father and the mother to their child finds its root in the organic fact and still more in the deliberate conduct of the spouses who surrender themselves to each other . . ." (*AAS* 48 [1956] 470).

use of the generative faculty in marriage. That act is, of its nature, the reproductive act, an act of total and unimpeded self-giving and of total and unreserved acceptance.<sup>27</sup>

The foregoing are but indications of the way the rational defense of the traditional teaching about the immorality of contraception is shaping up. No one would say that the task is as yet perfect. But a good beginning has been made; and we need not be ashamed of our accomplishments. Comparatively speaking, the rational case against contraception is much stronger than the arguments adduced for it.<sup>28</sup>

One of the letters about Fr. Duhamel's book review praised Dr. Rock for trying to "alleviate the cruel press of conscience in which many Catholic couples find themselves because of the Church's present discipline [*sic*] on birth control."<sup>29</sup> In answer to this, a Catholic married woman admits that the Church's position involves difficulties and suffering. But she adds significantly: "So was the Church's opposition to paying homage to idols in ancient Rome. Many there must have been who felt 'the cruel press of conscience' in those days, too."<sup>30</sup> In all discussions about marriage morality this point is of supreme importance to the Catholic: it was always difficult, always heroic for many people to live according to the teaching of the Church. The fact that so many people do live according to that teaching is part of the moral miracle that is Catholicism.

#### ECCLIASTICAL LAWS

There is no doubt a striking contrast between the meaning of mortal sin, as explained in dogmatic theology, and the apparent ease with which moralists find *materia gravis*. And this contrast is particularly striking in the discussion of some purely ecclesiastical laws. One example is the omission of

<sup>27</sup> Cf. "The Time Has Come," *America* 108 (Apr. 27, 1963) 608-11, at 610. The theme indicated in this quoted paragraph is developed more fully by Fr. Duhamel in a chapter entitled "The Catholic Church and Birth Control" which forms part of *In The Eyes of Others* (New York: Macmillan, 1962) edited by Robert W. Gleason, S.J. Fr. Duhamel's chapter is now published as a pamphlet by the Paulist Press.

<sup>28</sup> A comparison between the Catholic positions and the Anglo-Protestant is presented in chap. 14 of *Contemporary Moral Theology 2: Marriage Questions*, by John C. Ford, S.J., and Gerald Kelly, S.J. (Westminster, Md.: Newman, 1963).

<sup>29</sup> *America* 108 (May 25, 1963) 728.

<sup>30</sup> *Ibid.* 109 (July 6, 1963) 1. The correspondent (Mrs. Ruth B. Moynihan) concludes her excellent and thought-provoking letter with this sentence: "If more Catholics were devout enough to recognize and accept the value of suffering and hardship as well as the actuality of the grace of God, the 'cruel press of conscience' would indeed be alleviated for many people."

even one small hour in the saying of the Divine Office. In *The Law of Christ* Fr. Häring says: "There is undoubtedly a grave obligation to recite the entire breviary. Even careless neglect of so much as one canonical hour is generally held to be a mortal sin."<sup>21</sup> He deals with this matter of the small hour more completely in an article on the breviary, under the subhead "Does Each Little Hour Bind under Mortal Sin?" His answer to this simple question may be interesting:

[1] In the last two centuries, it sometimes appeared as though the opinion which would make the obligation a grave one could claim greater authority than the contrary opinion. [2] The latter distinguishes clearly, saying: Only stubborn disobedience would make the omission of an Hour grievously sinful. A certain degree of carelessness, for example, which usually would result in the occasional omission of an Hour, could hardly be considered seriously sinful. [3] In the case of natural laws, which the Creator and Redeemer has written into the heart of man, so great a consideration is had for human weakness that one generally assumes that the "smallness of matter" would not call forth full use of the freedom to do evil, and hence no grave sin is imputed. With greater reason, then, may it be argued that with "smallness of matter" an offence against a merely positive law of the Church would not be a mortal sin. [4] Excessive strictness with regard to purely positive laws of the Church alongside great tolerance in the case of unmistakable natural laws would invite suspicion of a certain taint of legal positivism.

[5] Anyone who habitually makes an honest effort really to *pray* his divine office and not merely "get it out of the way" is justified in deciding in his own favor when any doubt arises as to whether he has made himself guilty of lesser or greater negligence. But he should, at the same time, renew his resolution to fulfil his obligation of reciting the divine office well and completely. In matters of conscience, one must not be excessively meticulous. When there is question about a certain detail of the breviary, this fundamental question is clarifying and decisive: Do I honestly strive to be a pray-er and ever to advance in the art?<sup>22</sup>

Some comments on these paragraphs according to my bracketed divisions may be profitable.

[1] The obvious inference of this sentence is that there are really two schools of thought regarding the objective gravity of omitting a small hour of the breviary. Fr. Häring does not say this in the sentence I quoted from his book. And in his article he makes the statement without giving references. Many of us, I am sure, would like to have these references. The only opinion I have ever found to have any substantial backing is that the omission of

<sup>21</sup> *Op. cit.* 2, 265.

<sup>22</sup> Cf. "A Closer Look at the Breviary Obligation," *Worship* 37 (Apr., 1963) 274-85, at 278-79. I am limiting my discussion to this one part of the article because, as will appear in my text, it is concerned with a very fundamental aspect of moral theology.

even one small hour is a notable mutilation of the Divine Office, hence *materia gravis*. As Palmieri points out, it is difficult to find an intrinsic reason for this.<sup>33</sup> Nevertheless, in the practical order, a private theologian is not justified in interpreting ecclesiastical laws according to his own views, however reasonable they may seem, if they run contrary to a common and constant interpretation of theologians and canonists. And the only opinion that seems to be common and constant is this: "It is a grave sin to omit even one small hour or its equivalent."<sup>34</sup>

As I understand it, the opinion that the omission of even one small hour constitutes grave matter has become so common and so dominating that it could be effectively changed only by ecclesiastical authority. I hope that that change will be a part of the *aggiornamento* to be effected by the Council and the revision of canon law. And my reasons for the change are, first, the discrepancy between interpretations of ecclesiastical law and natural law (e.g., commutative justice), as I mentioned in introducing this section and as Fr. Häring has in [4]; and, secondly, the long-standing ecclesiastical discipline regarding the obligation to celebrate Mass. The celebration of Mass is an essential function of the priesthood; yet, insofar as priests in general are concerned, the Code (can. 805) merely enunciates a duty (perhaps of divine law) of celebrating several times a year and adds the injunction that bishops and religious superiors see to it that their priests celebrate Mass on Sundays and holydays of obligation.

Assuming that the Church wants all priests to recite the breviary daily, three possible changes occur to me: (a) an exhortation to say the breviary daily; (b) a law binding *sub levi*; and (c) a law binding *sub gravi*, but with a clear authoritative statement that the gravity of the obligation affects only the Office in its entirety. A clear advantage of the first two suggestions would be that all the casuistry concerning *materia gravis* could be relegated to history. A disadvantage, some might say, is that the suggestions are completely unrealistic: priests would not say the breviary if there were no grave obligation. I think I would admit the unrealism in the sense that, if the breviary is kept in its present form (in Latin, with undue emphasis on vocalization, etc.), many priests would fail to say it unless there were an obligation *sub gravi*. But I suppose that some of these changes are to be made; and with the changes it should not be too difficult to inspire priests in general (there might always be some who do not respond to inspiration) to want to

<sup>33</sup> Ballerini-Palmieri, *Opus T.M.* 4 (1900) n. 357.

<sup>34</sup> H. Jone, O.F.M.Cap., *Moral Theology* (Westminster, Md.: Newman, 1960) n. 158. This is typical of the other compendia, which usually indicate lenient probable opinions when they exist.

say the official Church prayer daily. After all, even now we are not obliged to say Mass daily, yet there are comparatively few priests who fail to do so.

If an obligation *sub gravi* is retained, some casuistry over the amount required for *materia gravis* is inevitable. That is why I think that a minimum change must be some authoritative statement which rejects the "one little hour" interpretation and makes "notable part" conform more to common sense and to a kind of legislation that befits a "benign" Mother Church.

[2] If we look at only the second of these two sentences, we may well wonder whether Fr. Häring is really referring to an opinion that a small hour does not constitute grave matter. Even the traditional opinion would not necessarily lead to a judgment that the omission of a small hour through "a certain degree of carelessness" is a mortal sin. The very use of an expression like this seems to take us into the sphere of subjective guilt. And when he says that only stubborn disobedience would make the omission grievously sinful, it is still not clear whether he is talking about objectively slight matter.

[3] When I first read this sentence about smallness of matter regarding natural laws, I wondered whether the author was confusing the objective with the subjective; hence I turned to the first volume of *The Law of Christ*, where he discusses the distinction between mortal and venial sin.<sup>85</sup> Here we find that Fr. Häring is obviously disturbed by a problem that has plagued many theologians, namely, the possibility of a fully deliberate venial sin. He admits parvity of matter to some degree in the sense that he admits the possibility of deliberate venial sin. But I think he would not want to use the adverb "fully." For, in his opinion, if a man gives himself "fully" to anything which he knows to be contrary to the will of God, the man commits a mortal sin. Hence, even when we speak of objective venial sin, whether with reference to divine or ecclesiastical laws, the supposition is that because this matter is slight a man would not give himself "fully" to the transgression.

Just what is this complete giving of oneself to an objectively slight transgression which necessarily turns it into a mortal sin? For the most part, Fr. Häring seems to be talking about that mysterious entity usually described by authors as "formal contempt." In other words, it is an act, in itself small (like a lie), performed with the will to reject divine authority. Thus, in explaining his position, Fr. Häring writes:

One of the consequences of this position is apparent (on this point we have the universal agreement of moral theologians): whenever a clear and basic personal decision, such as we have described, enters into the transgression of a command-

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<sup>85</sup> Pp. 352-64.

ment which is of little importance, whose object is slight (that is to say, whenever there is the total engagement of the person in opposition to the will of God, even though it be relative to a matter in itself unimportant), there is mortal sin. For this total engagement, this basic orientation of self, is tantamount to actual scorn of the lawgiver and a manifestation that one is turning from his last end which is God, that he places his final end in his own self-will.<sup>36</sup>

This passage seems clearly to deal with the "formal contempt" which, according to all authors, is a mortal sin even when the matter is in itself slight. In another place, however, Fr. Häring seems to be dealing with the same kind of disposition as is usually described by authors when they speak of acting with a doubtful conscience. Thus, in a paragraph which forms part of his "practical" conclusion about mortal and venial sin, he writes:

If we wish to look back on our past and determine with all possible certainty the culpability of our acts, to discover what was mortal and what was venial sin, we must take into account the importance of the act and its object, but still more our deeper dispositions and intentions. If one in his heart is resolved to pursue a course of action which involves only petty things objectively, but with the determination to proceed, whether the acts be mortal or venial sin, he acts with an evil disposition. He acts from the inner depth of an evil heart and commits a grave sin.<sup>37</sup>

In the light of what Fr. Häring says in his book about mortal and venial sin, I think we can summarize his entire response about omitting a small hour in the following statement: "It is probable that the omission of a small hour is not an objectively grave sin. But if you omit the small hour with full deliberation and with a clear consciousness that God, through the Church, is commanding you to say it, then there can be no question of venial sin. By acting in this manner, you are making a 'free and basic decision which contravenes a commandment,' and this is a mortal sin.<sup>38</sup> If you doubt whether a small hour was omitted because of this inner evil disposition, you may take the benefit of the doubt, provided you habitually make an honest effort really to *pray* the Office."

<sup>36</sup> *Ibid.*, p. 359.

<sup>37</sup> *Ibid.*, p. 363.

<sup>38</sup> "Every free and basic decision which contravenes a commandment is mortal sin. By free and basic decision we mean a human decision with full knowledge and liberty flowing from the very core and center of free responsibility for that which is final and ultimate in man" (*ibid.*, p. 362). From the context it is clear that this commandment does not have to be objectively grave matter. And, as far as I can judge, the subjective disposition described here seems to be what is meant by the "stubborn disobedience" mentioned in [2] of the article in *Worship*. One wonders why Fr. Häring would even mention such a disposition with reference to the practical question of omitting a small hour.



I have gone into this question at some length because I think that a study of his reply here, combined with his treatise on the distinction between mortal and venial sin, brings out what is typical in Fr. Häring's "responsibility-response" approach to moral theology. It is a morality which looks much more to inner dispositions than to objective norms. And though it is generally respectful of the objective standards, it shows a tendency to look upon them as "external rules," especially when human laws are concerned. It seems to me that a great deal more thought has to be given to this new approach before it is fully accepted.

Fr. Häring himself admits that his sharp emphasis on the importance of the inner attitude "is very uncomfortable, if one seeks to form a judgment about his condition of soul on the basis of external rules."<sup>39</sup> It seems to me that it is more than uncomfortable. It is fertile soil for scrupulosity. And the danger of scrupulosity is not averted by the subsequent "comforting" rule that "as long as there is doubt whether the culpability of the inner disposition is grave or slight, we should follow the eminently practical rule of prudence universally proposed: if the object of the act was slight, then it is presumed that one was not guilty of any grave sin."<sup>40</sup>

The breviary obligation pertains to a relatively small number of the faithful. Much more important, because of general concern, is canon 1248, which legislates that on Sundays and other holydays of obligation the faithful must assist at Mass and must abstain from servile works, from judicial proceedings, and, unless legitimate custom or particular indult permits them, from public trade, fairs, and other public buying and selling. I once suggested that this law would be better adapted to our complicated civilization if only the affirmative part (assistance at Mass) were an obligation, and the negative side (abstention from various occupations) were merely exhortatory or directive.<sup>41</sup> In a recent article on servile work, Fr. Zalba recalls my suggestion.<sup>42</sup> His own opinion is that, in view of the growing tendency to secularize our feast days, this is not an opportune time for abrogating the prohibitions of canon 1248.

There can be no disagreement with Fr. Zalba concerning the fact that our feast days are being increasingly secularized. And it may be that the secularization follows different patterns in different countries. As for the United States, it seems to me that the secularization is principally manifested in the

<sup>39</sup> *Ibid.*, p. 363.

<sup>40</sup> *Loc. cit.*

<sup>41</sup> THEOLOGICAL STUDIES 9 (1948) 108. This was at the conclusion of several pages (105-8) on servile work.

<sup>42</sup> M. Zalba, S.J., "De conceptu 'operis servilis': num crisi subiciendus et aetati nostrae attemperandus," *Periodica* 52 (1963) 133-63, 261-319.

form of business-as-usual on Sundays in large stores and even in complete shopping districts. It may be that some of this is necessary. But even when it is unnecessary, there is very little that the faithful as individuals can do about it. They can effectively combat this kind of secularization only by uniting with other Christians to develop a strong public opinion against the business-as-usual pattern. This kind of Christian activity is better promoted, it seems to me, by exhortation and zealous leadership than by a law binding under pain of sin.

The only aspect of the feast-day prohibition that ever meant a great deal to the faithful as individuals was the part about servile work. At the time when I first wrote about this topic, it was already clear that the concept of servile work had ceased to be clear.<sup>43</sup> Subsequent surveys in these Notes<sup>44</sup> and Fr. Zalba's own recent article confirm that impression. We have reached a point when a universally acceptable definition of servile work is a practical impossibility. And it seems to be a theological anomaly that the universal Church should bind all the faithful under pain of mortal sin to abstain from something that theologians themselves cannot satisfactorily define. Hence, with many other writers, I believe the time has come for a change in the law. Some writers suggest that the change should be in the form of an authoritative definition of servile work. It is because I doubt the possibility of formulating such a definition for our complicated modern society that I have suggested, and again reverently suggest, that the negative part of the feast-day *obligation* be abrogated and that in its place we have an *exhortation* similar to that promulgated many centuries ago by the Council of Laodicea: "As for the Sunday, the faithful are urged, out of respect for the sacred character of the day, to observe such repose as circumstances will allow, and in the spirit that befits a Christian."<sup>45</sup> The exhortation might go beyond Laodicea in one respect, namely, in also urging the faithful to join with their fellow Christians in opposing tendencies to commercialize, and thus secularize, Sundays.

To sum up in a slightly different way: I would like to see canon 1248 supplanted by a law which prescribes assistance at Mass on Sundays and other days of obligation and which exhorts the faithful to occupy themselves

<sup>43</sup> Cf. *supra* n. 41.

<sup>44</sup> THEOLOGICAL STUDIES 13 (1952) 89-90; 16 (1955) 577-78; 17 (1956) 178; 19 (1958) 552-53; 21 (1960) 584-85; 22 (1961) 613-15. The general picture created by the various articles and discussions included in these surveys seems to justify the conclusion expressed by Fr. Farragher in 1960: "there are very few types of work which can be said to be certainly forbidden" (p. 585).

<sup>45</sup> Cf. L. L. McReavy, in *Ephemerides theologicae Lovanienses* 12 (1935) 303.

on Sunday in a manner which is in keeping with the purposes of the Lord's day. These purposes, according to Fr. Zalba's exhaustive article, can be reduced to three: the worship of God, the corporal and spiritual benefit of the individual, and the development of family life. Fr. Zalba's article is rich in references to papal statements and other sources that explain these various purposes.

In suggesting new legislation, I have made a distinction between Sundays and other holydays of obligation. Today, with the possibility of both morning and evening Masses, it is not difficult for the faithful to assist at Mass on holydays. But, at least in countries like our own, the faithful in general are not free to choose their occupations on these days unless they are also civil holidays. Perhaps it is different in countries that observe strictly Catholic traditions. However, I note that in Fr. Zalba's concluding quotation from Pius XII—a quotation which he says inspired his entire article—the Pope is speaking precisely of the sanctification of Sunday, and with special reference to the people of Italy.<sup>46</sup>

#### CHILDREN, SIN, AND CONFESSION

Two of the question-and-answer departments deal with the important problem of children's confessions. A question put to Aegidius Doolan, O.P., concerns a group of children under eleven years of age who are assembled weekly for confession.<sup>47</sup> The questioner points out that some of these children miss Mass regularly and that only one fourth of them come to confession during the holidays when they are left more or less on their own. He wonders about the advisability of "assembling" such children for weekly confession during the school year. Fr. Doolan admits that the assembling is wrong if it means making the children go to confession; but he sees no problem if it simply means affording the children the opportunity of confessing and encouraging them to confess frequently, provided they are properly instructed

<sup>46</sup> Cf. *AAS* 35 (1943) 112. In an allocution to Roman pastors and Lenten preachers, under the subhead "La domenica giorno del Signore," the Pope tells his audience to try to bring it about that Sunday will become once more the day of the Lord; that Sunday ought to be a day of rest in God, of adoration, of supplication, of thanksgiving; a day for asking pardon for the sins of the past week and for petitioning the graces needed for the next week. Sunday commemorates the Lord's resurrection; and the faithful should rise above the distractions and cares of their work, of the office, of the fields, so that they can be penetrated with a desire for future immortality. It should be a day of repose, not a day of excessive sport and entertainment; a day that draws families together.—Such are the main ideas of this paragraph.

<sup>47</sup> "School-children and Confession: Should They Be Assembled Weekly?" *Irish Ecclesiastical Record* 99 (June, 1963) 395-97.

about the meaning of sin and contrition and about the advantages of frequent confession.

In the course of his answer Fr. Doolan refers to an article on children's confessions published seventy years ago by Denis Flynn<sup>48</sup> and quotes the following words from the article:

They go to confession simply because they are sent, or because their parents or guardians have made it a rule that it is their duty to do so at certain times. . . . The time allotted to preparation is not infrequently spent in looking around the church, scanning their neighbour or perhaps indulging in conversation with some kindred spirit. Their parrot-like confession . . . affords no indication of the true state of the interior; and in many instances it would border on rashness to assume that their juvenile hearts are touched with one pang of sorrow, or that they have any intention of acting otherwise in the future than they have been acting in the past.<sup>49</sup>

There is no doubt more than a grain of truth in this description of small children's confessions. Yet the words, quoted without the context, have a pessimistic tone that was not in the original article. Actually, Fr. Flynn was groping with a problem that he recognized to be very difficult and was seeking for sound theological grounds for giving children absolution even in the trying conditions outlined in the quotation. The article discusses two problems that a confessor is apt to face when he hears children's confessions: (1) Are they confessing any real, formal sin, at least from their past life? (2) If so, are they expressing genuine sorrow and purpose of amendment?

Discussing the question of sin, Fr. Flynn points out that there are some children who are clearly precocious and who undoubtedly confess real sins. But there are many others who, for a considerable time after they have attained the use of reason, confess only imperfections. However, he recalls from the teaching of theologians, imperfections may be venially sinful by reason of circumstances or motives; hence even in this case there is some probability, but not certainty, of real formal sin. When the matter confessed by children does refer to real sin, there may still be a doubt in the confessor's mind because in many of these instances the child's conscience may be erroneous. Summing up, Fr. Flynn seems to think that very often, if not most of the time, there is reason to doubt about the validity of the *materia remota* of small children's confessions. He then goes on to consider the subjective disposition, and it is in this section of his article that we find the

<sup>48</sup> "A Few Thoughts on the Confession and Absolution of Children," *ibid.* 14 (1893) 805-15.

<sup>49</sup> *Ibid.*, p. 810.

words quoted by Fr. Doolan. There is, to say the least, a doubt about the contrition of the children pictured here. Even this, as I said, does not make Fr. Flynn pessimistic. But on the basis of his conclusion that there is often room to doubt about the remote or proximate matter of children's confessions, he wonders whether such children may be given conditional absolution. He seeks the answer in the texts of great theologians and concludes that the confessor may occasionally, i.e., four or five times a year, give such children conditional absolution.

It must be said in full justice to Fr. Flynn that he was seeking the most liberal conclusion possible in keeping with the pastoral teaching of approved authors. And the rather amazing thing is that today, seventy years later, the teaching of many manuals is very much the same, namely, that when the *materia remota* or *proxima* is dubious, children may be given conditional absolution several times a year.<sup>50</sup> The reasons for this "generous concession" are, first, the fact that the absolution may be necessary for them (in case there might be a mortal sin unrecognized by the confessor) and, secondly, even if not necessary, it may be useful (in case they have presented the minimum essentials for valid absolution). Despite the fact that this has been and still is the teaching of many manuals, the confessor of children is justified in ignoring it. The solution was worked out during centuries when the attitude toward children's confession (and Communion) was different from that of today, and it is strange indeed that manuals continue to give it. Today, whenever small children confess with any real probability of sufficient matter and proper disposition, a priest is certainly justified in giving conditional absolution. And this holds even if the child confesses frequently. The condition sufficiently protects the sacrament from irreverence; and the great good the children can probably reap from the absolution is ample justification for giving it. Incidentally, one might add that the condition need not be expressed, nor even adverted to in every confession. It is sufficient that the confessor give absolution with the general intention of conferring it insofar as the penitent is capable of receiving it.

In the recent literature Msgr. James Madden also discusses children's

<sup>50</sup> The modern author upon whom Fr. Flynn particularly relied was Aertnys. Aertnys-Damen-Visser 2 (1957) n. 334 apparently repeat the old pastoral teaching, namely, that conditional absolution is to be given to children "saltem post duorum triumve mensium intervallum, quamvis sola venialia confiterentur; ne diu priventur gratia sacramentali, et fortasse etiam sanctificante, ob occultum aliquod mortale peccatum." Authors repeating the same old teaching could be multiplied. I have checked many of them, but I see no need of documenting the statement with references. The limitation on the number of times children with doubtful matter or doubtful contrition may be absolved is refreshingly absent from Davis and Zalba.

confessions.<sup>61</sup> His questioner refers to the practice of sending children from the school to the church for confession on the eve of each First Friday. Says the questioner: "It occurs to me that many of the younger children are incapable of sin, and have no matter from which they can be absolved; while those a little older, who are capable of transgressing the divine law, may lack true contrition, which necessarily includes a purpose of amendment."

Msgr. Madden admits that some children might come to confession who are apparently incapable of sin. A priest has to exercise patience with such children and dismiss them with a blessing. However, these cases are rare if one keeps in mind the difference between some capacity to sin and the capacity to commit mortal sin. "It would seem reasonable to assume," he says, "that children are not guilty of serious sin at the age when they usually make their first Communion, because they are too immature to be properly conscious of the fact that any act of theirs is a serious violation of the divine law." However, these children do have some appreciation of right and wrong, and they can willingly do what they think is wrong. About the sins of these children Msgr. Madden observes:

To an adult, and to the priest who is a trained theologian, their transgressions would appear as imperfections rather than sins. If viewed objectively, they may be no more than imperfections; but to the child's mind and subjectively, they are wrong, and are to be considered sufficient matter for absolution. The child's conscience is erroneous, but for the present it is invincibly so, and in acting against it he contracted some guilt before God and readily confesses it. The Sacrament of Penance is not for him a necessary means of salvation, as he has never lost his baptismal innocence, but it does produce an increase of sanctifying grace and remission of the subjective guilt which he has confessed and for which he is supposedly sorry.

What about the danger of invalidity because of lack of contrition? Msgr. Madden admits the existence of this danger if children are not properly instructed about the motives for contrition. For these small children, the motives to be explained and stressed are those which apply to venial sin; hence fear of eternal punishment is not an appropriate motive. But a child might appreciate the fact that his sins keep him from getting a higher place in heaven and that they would be subject to some punishment in purgatory. And especially the child can understand that the sins displease our Lord and the Heavenly Father. As for the manifestation of contrition:

Children act according to their age, and if we do not find in them the same exterior recollection and reverence which we expect from those of more mature

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<sup>61</sup> "Children's Confession," *Australasian Catholic Record* 40 (April, 1963) 129-34.

years, we cannot immediately conclude they are not genuine in their expression of sorrow when they go to Confession. Provided care is taken in helping children to prepare for Confession, we need not worry over-much about their contrition: they will be sorry according to the measure of their juvenile nature, and that is all God will ask of them.

The purpose of amendment with regard to venial sins need not be universal. One fault could be made the focus of attention, and a sincere promise will be given to try to overcome it. The purpose of amendment is present at the moment of Confession. The human will is inconstant, and the will of a child is subject to change for motives which would have no influence on an older person. The fear that a penitent will relapse after Confession is no argument that he is not disposed for absolution. *A fortiori*, the knowledge that the child will commit the same faults next day does not prove that he has no intention now of avoiding them.

I could let Msgr. Madden's remarks stand by themselves, but it seems to me that some points should be further emphasized. Speaking of the "imperfections" that children confess, he distinguishes between the child's mind and the adult's mind. Remembrance of this distinction is basic to the proper hearing of children's confessions. Children seem to have their own little world, their own way of thinking, and their own way of expressing themselves. It is my impression that adults need a special gift really to penetrate the child's world. Many women have the gift; a smaller percentage of men have it. A confessor must know his own potential. If he can speak the child's language (and I do not mean baby talk), he can accomplish much good by instruction and encouragement. If he cannot reach the child's mind with his words, however, he can at least make the child feel at home by his kindly manner. Putting the child at ease in confession will pay rich spiritual dividends in the future, when he may really need the grace of absolution.

As regards the capacity for sinning, Msgr. Madden points out that it is one thing to say that these small children (of First-Communion age) cannot sin at all, another thing to say that they cannot sin mortally. His practical appraisal that they are usually too immature to sin mortally, but that they can commit small sins, seems correct. This may contradict a theological opinion that one cannot sin venially before he sins mortally, but it squares with common sense and everyday experience with children. There are, as Fr. Flynn wrote seventy years ago, some precocious children in whom the dictum *malitia supplet aetatem* seems to apply; but for the most part our very young penitents seem incapable of truly appreciating the meaning of mortal sin.

One final point of emphasis before we consider the question of "regimenting" children. Msgr. Madden touches a very important point

when, with reference to contrition and purpose of amendment, he says that children manifest these dispositions according to their age and that we should not expect more from them. This is the spirit of canon 854, on the First Communion of children, namely, that they will be devout according to their years and that more is not to be expected from them. It is, in fact, the spirit of the whole new approach to children's confession and Communion that was inaugurated by St. Pius X.

On the question of "regimenting" children for confession and other religious duties, Msgr. Madden has some further prudent remarks. He points out that small children have to be "made" to do many things, e.g., to go to school, to do their chores about the house, and so forth. If this is necessary in nonreligious things, why should it be different in religious matters? But in religious matters it is especially necessary to try to develop the children's own appreciation so that they can profit by fulfilling their religious duties. Thus, regarding confession, they should be well instructed about motives for sorrow for sin, the advantages of absolution, etc. And the confessor, on his part, should co-operate by giving the child whatever help he needs to make a fruitful confession.

The method of disciplining children in the reception of the sacraments will change with the development of the children. In their tender years, "positive directions will be required, accompanied, as has been stated, by suitable instruction by those responsible, and sympathetic care and understanding by the priest." But later, when they are teen-agers, kindly advice, encouragement, and more complete instruction concerning the supernatural value of the sacraments should be emphasized.

#### RACISM IN MORAL THEOLOGY

I am reminded of the present topic by an editorial in *Social Order*.<sup>63</sup> The editor, a native Southerner, tells how he grew up, taking the various practices of racial discrimination for granted; and he attributes this partially to his educators: "As we moved out of grade school into high school and thence into college and seminary, the intellectual and moral development we acquired was certainly not accompanied by even elementary understanding of the serious wrongfulness of our ideas and practices in race relations."

It is interesting to note that even in the seminary the writer received no instruction about the immorality of racism. He attributes this to one of two causes: either his professors were themselves tainted with racial prejudice or they thought the topic "too trivial to merit instructional attention." As

<sup>63</sup> Louis J. Twomey, S.J., "Autobiographical Notes on the Race Problem," *Social Order* 13 (Jan., 1963) 1-4.



regards the course in moral theology, there is a *datur tertium* which I can illustrate by my own experience. When I started teaching moral theology, I followed my textbook. And the textbook, like other books of European origin, made no special reference to racism. It did not occur to me to supplement the textbook in this matter until I was asked to be the director of a group of seminarians who were making a special study of the race problem, with particular reference to discrimination against Negroes. I had worked only a short time with these seminarians when I realized that a moral theology course, at least in this country, would be unrealistic and basically defective if it included no special treatment of race relations.

But in what part, or parts, of the course should race relations be discussed? On the basis of personal teaching experience, I suggest the following: (1) the general treatise on fraternal charity, (2) the particular treatise on *communio signa dilectionis*, and (3) the treatise on *contumelia*. The last-named treatise, it seems to me, is the best place to explain the basic immorality of racial discrimination: it is insult on a massive scale. The treatise on the common signs of love and courtesy is appropriate for two reasons: first, it shows in a concrete, practical way, the "little things" that any person of good will can and should do to improve race relations; and, secondly, it shows the immorality of conducting a public business while excluding customers on any irrational basis such as race, nationality, or creed. Finally, in the general treatise on fraternal charity we have the explanation of the interior spirit without which there can be no genuine and lasting improvement of race relations.<sup>53</sup>

Recent developments in race relations show the need of stressing the interior spirit of love. I have carefully followed articles and correspondence in various magazines and I have noticed an alarming increase of manifestations of real hatred. This is just what was prophesied by Justice John Marshall Harlan in his objection to the "separate but equal" decision of 1896. "The destinies of the two races, in this country," he wrote, "are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under sanction of law."<sup>54</sup> Justice Harlan's opinion was overridden; the seeds of race hate were planted; and we are now reaping the whirlwind of bitter hatred. Hence the need of emphasis on the spirit of Christian charity. By this I do not mean that racial discrimination is not shot through with in-

<sup>53</sup> Some of these points are more fully developed in my *Guidance for Religious* (Westminster, Md.: Newman, 1956) chap. 17: "How to Think and Act about the Race Problem."

<sup>54</sup> Quoted by William J. Kenealy, S.J., in "Racism Desecrates Liberty, Perverts Justice and Love," *Social Order* 13 (May, 1963) 5-20, at p. 11.

justices or that these injustices should be ignored in the course of moral theology. *But even the reparation of these injustices will be of little avail if love does not prevail over hate.* This agrees, I think, with the conclusion of a powerful article by William J. Kenealy, S.J.:

We like to think that Almighty God is on the side of our American way of life. But it is true only to the extent that our American way of life is on the side of Him who said, "I am the way and the truth and the life." And in His eyes, there is neither white nor black nor red nor yellow nor brown, neither Jew nor Gentile nor Barbarian nor Scythian, but all are brothers in Christ Jesus. And He Himself, on the night before He died for us, gave us this glorious but awesome test: "*By this will all men know that you are my disciples, if you have love for one another.*" But no man can, no man does, segregate from himself those he truly loves.<sup>15</sup>

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<sup>15</sup> *Ibid.*, p. 20.



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