

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: APRIL-SEPTEMBER, 1970

In the past semester the literature touching moral questions has been so vast and variant that it suggests the contemporary ecological crisis and the advisability of rewards for the two-article professor in the years ahead. At any rate, these Notes are faced with a kind of "responsible authorhood" they have rarely faced before.

This makes this as good a time as any to call attention to the limitations of these Notes. Some limitations are obvious: one man with limited perspectives, reviewing a vast literature, in a small space, against a deadline. The upshot is that the compositor's opinions and reactions do not in every instance represent a fully elaborated position. Other limitations are not so obvious but are nonetheless real. I refer to the problem of objectivity in the selection of both areas to review and articles within the area. One tries to approach objectivity but realizes that his efforts must remain only partially successful.

The matter is mentioned here for two reasons. First, the brevity imposed on these reviews has occasionally left a wrong impression of the compositor's opinion, or has suggested underlying implications which subsequent exchange and discussion have shown to be nonexistent. Secondly and more importantly, brevity of comment, when it is critical, can border on unfairness to an author's thought. This is "mortally sinful" in the professional fraternity. But because the true professional can understand both the advantages and the handicaps of critical surveys, his forgiveness comes easy.

This being said, the present survey will focus on four issues: (1) tendencies in theological ethics, (2) situations of conflict, (3) the theology of ecology, (4) theology and divorce.

TENDENCIES IN THEOLOGICAL ETHICS

There has been a good deal of literature summarizing contemporary discussions and indicating future directions in Christian moral thought.¹

¹ Cf., e.g., C. D. MacNiven, "Analytic and Existential Ethics," *Dialogue* 9 (1970) 1-19; F. J. Steinmetz, "Freiheit-Gesetz-Sünde: Über einige Schwerpunkte heutiger Moraltheologie," *Geist und Leben* 43 (1970) 64-71; Charles Reynolds, "A Proposal for Understanding the Place of Reason in Christian Ethics," *Journal of Religion* 50 (1970) 155-68; George L. Frear, "The Need for an Ongoing Dimension in Christian Ethics," *Journal of Religious Thought* 27 (1970) 18-27; Jack T. Sanders, "The Question of the Relevance of Jesus for Ethics Today," *Journal of the American Academy of Religion* 38 (1970) 131-46; Vernon J. Bourke, "Recent Trends in Ethics," *New Scholasticism* 44 (1970) 396-425; Hans Rotter, "Tendenzen in der heutigen Moraltheologie," *Stimmen der Zeit*, April, 1970, pp.

Some of this literature can be briefly reviewed under title of "tendencies in theological ethics." This review will necessarily be somewhat scattershot even though it can be organized under three distinct headings.

The New Morality

Nearly everybody has had a go at this subject by now, or at least one would have thought so. But the literature continues. Everyone involved in teaching Christian ethics should ponder the fascinating report of Leander E. Keck and James E. Sellers.² They argue that vital theology is always born out of the agony of faith and understanding precipitated by crisis. Unless we realize this, there will continue to be a hiatus between the places where men are living, dying, and being brutalized, and the places that have always been the repository of sources for thinking about these events.

Amid an exhortation to honesty in facing ethical situations, Rabbi Richard Israel (Director of B'nai B'rith Hillel Foundation at Yale) makes some interesting remarks about ethical concerns.³ He distinguishes micro-ethics from macro-ethics. The former is that which is appropriate to relations between individuals. Macro-ethics deals with the larger problems of political power, war and peace, distribution of wealth, poverty, and race. In the past decade or so situationalism represented a micro-ethical attitude largely concerned with the relationships between individuals. When it did turn to the larger issues, it viewed them as though they were ethical problems between two people. Thus: "make love, not war." Now, however, macro-ethical attitudes are beginning to infect the micro-ethical framework. Politics has begun to infuse the interpersonal world. The language of collegians reflects this when it refers to the theft of a case of beer as "liberating a case of beer."

Rabbi Israel makes the extremely interesting point that in an interpersonal ethic, values tend to be relative. In macro-ethics, however, they tend to be absolute. For instance, only one thing is acceptable to

259-68; M. D. Chenu, "The Renewal of Moral Theology: The New Law," *Thomist* 34 (1970) 1-12; Hans Rotter, "Die Prinzipien der Moral," *Zeitschrift für katholische Theologie* 92 (1970) 167-82; M. J. Langford, "New Approaches to Natural Law," *Religious Studies* 4 (1968) 153-62; "Moral Theology in Italy," *Idoc*, June 13, 1970, pp. 20-24; John Cardinal Heenan, "La morale d'aujourd'hui," *Documentation catholique* 67 (1970) 284-88.

² Leander E. Keck and James E. Sellers, "Theological Ethics in an American Crisis," *Interpretation* 24 (1970) 456-81.

³ Richard J. Israel, "The New Morality and the Rabbis," *Conservative Judaism* 24 (1969) 62-70.

the contemporary macro-ethical mind, not the ROTC or Dow thing. Israel's essay suggests several interesting questions. To what degree will macro-ethical absolutism begin to affect interpersonal morality? Also, to what degree are ethical postures really a product of an individual's situation? Would the enthusiastic American pacifist, for example, really be a pacifist if he lived in Israel?

Only recently an excellent article by James Gustafson came to my attention.⁴ This essay is an example of Gustafson's remarkable ability to isolate drifts and trends with accuracy and fairness and to tell us where we are in a given problem area. Armed with a distinction made by Ernst Troeltsch in 1902 between an ethics of disposition, intention, conscience (*Gesinnungsethik*) and an ethics of laws, norms (*Objektivethik*), Gustafson shows how these general issues were present in St. Paul, St. Thomas, and Luther. And they are still alive today. Current discussion, both Catholic and Protestant, is determined by the prevalence of an antilegalist mood. Gustafson summarizes this mood with a list of contrasts (e.g., dynamic vs. static, open vs. closed, future-looking vs. orientation to past, creative responsibility vs. conformity to pre-defined order). Many of these distinctions reflect the more basic Troeltschian distinction. It comes as no surprise that Gustafson himself finds it "theologically, historically, sociologically and psychologically appropriate in our time to view moral existence as initiating and responding activity in a changing field of action . . . to view oneself as the creative and responsible participant in the ongoing development of history. . . ."⁵ This has been Gustafson's dominant theological attitude and pastoral approach for some time. And he carries it with admirable balance; for he sees the need for more work not only on the problems of the formation of genuine Christian dispositions, but also on the formation of directions for these dispositions.⁶

If the genial Joseph Fletcher is alive and well—and he is⁷—it is not for lack of hatchet men.⁸ Raising a lance and trying a round with Fletcher has become almost a hobby in moral theological circles. Four recent examples will suffice here. One of the longest and sharpest

⁴James M. Gustafson, "What is the Contemporary Problematic of Ethics in Christianity?" *Central Conference of American Rabbis Journal*, Jan., 1968, pp. 14-26.

⁵*Ibid.*, p. 25. Cf. also Gustafson's "What Ought I to Do?" *Proceedings of the American Catholic Philosophical Association*, 1969, pp. 56-70.

⁶See James M. Gustafson, "The Place of Scripture in Christian Ethics," *Interpretation* 24 (1970) 430-55.

⁷Joseph Fletcher and Thomas A. Wassmer, S.J., *Hello, Lovers* (Washington: Corpus Books, 1970).

⁸A recent example is Joseph Vadakumcherry, *Natural-Law-Morality versus Situationism in Morals* (Cochin: Mar Louis Memorial Press, 1969).

lances is that of Ignacio L. Götz, who concludes that "Fletcher has *in fact* placed his situationism outside the realm of Christian ethics."⁹ Götz bases his conclusion on Fletcher's nominalism. Since "sinful" is something men never *are*, it is meaningless to speak of the Christian notion of atonement.

J. Charles King criticizes Fletcher's act-utilitarianism on several scores.¹⁰ Its exposition in Fletcher's writings involves vicious circularity. That is, for Fletcher love (*agapē*) is the criterion of goodness. But if this is so, then seeking the neighbor's *good* cannot be a satisfactory account of the nature of love. King also faults Fletcher on the fact that he has overlooked the possibility of genuine moral principles which take full account of the peculiarities of individual situations. Without such principles a judgment of mere personal preference replaces a true moral judgment.

Auburn University's Robert Andelson contends that Fletcher cavalierly disregards the canons of logical argument.¹¹ Noting that Fletcher rightly claims that love universalizes its concern and that the neighbor is thus Everyman, Andelson insists that Everyman incorporates *all* whom a decision might conceivably affect, known and unknown, present and future. "Thus a loving decision must be one which is made not merely with reference to specific persons but also and more importantly in the light of principles applicable to personality as a general category." Similarly, if the neighbor is really Everyman, how does one adjudicate the competing claims of persons except in terms of abstract principles of good?

It would be inaccurate to say that Paul Ramsey has returned to the fray. He has never really left it during the past five or six years. Once again he argues that there are love-embodiment and love-fulfilling rules governing crucial areas of human life.¹² The "new morality" would regard all principles as analogous to the tactical advice given a quarterback: punt on fourth down. Ramsey insists that in morality there are rules and principles which go beyond such tactical advice. I think he is right, but in this essay he has not carried the argument beyond what he has written at greater length elsewhere.

As the dust of the storm surrounding Fletcher's work has settled, two

⁹ Ignacio L. Götz, "Is Fletcher's Situationism Christian?" *Scottish Journal of Theology* 23 (1970) 273-78.

¹⁰ J. Charles King, "The Inadequacy of Situation Ethics," *Thomist* 34 (1970) 423-37.

¹¹ Robert V. Andelson, "Some Fundamental Inconsistencies in Fletcher's *Situation Ethics*," *Personalist* 51 (1970) 332-37.

¹² Paul Ramsey, "The Biblical Norm of Righteousness," *Interpretation* 24 (1970) 419-29.

impressions linger. First, we have been forcefully reminded that traditional moral approaches, at least in the hands of their latter-day practitioners, have too easily underestimated the situational aspects, especially consequences, in decision-making. Secondly, this neglect has not been and will hardly be adequately corrected within a presentation so individualistic, systematically underdeveloped, and ultimately intellectually dissatisfying as that of Joseph Fletcher.

Charles Curran offers a ranging commentary on moral methodology.¹³ He centers his attention on faulty and one-sided methodological approaches. For instance, any moral theology which is to be truly Christian must take account of the full Christian mystery of "creation, sin, incarnation, redemption and resurrection destiny." It is only such a full view that allows us to avoid the extremes of uncritical acceptance of the present or irresponsible devaluation of the present. Curran criticizes both theological actualism (the attempt to perceive the will of God here and now without giving enough importance to all the criteria, especially rational criteria) and consequentialism (morality is determined only by weighing the consequences of our acts). Curran is especially on target in his criticism of Fletcherian consequentialism.¹⁴ As he puts it, "there always remains the problem of appraising the hierarchical importance of the various consequences involved." For the Christian, frustration, suffering, tragedy, and ultimately death must be viewed within the perspectives of the paschal mystery. The problem of elaborating a satisfying value system within the totality of Christian realities remains one of the most important unfinished tasks in the field of Christian morality.

Another very useful source on the new morality is John Macquarrie's *Three Issues in Ethics*.¹⁵ There is very little that is new in Macquarrie, but his work summarizes expertly and in very simple language a good deal that is going on in moral theology. His critique of the "new morality" is finely balanced. It concludes:

The traditional moral theology was too strongly tied to the notion of a fixed, essential human nature, set in the midst of a static hierarchically ordered universe. Yet its basic method of approaching the problem of ethics was correct—not through some special Christian concept of love or whatever it might be, but through the study of man.¹⁶

¹³ Charles Curran, "Methodological and Ecclesiological Questions in Moral Theology," *Chicago Studies* 9 (1970) 59–80.

¹⁴ I say "Fletcherian" because I suspect that there is a rendering of consequentialism, as yet not systematically developed, with which many of us could feel at home.

¹⁵ John Macquarrie, *Three Issues in Ethics* (New York: Harper & Row, 1970).

¹⁶ *Ibid.*, p. 42.

It is clear, therefore, that Macquarrie will hold hands with no one who would do away with natural law. "Indeed," he says, "I shall go further and claim that natural law is foundational to morality. It is the inner drive toward authentic personhood and is presupposed in all particular ethical traditions, including the Christian one." Of course, the interpretation of this law must keep pace with man's continually evolving self-understanding.

It is in his summary of man's contemporary self-understanding that Macquarrie is, I believe, especially perceptive. His exposition remains the best short treatment I have seen. He presents and explains thoroughly five characteristics of "the new man": (1) changing man—a being-on-the-way; (2) embodied man—a being-in-the-world; (3) social man—a being-with-others; (4) man as agent; (5) man come of age: responsibility. Clearly this new self-understanding is bound to bring new priorities and shifts of interest in the moral life.

Specificity of Christian Morality

A variety of contemporary currents—for example, secularization, ecumenism, the Church as teacher—have raised anew the question of the specificity of Christian morality. The question can be put in any number of ways, and one's answer to be sure will generally reflect the shape of his question. But in recent literature the formulation has been as follows: What is there about Christian morality that distinguishes it from one which is built on the authentically human, or one which Paul Ramsey referred to some years ago as "generally valid natural morality"?¹⁷

John Macquarrie's answer to this question is that the Christian ethic is not distinctive in its ultimate goals or its fundamental principles; these are shared with all serious-minded people of all traditions. Therefore the distinctiveness is not to be found in the concrete moral obligations derived from an authentic humanity but in the degree of explicitness surrounding the notion of authentic humanity. "The distinctive element is the special context within which the moral life is perceived. This special context includes the normative place assigned to Jesus Christ and his teaching—not, indeed, as a paradigm for external imitation, but rather as the criterion and inspiration for a style of life."¹⁸

J.-M. Aubert prepares the way for his own answer by studying the question in St. Thomas.¹⁹ Thomas' point of view is gathered from his

¹⁷ Paul Ramsey, *Basic Christian Ethics* (London: S.C.M. Press, 1953) p. 86.

¹⁸ *Three Issues in Ethics*, p. 89.

¹⁹ J.-M. Aubert, "La spécificité de la morale chrétienne selon saint Thomas," *Supplément* 92 (1970) 55-73. Cf. also R. Simon, "Spécificité de l'éthique chrétienne," *ibid.*,

treatment of the relation of human virtues to Christian virtues, and from his discussion of the relation between the law of Christ and human morality. With regard to the virtues, Aubert maintains that Thomas clarified a long patristic heritage by explaining the autonomy and value of human virtue. An earlier Augustinian concern to avoid Pelagianism tended to smother the human with the overwhelming gratuity and supremacy of the theological virtues. Thomas recovered this human aspect with no compromise on the supremacy of the theological order. For him charity was the form of the virtues, suffusing and dynamizing them, but leaving them intact as the genuinely human expressions or ways of charity.

With regard to law, Thomas taught that the law of Christ should animate and transfigure all of human life. This implies that human life already has a moral content to which charity will give a new sense. But Thomas insisted that the law of Christ adds of itself no new particular moral prescriptions. It introduces a new dynamism and power. The resultant new life is essentially a more total and divinized way of leading a human life, a human life having its own proper demands which man perceives by reason and conscience.

On the basis of his study Aubert concludes that it is faith which is the truly distinguishing (or formal) cause of the specificity of Christian morality. But this must be properly understood. Since there is only one destiny possible to all men, there is existentially only one morality common to Christians and non-Christians. That means that there is a *material* identity between Christian moral demands and those perceivable by reason. However, faith operates a distinctiveness in the manner and intentionality of living these common moral demands. That is, it renders explicit the presence of charity. The Christian builds a life style on this explicitness. Therefore

the specificity of Christian morality is found essentially in the very style of life, the manner of comporting oneself and of accomplishing the moral tasks which the Christian has in common with other men—a manner more dynamic, more assured, more joyous, more capable of following the example of Christ dying for other men. For it is ultimately the law of the cross which remains the essentially Christian model of the manner of practicing the moral law. . . .²⁰

In several valuable studies Joseph Fuchs, S.J., pursues in depth the notion of "Christian intentionality" mentioned by Aubert.²¹ It is Fuchs's

pp. 74-104. The entire issue is entitled "L'Éthique chrétienne à la recherche de son identité" and contains useful general essays.

²⁰ *Art. cit.*, p. 73.

²¹ Joseph Fuchs, S.J., "Gibt es eine spezifisch christliche Moral?" *Stimmen der Zeit*

thesis that prescinding from this intentionality Christian morality is, in its materiality and concreteness, human morality. Therefore both Christians and non-Christians must seek the answers to moral questions by determining what is genuinely human. It is the intentionality brought to the authentically human which specifies Christian morality.

How are we to understand this intentionality? To explain it, Fuchs recalls that in the moral act there are two aspects: the specific act itself and through it one's self-realization with reference to an Absolute. This self-realization in relation to an Absolute is the decisive element in morality, even though we are not reflexly conscious of it. Thus there is "a certain intentionality which transcends and fulfils the individual moral act." Now the Christian does not relate himself to God only as the Absolute, but to God as Father, to God who gave us His love in the person of Christ, and who is in His Christ our salvation. It is this deep-seated stamp on our consciousness which is distinctive of Christian morality. Or, as Fuchs puts it: "This Christian intentionality is what makes the moral behavior of the Christian truly and specifically Christian, at every moment and in every aspect, even when it appears at first to be simply conduct conforming to human morality."²² Everything the Christian does is an expression of this personal, conscious, and freely willed relation to the Father of Jesus Christ. This intentionality is present to us without explicit and systematic reflection on our part.

While Christian intentionality is the decisive element in Christian morality, there is another important aspect which Fuchs underlines. The Christian knows in faith and acknowledges certain realities which he alone can acknowledge: the person of Christ, the Holy Spirit at work in us, the message of salvation, the Church, the Christian community, the sacraments, teaching authority. Our relationship to these realities belongs to our being and must be realized in our conduct. It will do so at the level of a deeper and richer motivation.

Charles Curran has written an extremely interesting essay on the existence of a distinctively Christian social ethics.²³ His conclusion: "There is no distinctively Christian social ethics in the sense that Christians would possess a knowledge or a power that other non-Christians would not and could not possess." Ultimately he says this also of personal ethics. Furthermore, he concludes that not only is there no dis-

185 (1970) 99-112. See also his "Human, Humanist and Christian Morality," in *Human Values and Christian Morality* (Dublin: Gill and Macmillan, 1970) pp. 112-47. The Italian version is *Esiste una morale cristiana?* (Rome: Herder, 1970).

²² Fuchs, *Human Values and Christian Morality*, p. 124.

²³ Charles Curran, "Is There a Distinctively Christian Social Ethic?" in *Metropolis: Christian Presence and Responsibility* (Notre Dame: Fides, 1970).

tinctively Christian social ethics in the above sense, "but likewise there can be no distinctively Christian attitudes, dispositions, or goals." This last statement is, I would assume, a denial of the thesis of James Gustafson; for Gustafson maintains that loyalty to the Christian gospel and faith evokes distinctively Christian attitudes, dispositions, intentions, goals and norms.²⁴

Curran does not conclude that the churches should never speak out on concrete issues. Quite the contrary. They should, but in such a way that they enunciate the general Christian attitudes and principles relevant in the particular situation and "show how they arrive at their particular conclusion with the humble realization that they might be wrong and are not pretending to propose the only Christian solution to the problem."

A distinctively Christian ethic would involve, Curran argues, several false presuppositions. First, it presupposes that there is a great difference between Christians and non-Christians because Christians have been freed from sin and death and brought to new life by Christ. Contemporary theology, on the contrary, would maintain that God somehow offers His saving love to all men, even without explicit contact with the historical Jesus. Secondly, a distinctively Christian ethic builds off the view that the world is totally disfigured by sin (Lutheran) or the view that the natural is totally distinct from the realm of the supernatural (Catholic). These dichotomies are overturned by the contemporary theology of eschatology and of cosmic redemption. "The world is not just the area of the natural but the world embraces all the different aspects of the Christian mystery—creation, sin, incarnation, redemption and resurrection destiny." Thirdly, a distinctively Christian ethic supposes that creation and redemption (or the human and the Christian) are separated, if not opposed. Contrarily, redemption brings creation to completion.

Perhaps three remarks would not be out of place here. First, I would agree that these arguments are convincing reasons for saying that human morality (natural law) and Christian morality are *materially* identical. This is what nearly everyone (e.g., Fuchs, Aubert, Macquarrie, Rahner) is saying these days.²⁵ The light of the gospel does not bring something distinct from the human, but helps us to discover what is

²⁴ James M. Gustafson, *Christ and the Moral Life* (New York: Harper & Row, 1968) pp. 238–71.

²⁵ On the other hand, B. Häring writes: "Some people, including certain Catholic theologians, still have the incredible idea that the moral teaching of the New Testament adds no new content to the natural law, that it only offers new motives. This is actually worse than the moral doctrine of Pelagius..." (*Road to Relevance* [New York: Alba,

authentically human. Perhaps this is what Curran means. But I wonder if he has formulated it exactly. He denies a distinctively Christian ethic "in the sense that Christians would possess a knowledge or a power that other non-Christians would not and could not possess." It seems to me that if the light of the gospel can aid in the discovery of truly human solutions to our problems, then those who have the gospel have a source of knowledge which others not exposed to the gospel do not have. Whatever *material content* this light of the gospel leads to, it will always be utterly human, not beyond or at variance with the human and the reasonable.

Secondly, Curran states in the course of his study that "the natural law approach, from a theological perspective, embodies certain theological presuppositions which argue against its continued use in contemporary moral theology. Catholic theology and Catholic practice were never able to integrate the natural law approach into the total Christian perspective." Ultimately Curran opts for the phrase (used by Vatican II) "human experience," because "it avoids the theological problem created by the presupposition of the natural as an area unaffected both by the transforming and redeeming aspects of the resurrection as well as subject to the limitations and disfigurement of sin."

Undoubtedly there is a better term for natural law, but I do not believe that the basic notion necessarily involves the "presupposition of the natural as an area unaffected both by the transforming and redeeming aspects of the resurrection. . . ." Sometimes the natural law has been spoken of in this way. Indeed, one could say that a handle for this separatist thinking was provided by Vatican I's notion of natural law. Edward Hamel, S.J., in a careful study, has shown that "Vatican I in some sense considers nature and grace as if they were two not only distinct but separate entities. . . . It speaks as if 'natural' knowledge of God occurred outside of all influence of grace, outside the economy of salvation."²⁶

1970] p. 66). It is hard to know just what and whom Häring has in mind. For his phrase "no new content" seems hardly an accurate rendering of the thought of men like Fuchs and Rahner. I am not sure where Paul Ramsey stands here. He seems to argue for the permanence of marriage on exclusively Christian grounds. "It was the inseverability of Christ's covenant with us that, touching the covenants among men, made for the inseverability of the marriage bond" (*Interpretation* 24 [1970] 428). If Ramsey means this ("made for") literally, he would have to say that there is a specifically Christian material content in the moral life.

²⁶ Edward Hamel, S.J., "Lumen rationis et lux evangelii," *Periodica* 59 (1970) 215-49, at 247.

However, Hamel shows that Vatican II integrated the abstract, notional, objective, separatist treatment into a richer perspective and was able to bring out the unity of human morality within the Christian dispensation. This unity comes out in any number of places in the documents of the Council. For instance, *Gaudium et spes* states that "faith throws a new light on everything, manifests God's design for man's total vocation, and thus directs the mind to solutions which are *fully human*."²⁷ Also: "But only God, who created man to His own image and ransomed him from sin, provides a fully adequate answer to these questions. This He does through what He has revealed in Christ His Son, who became man. Whoever follows after Christ, the perfect man, *becomes himself more of a man*."²⁸ Therefore the notion of human morality (natural law), when properly integrated as in Vatican II, need not embody "certain theological presuppositions which argue against its continued use in contemporary moral theology."

My third question is closely related to the first two. Curran denies that there are distinctively Christian moral dispositions, intentions, attitudes. Perhaps I do not understand his intent here. But it seems that if Vatican II invites us to consider contemporary social problems "in the light of the gospel and human experience," and if it asserts that "faith . . . directs the mind to solutions that are fully human," then it is precisely through Christian dispositions and attitudes that the authentically human may be deeply and accurately grasped. In an order where redemption completes creation, and where men remain human even though addressed by revelation and grasped by grace (in other words, where the human and Christian are integrated and the human thereby brought to its own highest perfection), is this not to be expected?

At this point it is helpful to ask how the light of the gospel relates to human morality. Hamel has done just that.²⁹ First, the grace of Christ, by neutralizing or removing impediments to the secure use of reason (pride, bad faith, passion, etc.), exercises a liberating effect. Under its influence man discovers more easily and readily what is authentically human. Secondly and more positively, the light of the gospel furnishes us with a knowledge of man's integral vocation. Only if the fulness of man's vocation is the backdrop for moral reflection will our solutions be truly and fully human; for only then will we consider all the elements and dimensions of the problem.

If it is the light of the gospel which gives us knowledge of the integral

²⁷ Cf. *The Documents of Vatican II*, ed. Walter M. Abbott, S.J. (New York: Guild Press, 1966) p. 209.

²⁸ *Ibid.*, p. 240 (n. 41). ²⁹ *Art. cit.*

vocation of man, is it not possible and to be expected that this knowledge will issue in distinctive attitudes and intentions? I have in mind what Fuchs calls "transcendental" norms (e.g., the following of Christ, leading a sacramental life, the life of faith, etc.).³⁰ Gustafson's "attitudes, dispositions, intentions, goals and norms" are very close, I would think, to Fuchs's transcendental norms.

James Bresnahan, S.J., in an exceptionally fine summary of the ethical perspectives of Rahner's thought, has caught very well the direction of contemporary writing on the question of a distinctive Christian ethic.³¹ First, he points out that since Christian ethics is the objectification in Jesus Christ of what every man experiences of himself in his subjectivity, "it does not and cannot add to human ethical self-understanding as such any material content that is, in principle, 'strange' or 'foreign' to man as he exists and experiences himself in this world."³² Secondly, however, Bresnahan correctly insists that a man within the Christian community has access to a privileged articulation, in objective form, of this experience of subjectivity. Precisely because the resources of Scripture, dogma, and Christian life are the fullest available "objectification" of the common human experience, "the articulation of man's image of his moral good that is possible within historical Christian communities remains privileged in its access to enlarged perspectives on man." This statement is an excellent testimony to the radical unity of the human and the Christian.³³

³⁰ Fuchs, "Gibt es eine spezifisch christliche Moral?" p. 101. Cf. also Raymond F. Collins, "Christian Personalism and the Sermon on the Mount," *Andover Newton Quarterly* 10 (1969) 19-30.

³¹ James F. Bresnahan, S.J., "Rahner's Christian Ethics," *America* 123 (1970) 351-54.

³² A different point of view and one not purged of separatism is that of R. Coste, "Loi naturelle et loi évangélique," *Nouvelle revue théologique* 92 (1970) 76-89. Coste uses the term *mutation radicale* to describe the relation of human morality and evangelical morality, and states that "it is no longer man who is the measure of ethical demand, as in the natural law; it is God Himself in the exemplarity of the Word Incarnate" (p. 84). Again, after describing evangelical love of neighbor in terms of pardon of offenses, love of enemies, nonviolence, etc., he concludes: "What an astronomical distance we have thus been carried from the natural law!" (p. 85). To the first statement we must insist that man indeed is the measure of ethical demand, but because of the God-man we now know more profoundly what is authentically human. To the second statement we must insist that Coste's description of evangelical love of neighbor is not "an astronomical distance from the natural law" but rather its finest explicitation. What underlies Coste's "separatism" is a dated notion of natural law.—It is ultimately the lack of any notion of human morality that underlies the unsuccessful struggles of Jack T. Sanders to find an ethical relevance for Jesus. For he criticizes the notion that an ethical principle coming from Jesus might be expected "to stand on its own." This rather clearly separates the human from the Christian. Cf. *Journal of the American Academy of Religion* 38 (1970) 131-46.

³³ So are some sentences by Enda McDonagh. For instance, "for the theological study

Regardless of how one formulates the specific character of Christian morality, should not the historical Christian communities reflect a distinctively Christian *concern* in the face of human problems? Our corporate embarrassment at this formulation of the question is itself some indication of the kind of answer the question deserves.

The Sense of Sin

John G. Milhaven treats of the new sense of sin.³⁴ In the past, Christians were taught that mortal sin was the deliberate choice of a single act of a specified sort. Unless the sinner repented, eternal punishment was the result. The "vindictive" mentality, basically juridical in character, undergirded this notion. Now, however, the contemporary Catholic views God as "a divine father, a divine husband, a divine lover." This dominant attitude, Milhaven believes, has led to a new sense of sin. He sees this as one founded in "positive obligation." That is, "to what extent is the action loving? To what extent does it bring about good consequences in human experience?" This positive attitude generates a corresponding negative norm for evaluating sin. "A sin will be grave to the extent that it is a failure to love, i.e., a responsibility for the presence of bad consequences, or the absence of good consequences, in human experience." In other words, a sin will be grave to the extent that it hurts or fails to help myself or another.

How does this norm of gravity operate? According to Milhaven, it has three characteristics. It is rarely identified with individual acts, it usually occurs only over a period of time ("because in everyday life it generally takes time to hurt a person seriously"), and it is generally a sin of omission—a failure to do something ("I did not concern myself with troubles of members of my family").³⁵ In summary, it is Milhaven's conviction that the contemporary Christian views sin not as an individual act but as a "continuing failure to act lovingly in innumerable situations over a period of time."

of morality accepting the human in all its fulness is one necessary starting point. It is this human which is then illuminated by the person, teaching, and achievement of Jesus Christ" ("Towards a Christian Theology of Morality," *Irish Theological Quarterly* 37 [1970] 187-98, at 197). Or: "The experience of Jesus Christ is regarded as normative because he is believed to have experienced what it is to be human in the fullest way and at the deepest level" (p. 196). This is also the sense of G. Bortolaso's statement that "the gospel certainly contains more than a pure order of reason, but this latter is contained in the gospel in a full and total manner" ("Il fondamento dei valori," *Civiltà cattolica* 121 [1970] 268-75, at 275).

³⁴ John G. Milhaven, "A New Sense of Sin," *Critic* 28 (1970) 14-21.

³⁵ Cf. also the editorial "Il peccato di omissione, oggi" *Civiltà cattolica* 121 (1970) 209-13.

Few will doubt that there is a good deal to be said in favor of the emphases Milhaven discusses. For instance, sins of omission need much more attention not only theologically but in popular catechesis. This is especially true in the area of social morality. However, some questions remain, as is bound to happen when one is depicting broad trends within the confines of a brief essay. Only a single point will be lifted out of Milhaven's treatment for discussion here: the relationship of sin to the individual act.

Increasingly one hears it said that "there can be no act such that its commission or omission alone is mortally sinful."³⁶ Statements such as this are rooted in a healthy reaction against an earlier excessive juridicism in our attitudes toward sin. Morality was viewed all too mechanically in terms of the external act. In correcting this view, there is a real danger of a reaction—a reaction which contains, in a different direction, the one-sidedness of the view against which it reacts. Concretely, a contemporary view of sin can all too easily divorce it almost totally from human activity and end up with an antihuman spiritualism. Actually, basic freedom, the freedom required for serious moral acts, can operate only in human acts. Our challenge, one with enormous pastoral implications, is to formulate the relationship of basic freedom to the individual act in a balanced and realistic way.³⁷

Those who deny that any single act can be the occasion of a radical change (fundamental option) frequently assert that man cannot commit himself totally in a single personal act because the act occurs in a few moments, is brief, etc. If an act is understood in the way implied, then the statement is very likely correct. But this understanding can easily reflect a very unreal notion of a human act. Take adultery, for example. This can be described in two ways, abstractly or integrally. Abstractly, adultery can be said to occur in a very brief period of time. It is as brief as its mere physical occurrence. But more integrally viewed, adultery includes a larger experience: the meetings, thoughts, desires, plans, effects as foreseen, the vacillations, and so on. In other words, realistically viewed, adultery is a whole relationship brought to this culmination. Most often it is the culmination of a process including many components. Is it not this totality which a person must be said to choose, not simply and abstractly extramarital intercourse? If the entire experience is understood as the full meaning of the action, then is there not good reason for thinking that adultery could indeed

³⁶ Robert P. O'Neill and Michael A. Donovan, *Sexuality and Moral Responsibility* (Washington: Corpus, 1968) p. 57 and *passim*.

³⁷ For a treatment manifesting this balance, cf. Fuchs, *Human Values and Christian Morality*, pp. 98-111.

and presumably does elicit a serious moral response? This same analysis is true in other areas if the single act is understood in more human and integral terms. I believe that this is how "grave matter" must be explained to remain true to contemporary psychological data on freedom.

This discussion is far from complete. But as it continues, the following might prove helpful as guidelines. (1) Actions must be realistically defined before attempting to relate them to the use of our basic freedom. (2) Even when they have been realistically defined and are seen as capable of provoking a serious moral response, they may do so much less frequently than we have thought or think. Furthermore, even the most realistic definition remains general and abstract. It does not and cannot tell us what the individual is meaning, doing, suffering, experiencing as he performs the realistically defined action. (3) The moment of serious choice need not and perhaps often does not coincide with the performance of an individual action, but rather coincides with the full existential realization of its importance in one's life. This realization could break through at any number of points in the process which goes to make a realistically defined action.

SITUATIONS OF CONFLICT

Several years ago these pages reviewed three articles which dealt with situations of conflict, that is, situations in which an individual seemed trapped by circumstances into realizing one value in his choice only at the expense of another.³⁸ That these situations are real and frequent is clear. For instance, a couple with five children feel a deep responsibility toward these children and decide that they cannot enlarge their family further if the children are to be raised decently. On the other hand, they conclude that the support and growth of their marriage demands regular sexual expression. Within the confines of official magisterial teaching they feel that they cannot satisfy both of these duties. The aforementioned articles were attempts to develop a principled approach to situations of this kind. Beyond doubt they were saying something of substantial value, but their formulations were in my judgment far from precise and left them vulnerable to rather obvious objections.³⁹

³⁸THEOLOGICAL STUDIES 28 (1967) 753-60.

³⁹The discussion continued in Denis E. Hurley, O.M.I., "In Defense of the Principle of Overriding Right," THEOLOGICAL STUDIES 29 (1968) 301-9; Norbert Rigali, S.J., "The Unity of the Moral Order," *Chicago Studies* 8 (1969) 125-43. The criticisms I raised against Curran's principle of compromise were largely concerned with the formulation, not with the substance, of the statements. Roderick Hindery criticizes the substance of the principle as applied to contraception; cf. *Cross Currents* 20 (1970) 331-36.

Over the past few months there have been at least four attempts to come to grips with problems like this. Nearly all of these have been rather obviously inspired by the problems raised by *Humanae vitae*.⁴⁰ But all of them have implications far beyond this single issue. Indeed, three of the essays use the Encyclical only as a springboard into the area of general moral theory. Because of their enormous importance for moral theology, they deserve a thorough presentation.

Using the analogy of physical laws, Peter Chirico, S.S., argues that specific moral laws, which are simply expressions of the general moral law enunciated in the two great commandments, have four qualities.⁴¹ They are universal (applicable to the totality of occurrences), abstract (have reference to one specific relevant aspect of the relationship of persons), ideal (presuppose "other things being equal"), and copresent (converge with other laws relevant to the same situation). Thus, the prohibition of lying inculcates a single aspect of the concrete relationship of persons. But "since the truth conveying aspect of any concrete speaking is never the total meaning of that speaking, the command to tell the truth is but a specific law representing a single abstract ideal out of the total number of abstract ideals that are globally expressed in the first and second commandments."⁴²

Now in concrete situations there are often present several values, each represented by a specific moral law. That is, specific moral laws are copresent. What is to be done when several laws are copresent in a situation? Chirico gives the following three directives. First, the agent must attempt to implement each value involved—for example, he must try to save both his own life and that of his assailant. Secondly, if he cannot, he should choose in the direction of the preponderance of values. Which value and law is to receive preference cannot be decided beforehand but must be judged according to the concrete facts of each situation. Thirdly, the agent may not simply choose the greater value

⁴⁰For some recent comment on *Humanae vitae*, cf. James E. Allen, "How Catholics Are Making up Their Minds on Birth Control," *Christian Century* 87 (1970) 915-18; Norman R. C. Dockeray, "An Anglican's Reflections on *Humanae vitae*," *Downside Review* 88 (1970) 233-45; Johannes Messner, "Ehemoral und Entscheidungsethik," *Hochland* 62 (1970) 1-19; Richard J. Connell, "A Defense of *Humanae vitae*," *Laval théologique et philosophique* 26 (1970) 57-88; Charles N. R. McCoy, "*Humanae vitae*: Perspectives and Precisions," *New Scholasticism* 44 (1970) 265-72; F. Nagy, "Sur un ouvrage récent consacré à l'encyclique '*Humanae vitae*,'" *Science et esprit* 22 (1970) 99-110; M. John Farrelly, O.S.B., "The Principle of the Family Good," *THEOLOGICAL STUDIES* 31 (1970) 262-74; Miran Vodopivec, "Humanbiologische und pastoralmedizinische Marginalien zu '*Humanae vitae*,'" *Theologische Quartalschrift* 150 (1970) 256-61.

⁴¹Peter Chirico, S.S., "Morality in General and Birth Control in Particular," *Chicago Studies* 9 (1970) 19-33.

⁴²*Ibid.*, p. 23.

and let it go at that. He must, for example, *regret* taking the life of his assailant even as he does so, and work to eliminate the conditions which generate such choices. Chirico concludes: "I have to proceed according to my capabilities, and this will involve many imperfect acts that constitute the best that I can do."

He then applies this to birth control. Sexual intercourse embodies three values: the relationship of husband to wife, the creative movement to offspring, the responsibility to already existing children and society. Each of these values is an aspect of the supreme law enunciated in the two great commandments and therefore each is rendered intelligible by an abstract, universal, ideal, specific law. Since all these laws pertain to the same act, we may speak of the copresence of three laws: the law of integral personal relationship, the law of integral intercourse, the law of total responsibility. All of these laws must be respected in the unique situation of the couple. They cannot be collapsed into a single law—for example, "every act must remain open to procreation" or "as long as the couple is generally responsible, it is permissible to use contraceptives." Chirico puts it this way: "Each couple in each act of intercourse starts from a unique situation in which the unlimited demands of the first and second commandments as expressed abstractly in the three laws mentioned above must be uniquely applied so as to yield the greatest possible growth for the couple and for society."⁴³

Practically, Chirico concludes that contraception can be justified in individual instances, but that it "can only be tolerated to the extent that there are other and greater values that necessitate intercourse here and now and yet also dictate the avoidance of further children." He judges this view to be consonant with *Humanae vitae*. That is, it "does not deny the content of *Humanae vitae*. Nor does it repeat it. It is, rather, an attempt to fulfill it." This fulfilling consists in supplying the context within which papal statements should be read. And this context, Chirico argues, is the fact that in concrete situations specific moral imperatives are copresent and in a sense competitive with other no less valid imperatives.

This analysis, while containing many strains of Chirico's earlier thought, represents a genuine corrective and advance. In the past, Chirico had seen *moral* evil in an act which did not achieve all possible values. For example, his earlier analysis supposed that a material statement of untruth is a "perversion of the expressive faculty" even when this untruth was uttered to protect the most solemn secret. Thus he concluded that there are times when one must perform an act with

⁴³ *Ibid.*, p. 31.

immoral elements in it. This implied that the moral quality of an individual act was being measured by reference to only one value, even though the act was permissible because of the "tension" situation.

Now, however, Chirico sees the moral quality of the act emerging only after the concrete act has been related to all the values involved. This is what he means by saying that the choice or decision must take seriously all the copresent laws. After this evaluation has been made, we are in a position to assess the moral quality of the act. This is, I would think, a more accurate account of the specification of moral quality.

Without at all wishing to challenge the conclusions Chirico draws with regard to contraception and, by implication, with regard to other matters (indeed, I would agree with them), still I wonder whether his present formulation has completely ironed out all the wrinkles present in his earlier analysis. Perhaps there is some reason to doubt it. That reason may be discernible in his formulation of moral laws. He sees these as abstract and absolute statements rooted in a value. For example, since integral intercourse is one value in sexual expression, there is the "law of integral intercourse." This law is, of course, copresent with other laws, and the moral quality of an act takes shape "from the total value of the concrete act in the life of the person in question."

It is off this analysis that Chirico disowns the term "objective evil." In his opinion this is a misleading term, since it "can only refer to a deviation from some abstract ideal law and so it too is an abstraction." Furthermore, to call such deviation even objective sin "is to begin to insinuate a moral judgment that can only emerge from the total value of the concrete act in the life of the person in question."⁴⁴

The problem one might raise here is the very notion of moral law Chirico presents. If moral laws and rules are to be formulated as Chirico explains them, then indeed the notion of "objective evil" is an abstraction. That is, if moral laws are abstract, ideal statements *which take no account of other values in their very formulation* (e.g., the moral "law of integral intercourse"), then to speak of a violation of them is meaningless. And if "objective evil" means violation of law understood in this way, then we can bid a tearless adieu to the notion. But is this a proper accounting of moral laws? A lingering sense of discomfort leads me to think it may not be.

Let us take the question of theft. According to Chirico's analysis, in extreme situations there would be two values involved: the value of private property and the value of self-preservation or individual life.

⁴⁴*Ibid.*, p. 32.

Hence there are two laws copresent in some situations: the law to preserve one's own life and the law against taking another's property. In other words, there is a moral law for each value. These laws can be composed, balanced, or reconciled only "in the life of the person in question"; for "a moral judgment can only emerge from the total value of the concrete act in the life of the person in question."

Actually, are moral laws restricted to imposing a single isolated value? It can be doubted. Just as human values exist in a total, sometimes very complicated, and sinful context, so laws derived from them try to reflect this total context. Moral norms, therefore, represent attempts to sort out and order the relationship of several values in possible situations and then to formulate this ordering as accurately as possible. The formulation of the law or norm occurs only after we reflect on the two or more copresent values and relate them as best we can. In other words, it is not isolated values which generate norms, but human situations, situations in which many values are or can be interwoven.

Thus, traditional wisdom has refused to say simply that there is a moral law against taking another's property. Rather, after reflecting on experience and on all the values involved in it, Christian thinkers have said that there is a moral law prohibiting the taking of another's property *against his reasonable will*. It is this which is prohibited. This is properly the law, or at least a useful negative formulation of it. And this kind of norm is not the isolated thing Chirico's laws are. It is a generalization, admittedly imperfect, brought to term out of reflection on many situations and experiences. And therefore it refers to kinds of human action. Because it speaks of kinds of human action (and not isolated aspects of an act), it is possible to speak meaningfully, if only generally, of actions which violate this norm. And if this is so, is it not possible to speak of "objective evil"? This Chirico cannot do, because his laws do not refer to human actions, but only to isolated aspects of actions.

With this single reservation, Chirico's paper is extremely interesting and enlightening. And perhaps even this reservation can be reduced to mere quibbling. I suspect it can. Whatever the case may be, Chirico seems to admit *ambulando* the point made here. His treatment concludes with a whopping and undisguised category of action and moral norm: "Contraception, thus, can only be tolerated to the extent that there are other and greater values that necessitate intercourse here and now and yet also dictate the avoidance of further children."⁴⁵ This is a

⁴⁵ *Ibid.*, p. 31.

moral norm, I would think. And because it is not a norm built on a single value, it speaks not merely of an aspect of an action but of kinds of human actions. Therefore it can be violated by kinds of human action. And to that extent this kind of action can be said to be objectively evil, even if the norm does not and cannot tell us whether this or that individual is performing this kind of action.

Chirico had rightly urged theologians to provide the fuller context for the reading of papal teaching, and made an interesting attempt in this direction himself. Charles Robert makes a similar attempt.⁴⁶ The pastoral letter of the French bishops on *Humanae vitae* had referred to a "veritable conflict of duties" confronting some couples. Robert argues that this phrase opens the way for our return to a great moral tradition which should be the context for interpreting not only *Humanae vitae* but many other instances of conflicting values. He uses the French reference as a stimulus to discover how a "conflict of duties" should be faced in Christian ethics.

St. Thomas' treatment of self-defense serves as Robert's model. The basic structure of Thomas' approach is extremely simple. There is a complete lack of complicated jargon such as tolerance of evil, choosing the lesser evil, direct and indirect voluntary. Rather, Thomas sees the situation as one involving two goods (integrity of my life and that of the aggressor) which cannot be realized in the same moment. The assailant has put me in the position of choosing one good which, in the circumstances, can only be realized to the detriment of the other. The good preferred (my own life) is not necessarily a greater good; it is simply "nearer and more urgent." In such a desperate situation this good or effect alone is intended, while the other effect is unintended. However, this act done with good intent can be immoral if it is not proportionate. That is, the means must be chosen with moderation, so vengeance and other malicious sentiments do not vitiate the good intent. The entire moral question focuses on the moderation or the proportionate character of the means.

Nor is self-defense an isolated instance in Thomas. The theme of "objective obstacle" (*impedimentum*) leads Thomas to the same analysis in other areas. For instance, Robert finds a similar infrastructure in Thomistic analysis of theft in evident and urgent need. In this case all the themes of objective conflict arise: two fundamental but in the circumstances contradictory goods, imminence of peril, urgency. He believes Thomas is using the principle of double effect in this instance, as well as in his treatment of capital punishment, warfare, and so on.

⁴⁶ Charles Robert, "La situation de 'conflit': Un thème dangereux de la théologie morale d'aujourd'hui," *Revue des sciences religieuses* 44 (1970) 190-213.

Robert argues that this approach does not involve the use of a bad means to a good end; for once the means is seen as the only way of exiting from an impasse, of realizing one of two fundamental but mutually exclusive goods, it is this good which engages and specifies the intent. It is in this context that one must understand *Humanae vitae* when it says: "It is not licit, even for the gravest reasons, to do evil so that good may follow therefrom, that is, to make into the object of a positive act of the will something which is intrinsically disorder" (n. 14). The second part of this statement ("that is, to make into the object of a positive act of the will . . .") explains how the first must be understood. One only "does evil so that good may follow" when the evil is "the object of a positive act of the will." The Latin of the original is "in id voluntatem conferre." Robert contends that Thomas' analysis reveals that in cases of objective conflict of goods, the will does not "in id conferre."

Robert's reliance on an earlier study by Peter Knauer, S.J., is obvious and acknowledged. In a recent essay Knauer himself applies his general theory of double effect to the question of contraception.⁴⁷ It hardly needs to be recalled that Pope Paul VI taught in *Humanae vitae* that each conjugal act must remain open to the transmission of life. Knauer wonders whether this conclusion follows from the general principle that married love must remain basically open to the transmission of life. To bring a child into the world without the capacity to raise him properly is a misuse of marriage. Such conduct is in contradiction to the deepest sense of the conjugal act, and therefore in a genuine sense lacks true openness to the procreation and education of human life. On the other hand, a couple could intervene into the fertility of their union precisely out of responsibility for a prospective child. Knauer concludes with this general criterion: if an intervention into the fertility of a conjugal act happens *against* the child (e.g., out of egoism), there is illicit birth control. But intervention into this fertility in the interests of the possible child has nothing to do with *direct* contraception.

This leads Knauer to a description of direct contraception. The statements of Pius XI and Paul VI are accurate if we understand "de industria" or "intentionally" correctly: in a moral-theological sense rather

⁴⁷ P. Knauer, S.J., "Überlegungen zur moraltheologischen Prinzipienlehre der Enzyklika 'Humanae vitae,'" *Theologie und Philosophie* 45 (1970) 60-74. The earlier study is "La détermination du bien et du mal moral par le principe du double effet," *Nouvelle revue théologique* 87 (1965) 356-76.

than just a psychological sense. Even the popes, however, did not achieve this understanding.

Knauer describes the distinction with an example from medicine. In a leg amputation the psychological attention of the surgeon is focused on a skilful removal of the leg. This removal is the concrete thing that is attended to and willed by him. But the morality of the act is not determined on this level of mere physical happening or psychological intention. It is only after we determine what value the act seeks to serve that we determine its morality. If in the circumstances the act is the best possible way to insure the life and health of the patient, then in a *moral* sense what is intended is not the taking of the leg, but the health of the patient. If, contrarily, the reason is not commensurate, the amputation would be a mutilation in the moral sense. In summary, the *psychological* intention (skilful removal of an organ) is not the same as the *moral* intent (healing through removal of an obstacle to health).

In the moral sense, therefore, that physical evil is direct or *de industria* when it is caused or permitted without a truly commensurate reason. Applied to birth control, this means that "an intervention into the fertility of a conjugal act grounded precisely in responsibility for the transmission of life is not contraception in the moral sense, but is distinguished from contraception in the same way a medically justified amputation is different from a radically illicit mutilation."⁴⁸ The physical evil would be indirect in the moral sense.

This analysis is simply an application of Knauer's over-all interpretation of the double effect, an interpretation he presented some five years ago, but which he substantially clarified several years later.⁴⁹ Since his thought has been widely quoted and appears to be rather widely accepted, it deserves continued attention. Here I will present the core ideas as they are presented in Knauer's revised version. Knauer's basic thesis is that moral evil consists in the permission or causing of a physical evil which is not justified by a commensurate reason. In explaining this, he leans heavily on St. Thomas. In Thomas' discussion of self-defense, "effect" is not used simply as a correlative of "cause" but in a more general sense. "Aspect" would be a better way to render it. Thus, self-defense, rather than a strict effect, is really an aspect of the action. Similarly, the *finis operis* of an act is not derived simply from its external effect, but is really that aspect of the act which is willed. For example, almsgiving is not just a physical act;

⁴⁸ *Ibid.*, p. 66.

⁴⁹ P. Knauer, S.J., "The Hermeneutic Function of the Principle of Double Effect," *Natural Law Forum* 12 (1967) 132-62.

it gets its sense and becomes a moral act through the intention of the donor.

Knauer argues that it is with this in mind that we must understand the terms "direct" and "indirect." In the past we have tied these terms too closely to physical causality. Actually, "the permission or causing of a physical evil is direct or indirect as there is or is not present a commensurate reason"; for when there is a commensurate reason, this reason "occupies the same area as what is directly willed and alone determines the entire moral content of the act. If the reason of an act is commensurate, it alone determines the *finis operis*, so that the act is morally good."⁵⁰ This commensurate reason engages the intent in a *moral* sense, and the associated physical evil is indirect.

How important this thesis is practically becomes clear when we see how Knauer applies it throughout the realm of concrete decisions. For example, a lie consists in telling what is false without commensurate reason and "therefore directly or formally causes the error of another." Theft is "the taking of the property of another without commensurate reason." Mutilation is surgery without a commensurate reason.⁵¹ Contraception is intervention into the fertility of the conjugal act without commensurate reason. In all these instances, when there is a commensurate reason, the moral content of the act is not the physical evil but the commensurate reason. The physical evil is then indirect.

The practical consequences of this analysis are clear in a paragraph which is a good summary of Knauer's presentation:

In the case of an ectopic pregnancy it is almost certain that the woman together with an unborn child will die if the fetus is not removed as early as possible. The "insight" that this is immoral is scarcely demonstrable to any doctor. It is agreed that direct killing is forbidden. But in my opinion some scholastic moralists have assumed incorrectly that the saving of the mother, which in the normal case is probable if there is immediate removal of the ectopic fetus, is a direct killing. Negative laws (You shall not kill, You shall not speak an untruth, You shall not take the property of another) are understandable only as the prohibition of direct and therefore formal permission or causing of these physical evils (death, error, loss of property etc.) in cases where by definition there is no commensurate reason. Whether there is a violation of a commandment (that is, whether an act is murder, lying, theft) can be ascertained only if it is established that the reason for the act in its existential entirety is not commensurate. Without a commensurate reason an evil is always willed di-

⁵⁰ *Ibid.*, p. 141.

⁵¹ Knauer believes, therefore, that the principle of totality is identical with the principle of double effect.

rectly, even if the attention is not expressly directed to the evil but it is desired that there be no such evil.⁵²

If one raises the objection here that a good end does not justify a bad means, Knauer would respond: true, but such a principle supposes that the means is *morally* evil. But this is only so if the permission or production of a physical evil is not justified by a commensurate reason. In other words, one must not assume that the means is bad just because it involves physical evil. It becomes morally evil as means if the physical evil is not justified by a commensurate reason.

Obviously the notion of commensurate reason is so utterly central to his thesis that its meaning must be spelled out carefully. Knauer stresses the fact that a reason is not commensurate because it is sincere, meaningful, or even plain important. It is commensurate if the value realizable here and now by measures involving physical evil in a pre-moral sense is not in the long run undermined and contradicted by these measures but supported and maximized. The present action achieves the value as effectively as possible in the long run. For instance, "a refusal to bear children is only commensurately grounded if it is ultimately in the interests of the otherwise possible child."⁵³ I shall return to this notion below.

Bruno Schüller, S.J., in an extremely interesting study, approaches conflict situations from a slightly different point of view, but ends up with a structure ultimately compatible with the thought of Knauer and Chirico.⁵⁴ There are two types of norms: those that apply in all thinkable circumstances and are exceptionless; those that apply in normal circumstances or as a rule. Those in the first category are valid independently of circumstances. They are norms such as "thou shalt love God with thy whole heart," "thou shalt not kill another unjustly," and so on. Those in the second category are valid only in determined conditions. In this sense they are contingent norms. For example, one must generally keep the entrusted secret. In the past we have put into the first category some synthetic norms such as "every intervention into the fertility of sexual intercourse is forbidden." It is Schüller's contention that most of these synthetic judgments are contingent and conditional norms and suffer exceptions, sometimes frequent exceptions. His

⁵² *Ibid.*, pp. 149-50. For an analysis of abortion very similar to Knauer's, cf. Bernard Häring, "A Theological Evaluation," in *The Morality of Abortion*, ed. John T. Noonan, Jr. (Cambridge: Harvard Univ. Press, 1970) pp. 123-45, at 136-37.

⁵³ "Überlegungen," p. 73.

⁵⁴ B. Schüller, S.J., "Zur Problematik allgemein verbindlicher ethischer Grundsätze," *Theologie und Philosophie* 45 (1970) 1-23.

study focuses on killing and on remarriage after divorce as instances where rethinking might be called for.

Schüller argues his case by appeal to what he modestly calls a "hypothesis." His hypothesis: all moral norms touching our concrete conduct with our fellow men and the world are really conclusions or applications of more general "preference rules." Norms based on these "preference rules" are absolute and exceptionless only if they command a value which cannot concur with another more important value. These "preference rules" are reductively one rule with several formulations. Stated negatively, it reads: put in a position where he will unavoidably cause evil, man must discover which is the worst evil and avoid it. Stated positively, this is its formulation: put before two concurring but mutually exclusive values, man should discover which merits preference and act accordingly. These statements imply that a physical evil can be caused or permitted only if it is demanded by a proportionate good.

Schüller offers two reasons in support of his hypothesis. The first is less an argument than an induction from contemporary experience and conviction. Put simply, these norms in control of concrete conduct appear more and more to be conditioned principles. For example, many would put the prohibition against contraception as follows: the use of contraception is forbidden unless avoidance of pregnancy is justified and abstention would be harmful to the good of the couple. Underlying this formulation is the conviction that obviously something is of greater value than the physical evil done by contraceptive intervention.

Similarly with the lie. The principle that "every falsehood is a lie" is not absolute. Those who say it is cannot answer satisfactorily the conflict situation where secrets must be kept. The traditional answer here (broad mental reservation) is no answer, since in the context such mental reservation is really a falsehood. Schüller contends that falsehood is an attack on value and morally wrong from the fact that error and lack of trust are visited on the neighbor *without proportionate reason*. Therefore, when traditional theology used broad mental reservation to justify falsehood in certain cases, it was really saying: this is morally licit because it avoids an evil greater than my neighbor would suffer through his deception and error. Or positively, the choice of falsehood represents the preference of a greater value in circumstances where two concurring values are mutually exclusive.

Schüller's second reason to support his hypothesis is the relative character of our conduct where our neighbor is concerned. That is, the aim of our conduct in dealing with others is not absolute good, but relative good. Since this is the case, it is always in principle thinkable that this good could be copresent with another good and that we would

have to determine to which to give preference. Therefore, in the moral assessment of actions that have only a relative value, this value must always be assessed in relation to another possibly concurrent relative value to discover whether it merits preference or not.

Traditional theology has been aware of this in distinguishing *benevolentia* from *beneficentia*. There is a limit to what our *beneficentia* can do. Therefore traditional theology tried to work out conflict situations through an *ordo caritatis*. But it did not follow up logically on this by seeing all concrete innerworldly areas in the light of the preference principles buried in the *ordo caritatis*.

All of this means, of course, that concrete norms can have exceptions. Traditional theology has always admitted this but in at least two instances (direct killing of the innocent and *ratum et consummatum* marriage) has maintained that only God, as Creator and Lord, has the power to allow such exceptions. Schüller questions this restriction and wonders why men with their power of judgment should not be able to apply the preference principle to even these areas.

As for killing the innocent (or oneself, for that matter), Schüller believes that the prohibition can only be grounded in the fact that the life of such a man deserves preference before other concurring values. It is precisely within this value structure that traditional theology has argued for the permissibility of capital punishment and self-defense. For Schüller, killing is just as illicit as the good (which is realized through it) is not proportionate to the evil of destruction of life. This formulation does not radically alter traditional conclusions, but it does make some conflict situations discussable. In these situations Schüller would put the question squarely: Is there actually no good thinkable which could come into conflict with my life or that of an innocent man and deserve preference? Bodily life is not, after all, the highest good, even though it is the most fundamental.

Schüller next turns to marriage. The Church's traditional teaching (absolute indissolubility of a *ratum et consummatum* marriage) lacks inner coherence and smacks strongly of legal positivism when viewed in light of the preference principle. Take, for example, the Pauline and Petrine privileges. Basically, these are concessions to human weakness, *in favorem fidei*; that is, to remain unmarried could prevent conversion to the faith or perseverance in it. Is this not to admit that there is a higher value than the bond of marriage? In this instance this higher value is the faith. Why does God not grant the same concession to the weakness of the Christian couple who cannot in all best will live together? To live unmarried is beyond their strength, and experience shows that insistence on this is a real danger to their faith too.

Therefore, when one studies both the words of Jesus on indissolubility and the Pauline privilege, it becomes clear that Paul operated with the conviction that this is the way to read the Lord's words in this situation. Concretely, upholding indissolubility in these instances is at the price of peace and danger to the faith. In such conflict situations, peace and faith merit preference. The Church took over this power of interpretation and came to realize over the years that all marriages are dissoluble except *ratum et consummatum* unions. But Schüller is convinced that this conviction is only a step in the process of interpretation of her powers by the Church and that this process has not come to an end. In the future he anticipates a widening of application of the basic preference principle even to *ratum et consummatum* marriages.

I have dwelt on these articles at considerable length because of their thoughtfulness and the great theoretical and practical importance of their subject matter. For instance, all conclude in one way or another that the physically direct doing of evil or harm is not really decisive. This assertion would challenge many textbook conclusions in the areas of abortion, sterilization, contraception, co-operation, killing, to mention but a few. Doubtless there are those who will judge this literature a sneaky and left-handed way of getting around the clear practical directives of *Humanae vitae*. Others will broaden the attack and see in such reflections the slippery slope to "situation ethics." It remains a regrettable fact that too often labels are libels. Even where they are not, they are rarely the product of an open and disciplined reflection. And that is what is essential here.

It seems to me that all four articles are dealing with a single basic problem, and a very good one: When and how does physical evil become moral evil? Deception, suffering, intervention into fertility, amputation, ignorance, loss of repute, death—these are of themselves physical evils. When does causing or permitting them become immoral? All the articles above come to the same conclusion (though in Chirico's case less explicitly): the causing of physical evil becomes immoral when it occurs without proportionate reason.

The textbook tradition on this matter has been unsatisfactory or at least incomplete. Robert and Knauer suggest that the reason is that the relation of evil to the will was seen too restrictedly in terms of mere physical causality. Thus, when fetal death was the sole immediate effect of a procedure, it was said to be direct abortion. This one-sided emphasis on physical causality abandons, they contend, the pure and simple lines of the Thomistic analysis and leads ultimately to a con-

fusion of psychological and moral directness. Because of this confusion we regard many things as directly intended which are really only directly intended psychologically. Moral directness is determined not by this psychological intent but by the presence or absence of a commensurate reason. Once this reason is present, the evil caused remains indirect.

Schüller, without a similar emphasis on directness and indirectness, studies those exceptional instances where traditional formulations have allowed for some degree of physical harm, e.g., theft in extreme need. The formulations allowing for this he sees deriving from an underlying preference-principle by which values are weighed against each other prior to the emergence of a formulation of moral licitness or illicitness. This preference-principle implies that physical evil becomes moral evil when it is caused without proportionate reason.

I believe there is something very important in the direction of these analyses, for two reasons. First, there is evidence to suggest that our contemporary notion of direct intent of evil, with its very close reliance on direct physical causality, may have narrowed and distorted rather than advanced the original Thomistic analysis. For instance, not a few theologians are uncomfortable with the conclusion that removing a pregnant Fallopian tube is licit, whereas shelling out the fetus and leaving a healthy tube intact is not. Discomfort, of course, is hardly a Christian reason for abandoning a hard saying. But if this discomfort is intellectual, it is an excellent reason for questioning the saying. Certainly there is logic and consistency in the traditional analysis, but is it possible that this logic and consistency occur within the confines of a notion of directness that may itself be distorted? We cannot dismiss this possibility out of hand.

Secondly, I believe Schüller has convincingly argued that behind our formulated norms in control of concrete conduct is a more general preference-principle from which these norms derive. If this is true, we must reapproach some traditional conclusions to see if they square with this derivation. Several years ago I made a probe in this direction where abortion is concerned and wrote:

History reveals a constant sharpening and delimiting of the category of abortion. The development was controlled by the categories of thought and scientific information available at the time. Contemporary formulations are the precipitate of this development process. As such, they are only the best we have. They hinge on two concepts: *direct* and *innocent*. Now it would seem that *innocent* is concluded from the injustice involved in war, aggression, capital offenses. That is, certain recognized injustices defined the category of innocence.

The conclusion: it is morally tolerable to kill directly only where injustice is involved. Therefore, abortion is seen as an act whose basic moral quality is determined within the justice-injustice category.

If, however, one distills from the three examples of morally tolerable killing a more general *ratio* (sc., that behind justice-injustice is a more general category, sc., *higher personal value*), then abortion as a form of forbidden killing might be recognized as that not justified by the hierarchy of personal value.⁵⁵

This approach is very close to Schüller's key idea. As this important discussion continues, I should like to raise three points where greater clarity would be a help.

The first point concerns the notions of direct and indirect. If Schüller's ultimate justification for causing or permitting physical harm is a preference-principle, it is not clear what role or importance the traditional notions of directness and indirectness play in his analysis. On the other hand, Knauer adheres to this terminology but redefines it in a way which leads to the complete distinction between moral and psychological directness. This does violence to one's sense of reality. The criticisms offered by Grisez on this point seem accurate.⁵⁶

Secondly, how do we, or even *can* we, know that the reason for permitting or causing harm is commensurate? Clearly, this question stems from Knauer's formulation of commensurate reason. For Knauer, a reason is commensurate if the manner of the present achievement of a value will not undermine but support the value in the long run and in the whole picture. This is a sound description of proportionality. But who can confidently make such a judgment? An individual? Hardly. It seems to demand a clairvoyance not granted to many mortals and would paralyze decision in most cases. For example, what individual can say whether this present abortion will, in the long haul, undermine or promote the value of maternal and fetal life? This is especially true if the individual in question has a great stake in the abortion and presumably, therefore, is more focused on the immediate impasse than on the long-term stakes. Knauer does not resolve this problem adequately.⁵⁷ Nor does Schüller. He only adverts to the fact that a determination of the hierarchy of values is very difficult. But stated in this way, the problem suggests easily and naturally the desirability of resources and perspec-

⁵⁵ Richard A. McCormick, S.J., "Past Church Teaching on Abortion," *Proceedings of the Catholic Theological Society of America* 23 (1968) 131-51, at 150.

⁵⁶ Germain C. Grisez, *Abortion: The Myth, the Realities and the Arguments* (Washington: Corpus, 1970).

⁵⁷ He does insist on "rigorous objective criteria" (p. 154) but does not go into any detail on what they might be. His essentially evasive answer to Noonan's question (p. 162) about the hypothetical case of a woman who commits adultery to rescue her children from a concentration camp only points up this lack.

tives which can be supposed to be larger than the individual's, that is, the need of scientific moral theology and the desirability of a magisterium.

This brings us to the third point. If it is precisely the lack of proportionate reason which makes the causing of physical evil wrong (indeed, inherently evil), then moral prohibitions issued by the magisterium must be conceived as value judgments on the presence or absence of proportionate reason in certain concrete forms of conduct. If this is the case, the explicit formulations of the magisterium, especially absolute prohibitions, must be tested and interpreted in light of this understanding of moral teaching. Has the magisterium conceived its past prohibitions in this way? It can be doubted. If the magisterium had actually conceived its prohibitions in this way, would the practical conclusions be substantially different? In some instances I suspect they would, though the matter is extremely difficult and extremely delicate.

The teaching of the recent magisterium on AIH (artificial insemination by husband) provides a good example here. In 1949 Pius XII prohibited AIH. Before his statement, the licitness of AIH was espoused by a fair number of reputable theologians. As for the reasoning of Pius XII, in 1949 he referred to the "procreation of life according to the will and plan of the Creator . . . this is in harmony with the dignity of the marriage partners, with their bodily and spiritual nature, and with the normal and happy development of the child."⁵⁸

In 1951 Pius XII elaborated the argument as follows:

To reduce the cohabitation of married persons and the conjugal act to a mere organic function for the transmission of the germ of life would be to convert the domestic hearth, sanctuary of the family, into nothing more than a biological laboratory. Hence in our address of Sept. 29, 1949, to the international congress of Catholic doctors, we formally excluded artificial insemination from marriage. The conjugal act in its natural structure is a personal action, a simultaneous mutual self-giving which, in the words of Holy Scripture, effects the union "in one flesh." This is much more than the mere union of two germs, which can be brought about also artificially, that is, without the natural action of the spouses. The conjugal act, as it is planned and willed by nature, implies a personal co-operation, the right to which the partners have mutually conferred on each other in contracting marriage.⁵⁹

It seems that the point of Pius' argument is this: AIH is not human because the child so born is not the fruit of an act *in itself* the expression of personal love. Now the hidden assumption here is this: the child must always be conceived of an act in itself a personal expres-

⁵⁸ AAS 41 (1949) 559-61.

⁵⁹ AAS 43 (1951) 850.

sion of love; for to proceed otherwise would turn marriage into a biological laboratory.

It can be argued that this conclusion is a value judgment. And I think it is *generally* true. That is, if procreation were commonly to occur via AIH, we would have taken a long step toward biologizing and mechanizing marriage. Why? Because sexual intercourse would begin to lose its sense and this in itself is an attack on marriage because it is an attack on the typical expression of marriage. The child is the fruit of love (cf. Vatican II), the enduring incarnation of the husband-wife two-in-oneness. Hence, he should come into being through the act which is the typical expression of this love. Otherwise, he could gradually become a "thing" of the marriage.

But Pius XII said of AIH: "absolute eliminanda est." The reasoning supports the general prohibition: AIH is per se (generally) immoral. Or again, it is certainly wrong to substitute AIH for natural intercourse when this is not required. But if the couple is having sexual relations and cannot conceive, would the reasoning offered by Pius XII hold? Would AIH here tend to turn marriage into a biological laboratory? This is not clear, unless there are other circumstances in the culture which would support this conclusion.

The above reflections lead one to ask: What is the nature of Pius XII's prohibition? It seems that the Pope thought he was clarifying a demand of the natural law. And indeed, this may be true. But when we think of a "demand of the natural law," we too often think of something immutable and absolute, derived from the nature of things. Actually, the force of the papal argument seems to derive from effects, i.e., what would happen if AIH were permitted. Such arguments are conclusive only in so far as the foreseen dangers are unavoidable. If AIH even in exceptional instances would lead to the biologizing of marriage, then the conclusion "absolute eliminanda est" is justified.⁶⁰ But if the evil effects follow only when there is a general practice of AIH without necessity, then it would be possible to admit the licitness of the exceptional instance. The point I am making is that the form of argument used by Pius XII seems to be, at root, a value judgment. This of itself says nothing about the validity of the conclusion. It only underlines the relative and culturally conditioned character of the judgment; for value judgments are made in cultural circumstances and can vary

⁶⁰There is increasing evidence that this may be the case in our culture. Margaret Mead points out that we will soon have babies without love-making. At the University of Michigan 18 women have already been successfully inseminated from sperm frozen up to 2½ years. Cf. George C. Anderson, "Playing God with Human Beings," *Christian Ministry* 1 (1970) 12-14.

with different cultural conditions. It also suggests that such judgments, especially when they represent absolute prohibitions, may be closer to laws than to teachings.

This section should not close without the salutary admission that if individuals need the magisterium to rise above the limits of their own perspectives in assessing proportionality over the long haul, they will be appropriately hesitant to rely exclusively on their own perspectives in questioning these magisterial value judgments.

TOWARD AN ETHICS OF ECOLOGY

The usual article on ecology starts with some now familiar facts.⁶¹ Every year Americans junk 7 million cars, 48 billion cans, 20 million tons of paper. Our industries pour out 165 million tons of waste and belch 172 million tons of fumes and smoke into the sky. We provide 50% of the world's industrial pollution. An average of 3000 acres of oxygen-producing earth a day (1,000,000 a year) fall beneath concrete and blacktop. The average American puts 1500 pounds of pollutants into the atmosphere each year. Furthermore, there is no end in sight. It is estimated that there will be between 6 and 7 billion people in the world by the year 2000 (there are 3.5 billion now) and 25 billion within the next 100 years. Our ecosphere, it is said, can support only 6-8 billion. This figure will be reached in 30 years. Therefore, with an increase of people, depletion of resources, and unchecked pollution, we are on a collision course with our environment. Eco-catastrophe is predictable and it is made of three elements: people, resources, and pollution—too many of the first using too much of the second causing too much of the third. The result: a mass attack on a limited environment. As Paul Ehrlich put it: "The causal chain of the deterioration [of the environment] is easily followed to its source. Too many cars, too much pesticide, inadequate sewage treatment plants, too little water, too much CO₂, all can be traced easily to *too many people*."⁶²

In the face of this apocalyptic peril, we are beginning to hear of a "theology of ecology," "ecological ethics," "land ethics." What is it all about? It is all about man's failure to live up to his responsibilities of stewardship of the earth (and through it, of himself) and the recovery of sanity in this area. The literature is so vast that it resists orderly

⁶¹ *Time*, Feb. 2, 1970, pp. 56-63.

⁶² Cited in Bruce Wrightsman, "Man, Manager or Manipulator of the Earth," *Dialog* 9 (1970) 214. Statements such as Ehrlich's have been challenged as oversimplifications; cf. Robert L. Schueler, "Ecology—The New Religion?" *America* 122 (1970) 292-95, at 294.

review. We can only show drifts and trends.⁶³ But in general most of the literature attempts to identify the problem and offer the direction of a solution. Since nearly all the authors find the basic problem in a priority of values sustained by an attitude toward man and his world, they find the ultimate solution in a change in this basic world view. It may be useful to organize this kaleidoscopic review in three stages: origin of the problem, proposed solutions, several more notable contributions.

Origin of the Problem

What is behind our ecological mess? Peter Riga believes it is a whole mentality and value system: the consumer mentality.⁶⁴ "More things represent human fulfillment." This basic value judgment is obvious in our insane adoration of the GNP. He calls for a whole change of mind and value. J. Barrie Shepherd says much the same thing.⁶⁵ Man's present attitude to the material world views it as a giant cookie jar. This consumer-to-a-commodity attitude toward the world reveals a theology which regards the world as a vale of tears to be endured to achieve heavenly bliss in a world to come. If we can reap some returns from the world in the meantime, so much the better. Therefore we profit, pleasure, and pollute.

Similarly, Douglas Daetz traces the problem to our attempt to have too much for too many.⁶⁶ Ian Carrick feels that scientific development has caught the Church and Christians unprepared. We have developed a theology of salvation in terms of personal relationship to God but not in terms of the natural order.⁶⁷

⁶³ For an excellent bibliography, cf. Kenneth P. Alpers, "Starting Points for an Ecological Theology," *Dialog* 9 (1970) 226-35. Mention can also be made here of recent related work in the area of medical ethics. Cf. Donald Dial *et al.*, "Human Experimentation," *Duke Divinity School Review* 35 (1970) 47-63; Charles E. Curran, "Moral Theology and Genetics," *Cross Currents* 20 (1970) 64-82; Charles Curran, "Theology and Genetics: A Multi-faceted Dialogue," *Journal of Ecumenical Studies* 7 (1970) 61-89; Kenneth Vaux, "Cyborg, R.U. Human? Ethical Issues in Rebuilding Man," *Religion in Life* 39 (1970) 187-92; H. L. Smith, "Religious and Moral Aspects of Population Control," *ibid.*, 193-204; James M. Gustafson, "Basic Ethical Issues in the Biomedical Fields," *Soundings* 53 (1970) 151-80; J. G. Milhaven, "How Far Has God Shared His Dominion with Man?" *American Ecclesiastical Review* 162 (1970) 57-63; Sean Cahill, "Euthanasia: Problematic of Morality and Law," *Laurentianum* 11 (1970) 36-54, 154-88; Paul Ramsey, *Fabricated Man* (New Haven: Yale Univ. Press, 1970). The literature on abortion is simply too immense even to list here.

⁶⁴ Peter Riga, "Ecology and Theology" *Priest* 26 (1970) 16-21.

⁶⁵ J. Barrie Shepherd, "Theology for Ecology," *Catholic World* 211 (1970) 172-75.

⁶⁶ Douglas Daetz, "No More Business as Usual," *Dialog* 9 (1970) 171-75.

⁶⁷ Ian Carrick, "A Right Involvement with Nature," *Frontier* 13 (1970) 31-33.

The editors of *Triumph* state that the present disequilibrium is not physical but moral, and its human consequences are not primarily physical but moral.

We hear complaints of physical discomfort, but they are not convincing. Clevelanders who can no longer swim in Lake Erie have easy access to chlorinated pools. Smarting eyes, a cough, are occasionally annoying to Angelinos, but as between that physical pain and the pain of giving up automobiles, the choice is not even close. What really agitates contemporary America, what is really responsible for the ecology craze, is a psychic breakage, a brutal severance of those connections with reality, both natural and supernatural, which allow a man to be a man.⁶⁸

The statement does not specify what these "connections" are.

Ian G. Barbour views the crisis as a result of attitudes toward nature and technology.⁶⁹ Where nature is concerned, man is portrayed as over against nature rather than as an integral part of it. Our technological mentality is thing-oriented rather than person-(or life)-oriented, a characteristic made visible, for example, in our Vietnam policy, where we use military power to solve social and political problems.

What lies behind these attitudes toward nature and man's relation to it? In a widely-quoted article published several years ago, Lynn White, Jr., had stated: "Both our present science and our present technology are so tinctured with orthodox Christian arrogance toward nature that no solution for our ecological crisis can be expected from them alone. Since the roots of our trouble are so largely religious, the remedy must also be essentially religious."⁷⁰ To what extent is "orthodox Christian arrogance" a justifiable term?⁷¹

James Megivern admits that popular renditions of Genesis have contributed to a gladiatorial concept of man's relation to the world.⁷² But he then sets the record straight. "The God of the Bible makes abundantly clear by his own actions that to be lord does not mean to dominate, plunder, and destroy, but to foster, encourage, and bless." Megivern uses the Cain story as a parable for all time of man's sinful

⁶⁸ "Ecology: Whose Rebellion?" *Triumph* 5 (March, 1970) 41.

⁶⁹ Ian G. Barbour, "An Ecological Ethic," *Christian Century* 87 (1970) 1180-84.

⁷⁰ Lynn White, Jr., "The Historical Roots of Our Ecological Crisis," *Science* 155 (1967) 1203-7, at 1207.

⁷¹ For some recent literature on the theology of progress, cf. Joseph Fuchs, S.J., "De progressu humano," *Periodica* 58 (1969) 613-39, translated in his *Human Values and Christian Morality*, pp. 178-203; Ivan Illich, "The Church, Change and Development," *Dialog* 9 (1970) 91-93; François Houtart, "The Church and Development," *Concurrence* 1 (1969) 176-83; Paul Surlis, "Transforming the World," *Furrow* 21 (1970) 227-41.

⁷² James J. Megivern, "Ecology and the Bible," *Ecumenist* 8 (1970) 69-71.

mismanagement: when man destroys his brother, he pollutes the earth; when he pollutes the earth, he destroys his brother and himself.

Bruce Wrightsman's thoughtful article faults White on three scores: (1) he misinterprets Genesis; (2) the predominantly exploitative attitude ascribed to Western man is one-sided—there are at least three other major attitudes operative today; (3) a change in religious attitudes is a far too simple solution to the problem.⁷³ As for Genesis, Wrightsman points to the two strains in Genesis, one of which is stewardship. Dominion must be understood in terms of responsible stewardship. If the exploitative attitude is not supported by a correct exegesis of Genesis, where did it originate? Wrightsman believes it may stem from "a distinction which is fundamentally incompatible with the Bible, but in whose terms the Bible has unfortunately been read for nearly 20 centuries." He refers to a kind of dualism between the celestial and terrestrial, the spiritual and material, which has deep roots in Plato and Aristotle.

Karlfried Froehlich rejects the charge that Christianity has any special complicity in the ecological crisis; for such a contention "does too much honor to the progressive spirit of Christianity in its ecclesiastical and philosophical manifestations."⁷⁴

Frederick Elder's recent book *Crisis in Eden* sets up a dichotomy between "exclusionists" (who see man as separate from and elevated above the natural world) and "inclusionists" (who see man as an integral part of nature).⁷⁵ He claims that Christian tradition has been strongly exclusionist. Donald E. Gowan criticizes this dichotomy, especially as Elder attempts to bolster the desired inclusionist view with biblical evidence.⁷⁶ Genesis affirms both the lordship of man and his inescapable and intimate unity with nature. In this sense neither inclusionist nor exclusionist approaches are adequate. Gowan insists that the Bible is not at all damaging to our ecological concerns but could actually be the basis for a renovation of perspective.

Yes, the Bible says that man dominates nature, uses it for his own purposes *and has a right to do so*. But since man's well-being depends ultimately on the well-being of nature, he must use it responsibly and with respect for the natural order. But the biblical foundation for respect of the natural order is to be found in respect for man.

⁷³ Wrightsman, *art. cit.*, pp. 200-214.

⁷⁴ Karlfried Froehlich, "The Ecology of Creation," *Theology Today* 27 (1970) 263-76, at 269.

⁷⁵ Frederick Elder, *Crisis in Eden: A Religious Study of Man and Environment* (New York: Abingdon, 1970).

⁷⁶ Donald E. Gowan, "Genesis and Ecology: Does 'Subdue' Mean 'Plunder'?" *Christian Century* 87 (1970) 1188-91.

This intimate unity of man and nature is treated very well by Richard Leliaert, O.S.C.⁷⁷ Focusing on Rom 8:19-25, he points out that "the earth was made by God to share in man's present and future destiny. Man has a solidarity with his earth, yet in God's eyes he is also its steward." Ian Carrick stresses the same theme.⁷⁸ The relationship of man to his world is one of partnership. This delivers us from a theology which views nature as hostile, thereby undermining any coherent purpose for creation. Rather, man and world are to grow together, to be rescued together, to share a common destiny. "Resurrection is necessary for our understanding of the meaning and purpose of creation."

This quick overview gives some idea of how theological literature is identifying the problem. In general summary, it could be said that the current ecological problem reflects a distorted hierarchy of values ultimately rooted in a one-sided conquest conception of man's relationship to his world. An inaccurate popular accounting of Judeo-Christian sources may have involved Christendom in some measure of environmental guilt.

Proposed Solutions

The editors of the London *Tablet*, commenting on an ecological report of the Church of England's Board of Social Responsibility, stated: "The report is more precise in diagnosing the disease than in prescribing cures for it."⁷⁹ This is probably inevitable. If the problem is radically attitudinal, the solution is a change of attitudes. To contemporary technological man, this kind of solution never appears very precise. Nevertheless, it is the substance of most conclusions in the current literature. For instance, John B. Cobb, Jr., of the Claremont School of Theology, is convinced that the ecological problem can only be met satisfactorily if we develop a perspective on nature which gives it a value in itself—"a concern for the subhuman world for its own sake."⁸⁰

Kenneth P. Alpers believes that "the development of an adequate theological response to current environmental issues will not be found by beginning with deductions from Christian sources and dogmas, but by first looking at the complex nature of the environment itself. Unless we are listening we will not be heard."⁸¹ Such listening will give us

⁷⁷ Richard Leliaert, O.S.C., "All Things Are Yours," *Homiletic and Pastoral Review* 70 (1970) 573-78.

⁷⁸ Carrick, *art. cit.* ⁷⁹ "Man and His World," *Tablet* 224 (1970) 122-23.

⁸⁰ John B. Cobb, Jr., "The Population Explosion and the Rights of the Subhuman World," *Idoc*, Sept. 12, 1970, pp. 41-62. The entire issue is devoted to ecology. Cf. also Cobb, "Ecological Disaster and the Church," *Christian Century* 87 (1970) 1185-87.

⁸¹ Alpers, *art. cit.*

a context for reflection which Alpers calls "the ecological perspective." This perspective includes an awareness of the limits of the earth's resources, an understanding of the complex, dynamic, and interdependent character of the ecosystem.

Ian Barbour believes that recent religious thought provides trends which will build a theology in support of an ecological ethic.⁸² These trends he sees as a new theology of nature built on process thought, a fresh awareness of man's unity with nature, and a sharper understanding that secular existence is the sphere of our religious responsibility.

J. Barrie Shepherd asks: Where do we get a new vision, how do we construct a new theology to meet the situation? Shepherd turns to Judeo-Christian sources in order to recapture the conviction that the world is not a dumb spectator but an active participant in the Fall and redemption.⁸³ Froehlich sees the root of the problem in human *hybris*, the limitless desire to dominate the world.⁸⁴ Therefore humility is needed, a humility which takes limits into its frame of reference. The Christian who knows the humble and sacrificial Lord should be the first to introduce humility and sacrifice into our relation to the world. Thus the contemporary asceticism must be ecological restraint. It will mean a radical reconsideration of all we formerly took for granted: the unchecked expansion of national economy, the right to have as many children as a couple desires, etc. This is the tone of much of the theological literature on ecology.

Naturally, a change in basic attitudes must eventually translate into concrete action. Froehlich referred to a "radical reconsideration of all we formerly took for granted." Concretely, not only must we husband and distribute our resources more carefully without compounding the pollution problem, but we must slow down or limit population growth. It is precisely here that the problem gets especially sticky, for at this point the word "coercion" begins to appear. Paul Ehrlich proposes to set up a powerful governmental agency, the Department of Population and Environment (DPE), whose task it would be to "take whatever steps are necessary to establish a reasonable population size in the United States and to put an end to the steady deterioration of our environment."⁸⁵ The University of California's Garrett Hardin reported to presidential counsel John Erlichman: "In the long run, voluntarism is insanity. The result will be continued uncontrolled population growth."⁸⁶ Gowan speaks of the "acceptance of unimagined controls on activities and groups."⁸⁷

⁸² Barbour, *art. cit.* ⁸³ Shepherd, *art. cit.* ⁸⁴ Froehlich, *art. cit.*

⁸⁵ Paul R. Ehrlich, *The Population Bomb* (New York: Ballantine, 1968) p. 138.

⁸⁶ Cited in Roger Shinn, "Population and the Dignity of Man," *Christian Century* 87 (1970) 442-48.

⁸⁷ Gowan, *art. cit.*

The basic human and moral issue here is relating national goals and priorities to individual freedom. Traditionally, the determination of family size has been regarded and guarded as a sacred personal right, a value of the highest priority. On the other hand, it has been argued that personal preferences in both developed and underdeveloped countries yield reproductive figures which to some ecological eyes spell disaster.⁸⁸ This alleged failure in individual ecological rationality constitutes a strong temptation for government to move in on the determination of family size.

The delicate relation of national planning to individual freedom needs a great deal more study. But one could hardly make a better start on the matter than with the reflections of Roger Shinn.⁸⁹ Shinn points out that the contemporary situation calls for revision of inherited values and ethical criteria. "The question is how the concern for life that created the ethic may today require its revision." Shinn is no bandwagoner; he is a careful and balanced ethicist. He sees that in revising the sense of his own relationship to nature and his fellow men, man is faced with the "most difficult ethical problem connected with population: the problem of human freedom." When Shinn relates this value to the urgency of population pressures, he walks his tightrope well—steady and down the middle between destructive coercion and destructive freedom. Between these two stark alternatives he finds room for economic pressures, prestige systems, taxation, skilfully contrived propaganda. Yet even these Shinn ultimately views as regrettable compromises. His finest paragraph could stand as an ethical charter in this entire matter. "In any crisis society qualifies personal rights, but part of ethical wisdom is to avoid crises that permit only destructive choices, and another part of wisdom is to maintain a maximum of human integrity even in crisis. Certainly any humane population policy will seek a maximum of free decision, a minimum of coercion."⁹⁰

Shinn's essay is a loud and clear shout that the quality of life is a profoundly complex notion that defies reduction to a simple quantitative calculus. I believe that we Americans are peculiarly liable to miss this. *America's* reminder that we are a pragmatic people is well taken.⁹¹ We take the step forward and *then* think of the premium to be paid for progress. Isolated tactical decisions replace over-all human strategy. This is what the ecological crisis is all about. Our pragmatism leads us to short cuts. And, as *America* noted, "there is no call for pragmatic short-cuts when the value in balance is personal freedom. We can clean up our pollution. We may not be able to recover our liberty."

⁸⁸ Cf. Schueler, *art. cit.*, p. 294. ⁸⁹ Shinn, *art. cit.* ⁹⁰ *Ibid.*, p. 448.

⁹¹ "Safeguarding the Quality of Life," *America* 122 (1970) 548.

Several Notable Contributions

This last consideration brings us to two articles on ecology which in my judgment are a considerable cut above the average. The first is by H. Paul Santmire of Wellesley College.⁹² Santmire claims that America has ecological schizophrenia: we venerate nature (thus camping, sailing, surfing), yet we venerate the Gross National Product as the criterion of national health and virtue. How can we so intensely adore yet so violently abuse our land? Santmire seeks the answer in history.

In the nineteenth century the American mind was captivated by two apparently contradictory quasi-religious approaches to nature. The first Santmire refers to as "nature vs. civilization." In this approach the individual seeks deity, virtue, and vitality in communion with nature. But this seeking is accompanied by a negative element: a withdrawal from the organized city of man. Since God is found by the individual in communing alone with nature, it is permissible, even obligatory, to let the city stew in its sin. Thus Santmire can refer to this mentality as involving an "irresponsible political ethic of withdrawal." This cultural phenomenon was historically paralleled by several utopian religious groups who manifested dissatisfaction with the socio-political *status quo* by withdrawal. "In a word, the American passion for nature in the nineteenth century and beyond . . . was predicated on a flight from oppressive social realities to God in nature. Thereby that American passion functioned as an unconscious (if not conscious) force which undergirded an increasingly unjust status quo in the burgeoning industrial city of man."⁹³

At the same time, however, another quasi-religious approach emerged. Santmire calls it "civilization vs. nature." The steam locomotive was a symbol of the economic forces and enthusiasm let loose at this time. We sang about it and its ability to leap rivers, grind rocks into powder, trample down hills. Ultimately, this view depicted nature as a "reality defined . . . by its openness to manipulation and exploitation."

It is Santmire's contention that these two quasi-religious approaches survive today. The religion of nature is present in our cult of the simple rustic life symbolized in the media by the enduring popularity of a thing like *Bonanza*. The religion of civilization survives in our cult of impulsive manipulation. By this latter Santmire refers to the idolization of technical reason: competence, know-how, expertise, efficiency,

⁹² H. Paul Santmire, "Ecology and Schizophrenia: Historical Dimension of the American Crisis," *Dialog* 9 (1970) 175-92.

⁹³ *Ibid.*, p. 178.

“get the job done” are national virtues. We manipulate the environment without question. Here the symbol is *Mission Impossible*.

Summarily, Santmire contends that nature has been a dilemma for American society. We worship it, yet we exploit it. We work in the city while dreaming of the country; we work on the SST and live in ranch houses to escape the noise of the city. At a deeper level Santmire argues that, for some, nature functions as an escape from anxiety before an uncertain future; for others, it is a refuge from a decaying society. Both attitudes have the same rootage: a rejection by Americans of authentic life in history. This rejection is at the heart of our ecological problems.⁹⁴

Santmire's study is a brilliant piece of social criticism and provides a context for understanding a host of things from beards and blue jeans to drugs, sun bathing, sexuality, hippie communes, and political styles.

The second article I wish to point up is that of Joseph Sittler of the University of Chicago Divinity School.⁹⁵ In effect, Sittler is attempting to analyze in theological terms what Santmire had uncovered by historical analysis. His theme is both simple and profound. All reality is itself ecological, that is, relational. Thus, the fundamental concepts of Scripture are relational terms: God, man, love, sin, hate, grace, covenant, restoration, redemption, salvation, faith, hope. Since all reality is relational, it must be viewed or beheld as such. Where nature is concerned, it must be viewed with ecological glasses, and therefore within the full splendor of its constitutive relationships. For the Christian, this means an “ecological understanding of man whose father is God *but whose sibling is the whole creation.*” It is precisely a nonrelational or isolated view of nature which is behind our ecological problems. Therefore Sittler states that “this way of regarding things is an issue that the religious community has got to attend to before it gets to the more obvious moral, much less the procedural and pedagogical problems.” He sees this way of regarding things as “the fundamental task of religious and theological responsibility in the ecological issue.”⁹⁶

Now the key area where post-Enlightenment man has failed to think

⁹⁴ Thomas S. Derr faults an underlying romanticized deism in much contemporary ecological literature, an attitude which “wants man to live in harmony with nature, on nature's given immutable terms.” Cf. “Man against Nature,” *Cross Currents* 20 (1970) 263-75.

⁹⁵ Joseph Sittler, “Ecological Commitment as Theological Responsibility,” *Idoc*, Sept. 12, 1970, pp. 75-85.

⁹⁶ *Ibid.*, p. 79.

relationally is the area of creation and redemption. We have separated the two, or, as Sittler puts it, "we suppose that redemption is a historical drama which leaves untouched and has no meaning for and cannot be celebrated in terms of the care of creation." But this is not the case. Precisely because redemption cannot be thought of apart from creation, pollution of the earth (creation) is *Christianly* blasphemous. But our separation of creation and redemption—our nonecological theology, so to speak—allows us to act in this blasphemous way. What is called for is a recovery of the relationship of creation and redemption.

Sittler is saying equivalently that Santmire's "cult of the simple rustic life" and "cult of impulsive manipulation" can coexist in contemporary Western culture because we have wrenched redemption from creation. Once this separation is achieved, it is Christianly irrelevant whether we reverence or ravish the earth. In this sense, Sittler's paper is a plea for a genuinely Christian metaphysics. If we cling to our old categories and simply squeeze a few moral and procedural mandates from them, we will only be sweeping our contemporary filth under the rug. Furthermore, his paper suggests that unless we do get a genuinely Christian outlook anything we do is going to be an extension of the very separatism which has occasioned our problems and will simply exacerbate them. The efficient American mind will, of course, scarcely see this; it will roll up its technological sleeves, flex its muscles, and jump into the task—and simply add to the mess.⁹⁷

Sittler has, I think, gotten to the heart of the matter: several centuries of nonrelational, nonecological thinking about creation-redemption. But whether optimism or pessimism is the proper reaction to his analysis is a good question. There are at least two reasons for pessimism. First, is there any realistic hope of unlocking the confusion of our corporate minds so that the creation-redemption continuity gets straightened out? The separatism that exists (and allows us to stride through the world with Olympian arrogance) is a product of many influences, was long in developing, has hardened into profound personal and social attitudes and values, and is reinforced by complex economic policies and structures. Denis Hayes has put the point in this way:

How do you eliminate the automobile from a society which posits the pretentious coat-of-arms of the Cadillac as its highest form of grandeur? How do you combat the vested billions of dollars in Detroit? How do you challenge the vested billions of dollars of the petroleum complex (especially after the

⁹⁷For an interesting essay on how to go about making social decisions in a technological society, cf. Donald W. Shriver, Jr., "Technological Change and Multi-valued Choice," *Soundings* 53 (1970) 4-19.

opening of the Alaskan North Slope)? How do you fight something in which nearly every American family has a couple thousand dollars in vested interests, and whose advertising is a mainstay of American communications?⁹⁸

How *do* you? A good question.

Secondly, the current ecological crisis is so utterly urgent that something drastic has to be done now. Does this not almost guarantee that what we will do will not be the product of Sittler's holistic attitude toward creation-redemption, but will proceed from the very attitudes which led to the crisis? If this is true, our present practical responses will represent a stopgap tidying-up of industrial procedures, good for a generation or two at most.

I think it would be a fair even if mini-statement of the theological dimensions of the ecological problem to say that man has a responsibility for his earth and through it for himself and his fellow men. The very first step in fulfilling this responsibility is establishing a correct attitude toward the relationship of man to the world. The unity of creation-redemption is central here. The second step is one of communication of this attitude. Both steps are moral concerns of the first magnitude. And the second step may even be the more difficult. Neither the scientific nor the theological community can undertake the process alone. Perhaps even together and in dialogue they will remain isolated and ineffective. But try they must. And that is why John E. T. Hough is right when he says that "scientists and theologians must learn together the humbling and noble art of listening and learning as members one of another and joint heirs of the advancing Kingdom of God."⁹⁹

THEOLOGY AND DIVORCE

Melchite Archbishop Elias Zoghbi proposed to the fourth session of the Second Vatican Council that it consider a pastoral practice more closely resembling the *oikonomia* of the Eastern Churches where divorce and remarriage are concerned. "There is here," he stated, "an exegetical, canonical, and pastoral problem which cannot be ignored. It is a matter for the Church to decide on the opportuneness of admitting a new cause for dispensation analogous to those which she has introduced in virtue of the Petrine Privilege."¹⁰⁰ Since that time, there

⁹⁸ Denis Hayes, "Environmental Action," *Theology Today* 27 (1970) 256-62, at 260.

⁹⁹ John E. T. Hough, "Geneva Conference on Technology and the Future," *Christian Century* 87 (1970) 948-49. That such conversation is essential in the medical field also is clear from Walter G. Muelder's remarks in "The Identity and Dignity of Man," *Nexus* 13 (1970) 1-8, 26-29.

¹⁰⁰ *Civiltà cattolica* 4, 116 (1965) 603.

has been a good deal of writing on divorce and Zoghbi's intervention is often considered to be the stimulus for it.¹⁰¹

There are three distinct levels to the discussion, as Zoghbi indicates: the theology of marriage (especially its biblical sources), canonical practice, and pastoral attitudes toward the divorced and remarried. There is, of course, an inner unity and dependence of these three levels. What we say about marriage and its indissolubility will influence the shape of canonical practice and pastoral attitudes. Similarly, canonical and pastoral practice can influence the growth and integrity of doctrine. It is understandable, therefore, that much of the literature slides almost imperceptibly back and forth among the three dimensions of the problem and becomes in the process a bit difficult to review coherently. Central to all the literature, however, is an underlying notion of marriage. If that is kept in mind, perhaps some semblance of unity can be preserved here.

First, some literature with a more pronounced doctrinal emphasis. Several general review articles provide a "feel" for the direction of contemporary writing. W. J. O'Shea offers what appears to be a very competent summary presentation of the recent literature on the exegetical clauses of Matthew and the general biblical teaching on divorce.¹⁰² O'Shea believes that the biblical evidence on divorce is ambiguous. "This ambiguity is confirmed: by the lack of unanimity on the question among the Fathers . . . ; by the wide variation found in the practice of the Christian Churches; and by the maze of interpretations proposed by biblical scholars. . . ."¹⁰³ As for a change in the teaching of the Church, he concludes that "the New Testament teaching is not so clear that it precludes the possibility of such a change."

Another fine critical review of recent literature is that of George Vass, S.J.¹⁰⁴ The article summarizes the recent work of Steininger, C. Duquoc, J. C. Margot, Moingt, Huizing, and Russo. Vass finds laudable points but deficiencies in nearly all these presentations. Indeed, he sees the stage of discussion we are presently in as a "fight between a not fully mature theology against an entrenched canonical

¹⁰¹ A very thorough bibliography of the most important material can be found in William W. Bassett, "Divorce and Remarriage: The Catholic Search for a Pastoral Reconciliation," *American Ecclesiastical Review* 162 (1970) 100-105. The *Revue de droit canonique* 21 (March-Dec., 1971) arrived just as these Notes were going to press. It is totally devoted to the questions discussed in these pages.

¹⁰² W. J. O'Shea, "Marriage and Divorce: The Biblical Evidence," *Australasian Catholic Record* 167 (1970) 89-109.

¹⁰³ *Art. cit.*, p 108.

¹⁰⁴ George Vass, S.J., "Divorce and Remarriage in the Light of Recent Publications," *Heythrop Journal* 11 (1970) 251-77.

practice." And there is no way to change the practice except by deepening the theology. As for pastoral practice, Vass is convinced that "remarried divorcees, under prudent conditions, should be admitted to the sacraments." We will return to this point shortly.

Wilfrid Harrington examines Jesus' teaching on divorce.¹⁰⁵ He argues that Jesus' teaching underwent modification in the living, everyday circumstances of the early Church. This modification of the "impossible ethic" surfaces in Matthew's tempering of the total prohibition of divorce as Mark and Luke record it. Harrington's reading of Matthew is, I take it, the rather standard "Protestant" view toward the exceptive clauses: they are redactional interpolations into the Gospel.

Harrington's presentation of the New Testament view of marriage is interesting. He contends that the Church has fixed more on the requirements against divorce than for marriage. If we had concentrated on the latter, many of our problems might be dissipated. In the New Testament, marriage is much more than consent vowed at one finalizing moment and then consummated by the first act of sexual intercourse. It is an ongoing commitment of man and woman to live a real life under changing circumstances. In this process real weaknesses and difficulties can enter and destroy a true marriage, so that it is dead. With this as background, Harrington concludes that "Jesus prohibited divorce and that prohibition is absolute. But he prohibited divorce under the assumption that the marriage involved is a true marriage."¹⁰⁶ Obviously, Harrington believes the Church can and should grant the right to remarry where a marriage is not a true marriage but is dead.

Peter McEniery turns to Trent's teaching on divorce.¹⁰⁷ His study concludes that Piet Fransen was correct in saying that Trent's statement did not involve a dogmatic definition. It was intended only to condemn the Reformers, especially the Lutheran attitude to the Church's canonical procedures.

John Noonan looks at indissolubility from the viewpoint of historical practice. His findings:

Looking at present papal practice it is evident that the scripture teaching "What God has joined together, let no man put asunder" is not taken literally or absolutely by the Roman curia. By the same token it appears that the natural indissolubility of marriage, so little regarded by the classic canon law and

¹⁰⁵ Wilfrid Harrington, "Jesus' Attitude toward Divorce," *Irish Theological Quarterly* 37 (1970) 199-209.

¹⁰⁶ *Art. cit.*, p. 209.

¹⁰⁷ P. McEniery, "Divorce at the Council of Trent," *Australasian Catholic Record* 167 (1970) 188-201.

some of its greatest commentators, and so recently asserted in polemic, is no longer the basis of papal action.¹⁰⁸

Noonan's conclusion clearly raises the question: What is the basis of papal practice if it is not Scripture or natural indissolubility?

Denis O'Callaghan is concerned with a single question: Is divorce admissible?¹⁰⁹ He approaches the question first by studying the structure of marriage. This structure is really derived from an analysis of the overall human values which it serves. We conclude to what marriage is by examining the values it serves in the person, in the family, in the community. Moral responsibility means taking account of all the factors of moral significance in a given decision. However, decisions are sometimes unable to safeguard all values; they may have to subordinate one value to another. With this in mind, is divorce admissible? O'Callaghan believes that natural law does not outlaw *responsible* divorce, one which takes account of all the human values (personal, familial, social).

When he discusses the question in Christian perspective, his conclusions are very close to those of Harrington. For instance, the Christian community began to see the need for oaths as a guarantee of honesty and fidelity among sinful men, of self-defense for protection, etc. Why should divorce be excluded from this type of interpretation? The real danger in adapting Christ's radical teaching to men's limitations O'Callaghan finds in the possibility that men will begin to view divorce as a right, as something having merit in itself.

Canonist Jean Bernhard has written a fascinating and potentially very important article.¹¹⁰ He espouses a modification of the notion of *ratum et consummatum* for two reasons. First, traditionally the indissolubility of a *ratum et consummatum* marriage has been argued by appeal to its symbolism. Such a marriage symbolizes the perfect and unbreakable union of Christ with His Church. However, Bernhard rightly wonders whether physical consummation is sufficient to realize in the most perfect manner the union of Christ with the Church. Obviously, physical consummation adds something to the merely moral

¹⁰⁸John T. Noonan, Jr., "Indissolubility of Marriage and Natural Law," *American Journal of Jurisprudence* 14 (1969) 79-94, at 94. Cf. also Rudolph Weigand, "Unauflöslichkeit der Ehe und Eheauflösungen durch Päpste im 12. Jahrhundert," *Revue de droit canonique* 20 (1970) 44-64.

¹⁰⁹Denis O'Callaghan, "Theology and Divorce," *Irish Theological Quarterly* 37 (1970) 210-222.

¹¹⁰Jean Bernhard, "A propos de l'indissolubilité du mariage chrétien," *Revue des sciences religieuses* 44 (1970) 49-62. He pursues the same point in "A propos de l'hypothèse concernant la notion de 'consummation existentielle' du mariage," *Revue de droit canonique* 20 (1970) 184-92.

(by consent) union. But just as the union of Christ with the Church transcends (while including) both the physical and the moral, so it cannot be excluded a priori that "consummation" would demand an element that transcends these categories.

His second argument is more telling. The standard understanding of *ratum et consummatum* is the result of an intervention by Alexander III to reconcile two divergent schools of thought. Gratian held that exchange of consents did not create the conjugal bond; for this, intercourse was also required. This approach characterized the thought of the University of Bologna and through it filtered down to Roman practice. Peter Lombard (and the theologians at the University of Paris) taught, by contrast, that a nonconsummated marriage was absolutely indissoluble. Consent was seen as the efficient cause of the bond. Obviously, such a difference on a matter of great practical concern required an authoritative synthesis. Alexander III provided just this in stating that the formation of the bond occurred through a duality of modes: by both consent and sexual intercourse. But marriage concluded without intercourse was not absolutely indissoluble. This distinction led Alexander III to create the new juridical category of consummated marriage. However, the immediate practical purpose of Alexander's intervention led to oversight of the larger dimensions of the notion of consummation.

Bernhard levels several arguments against the one-sidedly physical understanding of consummation. But his strongest point is that the traditional notion of *ratum et consummatum* is not reconcilable with the doctrine of Vatican II on marriage. *Gaudium et spes* speaks of marriage as a "community of love" (n. 47), an "intimate union of their persons and their actions" (n. 48). This love, "by its generous activity, grows better and grows greater" (n. 49). And so on. Now if this is the object and finality of marriage, if this is what marriage is, it is difficult to see how the culminating point of its consummation is the first conjugal act.¹¹¹

Pope Paul VI's *Renovationis causam*,¹¹² dealing with the renovation of formation for religious life, provides Bernhard with an analogy. In this document the Holy Father proposed a gradualism (whether by temporary vows or not) in preparing for the ultimate commitment of perpetual vows. Both the personalistic emphasis of Vatican II on mar-

¹¹¹ A similar point of view is taken by canonist Jacques Delanglade in "L'Indissolubilité du mariage," *Etudes*, Aug.-Sept., 1970, pp. 264-77. In his excellent article on marriage in *Sacramentum mundi*, W. Molinski, S.J., describes *matrimonium consummatum* as one which "reaches fulfillment in complete marital dedication" (3, 395). Cf. also Joseph Ratzinger, "Zur Theologie der Ehe," *Theologische Quartalschrift* 149 (1969) 53-74.

¹¹² AAS 61 (1969) 103-20.

riage and a gradualism with regard to the undertaking of definitive commitments lead Bernhard to believe that a revision of *ratum et consummatum* will occur. His view of the revision is as follows. Let those be admitted to sacramental marriage who are persons capable of giving true marriage consent and who are firmly decided to progress toward absolute indissolubility. The marriage will be considered consummated when the spouses have brought conjugal love to a certain human and Christian level, when they have established a fairly profound community life.

Bernhard recognizes the difficulty of translating these ideas into juridical terms. But he suggests some negative helps for determining nonconsummation: brevity of common life, infidelity from the beginning and during the whole of common life, difficulty of establishing an authentic conjugal, person-to-person relation, intolerance of common life. Perhaps even the definitive rupture of the marriage would provide a presumption of nonconsummation.

William W. Bassett has put together a thorough bibliography and excellent summary of recent trends on divorce and remarriage.¹¹³ His study ranges farther and is better than Bernhard's very good one. Bassett distinguishes two questions: (1) Can the Church dissolve a consummated sacramental marriage? (2) Can the Catholic Church allow a second marriage while a former spouse is living? Bassett's response to the first question, after a careful overview of recent work, is that "recent studies have not proven this possibility." When he turns to the second question, his major concern is that the question be conceived as distinct and different from the first. In other words, if one says "yes, the Church can allow, in healing forgiveness, a second marriage," this need not mean the the first marriage is or can be dissolved. I believe Bassett leans to an affirmative answer himself, but at the point where one might expect his own clearly expressed opinion he turns to the notion of marriage itself and calls for "a deepening awareness of the central mystery of Christian marriage itself—a positive theology and a positive catechesis."

In discussing this positive theology, Bassett is extraordinarily good. In discovering what is a truly Christian (and "valid" in this sense) marriage, he points to four lines of study. First, there is the difference between marriage conceived as a lived relationship and as a legal contract. If marriage were freed from its narrowly legal conceptualizations and viewed as a lived relationship, the grounds of decision (about its validity) would be considerably broadened and evidential processes simplified. "We could more easily decide that there was no real Christian

¹¹³ Cf. n. 101 above.

marriage and so give freedom.”

Secondly, Bassett turns to the notion of consummation and states a position very close to Bernhard's on broadening the concept of consummation so that it is “expressive of a human act, the psychological commitment and perfection of the marital bond.” Thirdly, he discusses the very capacity to marry and brings contemporary psychological evidence to bear on the mental and emotional capacity to marry. Finally, he questions the identity of marital consent with sacramentality. Bassett concludes with a rather shocking and depressing picture of the state of tribunal procedures in the United States.

If one were to try to summarize the direction of contemporary Catholic writing on divorce, I believe it would not be inaccurate to say that two threads of thought are constantly present: (1) the absolute indissolubility of marriage as taught by Jesus; (2) the nearly universal admission in recent writings that certain unions *ratum et consummatum* in traditional terms never reach the truly Christian notion of marriage and hence fall outside the ideal of indissolubility. This literature is young and groping, depending as it often does on Vatican II's recovery of a more integral notion of marriage. Yet it is enormously important, not just in itself, but for our pastoral approach to the divorced and remarried.

The question of divorce and remarriage has also been approached from the viewpoint of pastoral practice, especially in terms of administration of the sacraments. Should those who are involved in a second marriage after a valid and sacramental first marriage be admitted to, or be encouraged to receive, the sacraments? If so, on what grounds? If not, why not? Several years ago in these Notes I stated: “It is not clear to me how anything but a negative answer to this [first] question is possible.”¹¹⁴ Recent literature is a chastening reminder that the matter is certainly more difficult and debatable than that sentence would indicate. Indeed, as will be clear, I would substantially modify that opinion. Since 1966, any number of theologians have reappraised the question and many have come to a different conclusion. Because the practical problem is frequent and urgent, because it unavoidably opens on the deeper doctrinal question, and because we stand to learn a great deal from continued discussion, the chance to reconsider the subject is a welcome opportunity.

Kevin T. Kelly has set up the problem very well.¹¹⁵ He points out that pastoral practice could easily lead to “liturgical schizophrenia”—

¹¹⁴ THEOLOGICAL STUDIES 27 (1966) 624.

¹¹⁵ Kevin T. Kelly, “The Invalidly Married and Admission to the Sacraments,” *Clergy Review* 55 (1970) 123-41, at 136-41.

a separation of sacraments from life. For the person whose first marriage was certainly valid and is now living in a stable second marriage, this second marriage is without doubt and existentially a part of this person's life. Kelly is right when he says that "simply to offer to give the sacraments without facing the problem of the Christian significance of this part of life would seem to be evading the issue." That is why moral writings have always focused on the status of this second marriage. Kelly notes that there are two general approaches:

The more traditional view would hold that this second union is "living in a state of sin" and hence must be given up. This view is slightly modernized by stressing the notion of growth in the moral life and so it would allow for the fact that the abandonment of this second marriage might take time. It would also cater for the "impossible situation" by offering the brother-sister alternative. The other view does not deny that the breakdown of the first marriage is at least objectively sinful and that, to the extent that this second union contributed to it, it too must be seen to be infected by sin and a legitimate object of repentance. But this second view would advocate a pastoral approach accommodated to man's frailty. Once the first marriage is dead and the second marriage is truly a "human marriage," this existing reality must now be recognized for the good thing it is—even though man's weakness and sinfulness might have played a part in its birth. It cannot be fully integrated into the witness of the Church's life because of the lack of fidelity it manifests. Nevertheless, it must not be seen as an evil thing to be given up but as a good thing to be cherished and developed, even though it lacks the full sacramental character of indissoluble Christian marriage.¹¹⁶

This is an extraordinarily accurate summary of two pastoral tendencies in recent literature. However, I think there is a third identifiable position. It is one which admits aspects of both of these positions, yet faces the pastoral problem of sacramental life in terms of what can broadly be called good faith. That is, reception of the sacraments (presuming absence of scandal) is argued on the grounds that the couple cannot accept evaluatively the fact that their second marriage is, in the eyes of the Church, an unholy alliance at root. Here I shall review some examples of the second and third positions in an attempt to focus the issues more sharply.

A good example of this third point of view (good faith) is the article by Innsbruck's H. B. Meyer.¹¹⁷ In a rather difficult and ponderous essay, Meyer argues that the two possible reasons for excluding the

¹¹⁶ *Ibid.*, pp. 136-37.

¹¹⁷ H. B. Meyer, "Können wiederverheiratete Geschiedene zu den Sakramenten zugelassen werden?" *Zeitschrift für katholische Theologie* 49 (1969) 122-49. A good summary is found in Vass, *art. cit.*, pp. 272-75.

divorced and remarried from the sacraments are not conclusive. First, there is their own subjective moral guilt about adultery. Here Meyer leans heavily on Rahner's distinction between objective "guilt" and subjective guilt, a distinction founded on the difference between theoretical and real morality. What is assented to as theoretically true does not necessarily permeate to the level of personal, evaluative realization. Concretely, the changed circumstances of collective morality concerning married life can have introduced a situation where individuals may be more or less habitually in a state of objective guilt without a corresponding subjective guilt. If this is the case with an individual couple, their state of conscience does not of itself prohibit reception of the sacraments.

The second reason for exclusion is the symbolic significance of reception of the sacraments. However, Meyer believes that just as it is morally proper to give the Eucharist to a separated brother at times, so too it is occasionally in place for the remarried to receive the sacraments. The central point of Meyer's argument seems to be the question of subjective guilt—and in this sense good faith.

Bernard Häring could be cited as another example of the third approach.¹¹⁸ And yet, whether he really belongs here rather than in the second approach is not clear. His essay is vintage Häring, which is to say that it is characterized by obvious Christlike kindness and compassion, pastoral prudence, a shrewd sense of the direction of things, and a generous amount of haziness.¹¹⁹ Häring allows for (*secluso scandalo*) the reception of the sacraments when a person is in a second marriage after a canonically valid Christian marriage. He does this on the grounds that these persons can be in genuine good faith, are truly repentant, and "make good the evil they have done as much as they can." By "good faith" Häring seems to envisage two distinct situations. First, under this title he includes the remarried couple who view their present marriage as "made in heaven," as a true marriage. Secondly, there is the couple who realize that their marriage was not and is not all right, yet are "convinced that God does not impose total continence on them while they have to live together and to educate their children."

It is not clear, however, to what extent the basis for Häring's conclusion is really the subjective good faith of the individuals; for in the course of his essay he raises a point which leaves the very status

¹¹⁸ B. Häring, "Internal Forum Solutions to Insoluble Marriage Cases," *Jurist* 30 (1970) 21-30.

¹¹⁹ Ladislav Orsy, S.J., says in the same issue (p. 6) of Häring's article: "If I read Fr. Häring correctly (and I am not sure of this)."

of the first and second marriages in considerable doubt, and to that extent one has to wonder whether he is basing his conclusion on this doubtful status rather than on good faith. Häring cautiously proposes as theoretically probable that marriage is "destroyed—more than by physical death—by mental death, by civil death (a lifelong condemnation to jail for a criminal) and by the total moral death of a marriage."¹²⁰ When a marriage is hopelessly dead or "thoroughly destroyed," Häring thinks that the Church might "tolerate a 'real' marriage, that is, a marriage that really can be lived." Here Häring is suggesting that a marriage which is thoroughly destroyed is not an existing marriage, is not a sacrament of God's presence among these two people.¹²¹ He is further asserting, I would think, that a second marriage undertaken after such a "dead" marriage can be a sacrament of God's presence among these two people.

Probably a fair number of theologians would agree that Häring has accurately sniffed the direction of the winds of doctrinal development or, more accurately, pastoral practice. My only point, however, is that this opinion leads one to believe that the ultimate basis for encouraging reception of the Eucharist in Häring's thought is not the subjective good faith (though clearly this must be present) but rather an underlying judgment that when the first marriage is really dead, then the second, to that extent, is the true marriage. The notion of the "dead" marriage, especially if it means the Church's ability to tolerate a second "living" marriage, needs a great deal more study. It is, of course, at the very heart of the meaning of marriage and its indissolubility.

Now to some examples of the second approach. George Vass, S.J., provides a good example here. He is "convinced that remarried divorcees should be admitted to the sacraments."¹²² Vass is a careful worker and realizes that it is not one's conclusion that is enlightening, but the reasons which led him there. How does he argue the point? Somewhat as follows. The Church, as protosacrament, is incarnate in our changing world, as the sacrament of marriage in the love of the Christian couple, as the sacrament of the Eucharist in the living unity of the faithful, etc. But this human love, this unity, inasmuch as it is human, can be frail and is capable of further development. It is the task of the sacraments to further this love and unity. Where divorcees are concerned, we must ask whether the second marriage can ever be

¹²⁰ *Art. cit.*, p. 22.

¹²¹ Häring said something similar in an interview in *Der Spiegel* 24 (April 6, 1970) 188-200.

¹²² *Art. cit.*, p. 277.

sacramental in the sense of symbolizing the union of Christ and the Church. Vass thinks it can.

The reason would be that the sacramental grace of marriage does not theologically speaking come from the fact that the individual partners are destined to a Communion with Christ, but rather from their mutual relationship in love. Since the human relationship in love of the first marriage has now ceased to exist and a new relationship is now taking place in the second, this new relationship in love can gradually become a human reality able to symbolize the significance of Christian marriage.¹²³

Vass grants that this symbolizing cannot achieve fulness, since there was a former commitment before God and this commitment is not wiped out by admission to the Eucharist. But if it is "the historical relationship of love which is called to this act of symbolism, and not the static historical fact of a former engagement, then the new relationship can become a partial source of a sacramental grace."

Of the three participants in the very intriguing *Clergy Review* "Moral Forum," two definitely lean heavily in the direction of the second approach. James McManus, C.S.S.R., puts great stress on the "marital state of mind." He says: "It is creative. In the couple themselves it creates true mutual love (something which may have been entirely lacking in their first marriage); it fosters in them true parental love for their children (they cannot see their children as the 'fruit of their sinful union'); it creates in fact a true human family in which life and love are fully shared."¹²⁴ McManus admits that serious sin may have been committed in contracting the second marriage, but he insists that "we can nevertheless accept the possibility of true interior conversion while realistically recognizing that a 'permanent situation,' i.e., a family, has been created and that this 'permanent situation' is not, nor can be changed by conversion."

In the same "Moral Forum" Henry Allard, S.C.J., argues that "human love and mutual attraction are matters which must have priority of consideration over our legal norms which then bring order into our human relationships."¹²⁵ Eventually he concludes that the sacraments should be administered to the divorced and remarried because "the relationship itself contains features which are similar to those of a marriage which is valid by law." Behind this conclusion is the distinction between what Allard calls an older and a more modern

¹²³ *Art. cit.*, p. 276.

¹²⁴ James McManus, C.S.S.R., "The Invalidly Married and Admission to the Sacraments," *Clergy Review* 55 (1970) 123-31.

¹²⁵ Henry Allard, S.C.J., *ibid.*, pp. 450-53, at 452.

approach. "The modern approach would primarily consider the individual aspects of a relationship and test them on authenticity, honesty, and commitment. Instead of a uniform, essentialist conception of marriage, the modern approach prefers a pluriform conception."

The study of Leo Farley and Warren T. Reich, S.T., is a final example of the second approach.¹²⁶ The authors modestly offer what they term a "position paper." The position: in the present state of the question, reconciliation to full sacramental life is possible in certain cases for individuals involved in a second marriage after a first marriage certainly *ratum et consummatum*.

The heart of their presentation is in their assessment of the present marriage.¹²⁷ Here they make two points. First, they are speaking only of "deserving couples." Such couples, besides being sensitive to the inherent wrongness of divorce and desirous to participate in sacramental life, must fill this description:

Before their consciences and before God the couple truly consider themselves as married to each other, and intend to be faithful to each other. Thus, the present union appears to be both stable and enduring, and to be characterized by genuine love. The couple conduct themselves in a Christian manner; they are faithful to each other; they are generous in responding to the demands of conjugal intimacy; they are dedicated to their children and want to give them a good education; they are concerned about creating a true Christian atmosphere in their family.¹²⁸

Secondly, the canonically invalid union of these deserving couples exists under the "sign of forgiveness." By this the authors mean that the marriage "was conceived in sin and would have remained under the power of sin but for the merciful forgiveness of God in Jesus Christ." What does the forgiveness of Christ do to the union? Of itself, the second marriage only memorializes the sin of divorce, all the more so the more successful the couple are in fashioning a true bond of love. But under the sign of forgiveness, it becomes "good and holy and salvific, for now it sounds the note of *repentance* for sin and thanksgiving for *redemption* from helplessness and hopelessness. Only in the light of Christ's merciful forgiveness can the original sin of divorce become a *felix culpa*."

¹²⁶ Leo C. Farley and Warren T. Reich, S.T., "Toward an Immediate Internal Forum Solution for Deserving Couples in Canonically Insoluble Marriage Cases," *Jurist* 30 (1970) 45-74.

¹²⁷ I say "heart" because the rest of their considerations are subordinate to this main point.

¹²⁸ *Art. cit.*, p. 52.

Farley and Reich emphasize that the repentance must be genuine and concrete. Therefore it must honor whatever demands continue from the first marriage (e.g., support of children) and it must view the first marriage as a "disclosure experience" from which the couple continues to learn.

This review will conclude with a few personal reflections. There are two instances where canonically invalid unions present problems which can be handled via the internal-forum route and where reception of the sacraments is not impossibly difficult to justify. The first is the situation where there is good reason to doubt that the first marriage was a valid Christian marriage, even though this fact cannot be established according to the criteria of present canonical jurisprudence. Anthony Kosnick has treated this situation in a thorough and balanced way.¹²⁹ The second situation is one of a previous *ratum et consummatum* marriage but where the parties are presently in good faith about their second marriage: they really believe that this, not their former marriage, is their true marriage. Though the matter could be extremely delicate in practice, Häring has handled this situation with admirable prudence.¹³⁰

The really thorny instance is the case of the couple remarried after an apparently valid Christian marriage who sense that all was not and is not well with their present marriage. Whatever "good faith" they have is decidedly different from the second instance mentioned above. The couple believe that the first marriage was a genuine Christian marriage. They know it failed and they know about indissolubility. They know something is wrong with their present marriage. This is an extremely touchy matter, because it cannot be approached in terms of the standard understanding of good faith. Sincerity, repentance, marital mentality—all these, yes; but not total good faith about the present marriage. No one with a sense of realism, compassion, and his own limitations will feel complacent and secure in his reflections on this type of situation. It fairly bristles with problems.

The articles brought under review (Vass, Allard, McManus, Häring, Farley-Reich) have attempted to construct a pastoral approach by trying to reassess the present marriage. McManus stresses the marital mentality within it. Vass tries to establish its capacity to symbolize, even if imperfectly, Christ's union with the Church. Allard finds in it features similar to a marriage valid by law. Farley and Reich view it as a marriage under the sign of forgiveness. Helpful and enlightening as

¹²⁹ Anthony Kosnick, "The Pastoral Care of Those Involved in Canonically Invalid Marriages." *Jurist* 30 (1970) 31-44.

¹³⁰ *Art. cit.*

these attempts truly are, they are not without difficulties.

For instance, the weakness of Vass's position is that it is not merely the historical relation of love which is capable of symbolizing Christ's union with His Church, as he contends, but only a historical love relationship which begins with the capacity for and involves actual growth toward permanence and indissolubility. Otherwise, could not a whole succession of love relationships symbolize the *fidelity* of Christ to His Church? In the instance under discussion, either the first marriage had this capacity and was involved in this growth, or it did not. If it did not, one could argue (persuasively, I think) that it was hardly a marriage in any more than an empty legal sense. And the root problem of the second marriage disappears. If it did, however (and therefore inchoately symbolized Christ's union with His Church), then to say that the second marriage can also be this symbol even if imperfectly fails to explain why a third and fourth union could not do the same. Is this not to begin to dissolve the very notion of Christ's fidelity to His Church? At least there is a problem here which Vass has not explored adequately.

The same difficulty could be urged in different terms against Allard's notion of a "pluriform approach" to marriage which judges the second union in terms of authenticity, honesty, committedness. What if the first marriage relationship was, at least for a time, authentic, honest, committed? And what if a third relationship becomes these things? Perhaps I have misunderstood Allard. This is easy to do in a short summary, especially where the problem is difficult and the discussion multifaceted. The same difficulty might be urged against Farley-Reich's second marriage "under the sign of forgiveness."

To say that there may be difficulties in these approaches is not to deny their value. Quite the contrary; they say something essential. It is to suggest only that they may be incomplete. I see their possible incompleteness as follows. Nearly all the authors reviewed have concentrated almost exclusive attention on the second marriage and its qualities (marital mentality, sign of forgiveness, symbolization of Christ's union with the Church).¹³¹ This is very understandable, since the second marriage is an enormously important part of the lives of the individuals involved, and therefore the pastoral problem generally pre-

¹³¹ I would add also the presence of children. Everybody writing on the subject supposes such a permanent situation with children. But what if there are no children? The man is simply in love with the woman, and the only reason preventing their breaking up is this fact. To my knowledge, no one addresses this point. The result of this neglect is that it is the presence or absence of children which seems to determine the *marital status* of the individuals, their sexual conduct, etc.

sents itself in terms of this second union. On the other hand, in doing this these authors have presumed that the first marriage is *ratum et consummatum* and hence insoluble. That is, they have accepted traditional theology and traditional legal categories in determining whether the first marriage was a true Christian marriage. Or so it seems to this reviewer.

Is it necessary to do this? I think not—not at least at the level of a general policy. The presumption which most accept in stating the problem can be challenged. It is here that the reflections of Bernhard and especially Bassett become very helpful. Given both the admitted immaturity of the theology of marriage and the inadequacy of existing law in embodying a fully Christian concept of marriage, it is at least quite possible, even probable, that the first marriage was not a truly Christian marriage in any more than a canonical sense.¹³²

Concretely, if marriage is viewed as a lived relationship (rather than as a mere contract), if consummation is seen in fully human terms (rather than in exclusively physical ones), if capacity to marry is judged in the light of contemporary psychological evidence (rather than in terms of dated categories), there is substantial reason to believe that many of the first marriages under discussion may not have been true marriages at all. This may not be true of all instances, of course. But if it is true of some—and I would argue that this is very much a possibility—is this not enough for the establishment of a policy which refuses to unite canonical marital status with sacramental practice? I think so. In other words, an over-all policy-attitude allowing for the possibility of admission of divorcees to the sacraments need not imply any approval in principle of second marriages, for the simple reason that it need not be based on the supposition that two true marriages are involved. There are grounds for refusing to make or accept this supposition.

In summary, then, I am suggesting that the practical pastoral problems be approached not exclusively in terms of the qualities of the second union, important as these are, but also in terms of the possibly doubtful status of the first union. Such an approach would not unite in a sweeping and universal way canonical marital status with sacramental practice. Once such a policy-attitude were established, each individual case would demand individual attention from a confessor or

¹³²This analysis is suggested, though it is far from explicit, in the theses proposed through Franz Böckle to a study group in Königstein, West Germany. The theses referred to the fact that many first marriages in contemporary circumstances really resemble "trial marriages." Cf. *Idoc.* June 13, 1970, pp. 48-52, at 50.

counselor.¹³³ At least this approach to the problem would seem to merit more attention than it has received, not least because it avoids the need to confront head on, at the policy level, the ancient tradition of indissolubility.

A commission appointed by Cardinal Koenig to consider the question of admitting divorcees to the Eucharist met in Vienna Feb. 4, 1970.¹³⁴ All the members agreed on the pastoral need of admitting some divorcees to the sacraments, but the theologians did not achieve a consensus on the moral and theological reasons for this conclusion. This is exactly the picture in recent literature as I read it.

Given the difficulty and delicacy of the problem, Koenig's move was a wise one. Therefore this review might well conclude with a suggestion: a similar commission should be appointed immediately in this country. Otherwise there is the danger that individuals will go their own way, solving difficult practical problems off shaky theological premises or destructive sentimentalism. If we do not rise above the insularity of our own reflections in this matter, grave harm can be done to the effectiveness of Christian witness and to countless individuals. Emphasis should be put on the theological reasons for the conclusions proposed. The very fact that prudent and informed theologians believe that some remarried divorcees should be able to receive the sacraments is good reason for leaning in this direction. However, the fact that these same theologians differ so much on their reasons means that it will be extremely difficult to educate the faithful in this area, a task of the utmost importance if scandal is to be avoided, as Häring has rightly emphasized. The commission should therefore study carefully the proper pastoral presentation of its conclusions, so that theological thought will live up to its pastoral responsibilities.

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¹³³ Everyone underlines the need to individualize judgments when dealing with remarried divorcees. And rightly so; for there will certainly be instances, perhaps many, where remarried divorcees would themselves judge that they should not participate in the sacramental life of the community, or at least not frequently.

¹³⁴ Vass, *art. cit.*, p. 275.