CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY, 1945

One of the last works to come from the pen of the late Dr. John A. Ryan, to whom the science of moral theology owes so much in the United States, was a little brochure, published at the end of 1944, on the norm of morality.[1] The author states: "This little work has three aims: first, to define and defend the norm of morality, i.e., the fundamental standard which distinguishes between right and wrong; second, to exhibit this norm as the basis of moral principle and precepts; third, to apply the norm to all classes of particular actions. The argument of the brochure should appeal, not only to Catholics and other Christians, but to all persons who believe in God as the Creator and Ruler of the Universe." The author has a prefatory chapter on the norm of morality provided by religion, and then expounds from a somewhat novel point of departure the norm of morality based on man's final end, and more proximately on his human nature. The exposition is clear and thorough. The third chapter explains the natural law, and the remaining chapters (thirty-five of the seventy pages) are devoted to particular applications under headings such as life, health, sterilization, cultivation of the intellect, drunkenness, unchastity, lying, anger, worship of God, charity, justice, reputation, property, freedom of speech, relations with the state, etc.

This booklet, intended for the general reader, does not pretend to be a learned contribution to Catholic ethics, but it is a fine example of Dr. Ryan's clear style, attractive presentation, and deep grasp of moral principles. I mention it here partly because moralists will be interested in it and partly because it gives me an opportunity to say a word of tribute to this courageous moralist who for so many years championed the Catholic cause in public in the United States, not fearing to say unpopular things, and not fearing to make an occasional mistake. He always spoke the truth as he saw it, and he was always ready to admit, and profit by, the few errors into which he was thus honestly led.

But another reason for mentioning Dr. Ryan's booklet is to contrast it with a less satisfactory work on the moral law by another author. In *The Quest for Moral Law*, a non-Catholic professor of ethics attempts to establish historically and empirically some basic ethical principles. Professor Eby's work seems to have found disfavor at the hands of both Catholic

[1] *The Norm of Morality, Defined and Applied to Particular Actions* (Washington, D. C.: National Catholic Welfare Conference, 1944).

and non-Catholic critics.[2] She divides the moral law into three classes of precepts: operative laws, regulative principles, and normative principles. Examples of the first class, said to pertain to the "factual" order are: "Thou shalt not kill," "Thou shalt not lie." Among the regulative principles is the Golden Rule; and the normative principles contain some more specific formulas for right action.

It is inevitable that a system of ethics or morality which one individual works out for herself, even if based on scholarly but eclectic reading, will suffer by contrast with a work like Dr. Ryan's, which was based not only on his own insights and arguments, but primarily on the stream of Catholic tradition, and the fixed principles of Catholic teaching. I do not mean by this that Dr. Ryan's work is theological rather than ethical. But I think his results and applications illustrate clearly that even when revelation is only a "negative norm" of ethical science, the Catholic who writes ethics depends heavily on authoritative teaching as well as on the process of reason in reaching his final directives for daily life.

For the past two and a half years the Chicago Ecumenical Group has been engaged in an historical and constructive study of the concept of the law of nature. It is a project of joint scholarship carried out by theologians from various Protestant seminaries, in co-operation with other scholars, especially jurists. Professor James Luther Adams contributes two papers which form part of the projected series. The first, "The Law of Nature: Some General Considerations," apparently seeks a descriptive definition of what is meant in modern times by natural law.[3] "Since the major purpose of a Law of Nature has been to establish and justify a criterion for justice," Professor Adams sums up the elements of natural law in terms of justice as follows:

1) Justice is no merely human convention or ideal but is grounded in the fundamental structure and meaning of the universe; or, when viewed as an ideal, it is 'a possibility in things that are.'

2) Justice is grounded also in the rational and social nature of man, which is itself a manifestation of the fundamental structure of reality and is capable of apprehending the justice grounded in that structure.

3) Justice is to be apprehended by reason, the distinguishing possession of all men; hence, it is intelligible, universal, and immutable; it is not to be identified with

[2] Louise Saxe Eby, *The Quest for Moral Law* (New York: Columbia University Press, 1944); cf. the reviews in *Thought*, XX (1945), 160 (Vernon J. Bourke), and in *Journal of the Bible and Religion*, XIII (1945), 47–48 (John M. Moore).

[3] James Luther Adams, "The Law of Nature: Some General Considerations," *Journal of Religion*, XXV (1945), 88–96.

the irrational, or with mere custom, arbitrariness, power, or interest; it is rather a criterion to which positive law and custom should conform.

4) Since justice is intelligible and does not rightly depend upon mere *fiat*, it ideally requires consensus—the consent of the governed.

5) And since justice is universal and thus the same for all men, the legal rights of all citizens ought to be equal, that is, all men stand equal before the law.

It is surprising that such an extended description of what is meant by natural law should make no explicit reference to God, or to the dependence of natural law on divine law, and that it should refer so explicitly to the idea of the consent of the governed. After all, the idea of divine law and divine justice has been the most prominent feature of thought on the natural law for hundreds of years; and the idea of the consent of the governed is a comparatively modern innovation, not prominent outside the Anglo-American tradition.

But apparently Professor Adams is pretty sceptical about the whole business. He even objects to the principle "that all men share one common human nature" as a basis for formulation, because it leaves out of account "the variability of human desires and sensitivities in different times and climes." His outlook is frankly relativist; hence he has little sympathy with the universal, the immutable, the absolute. In a footnote he says: ". . . . the conception of natural law enunciated by the Catholic . . . does not prevent his accepting the *fiat* of an absolute and totalitarian church, through the medium of *ex cathedra* pronouncements on 'faith and morals.' *Without* natural law we get a totalitarian state (say the Catholics); and *with* it (in this instance) we get a totalitarian church which strives always for a monopoly on 'religion' and 'education.' The Bull *Unam Sanctam* is still good Catholic doctrine, adhered to in certain 'Christian' states." The tone and content of this note raise doubts as to Professor Adams' competency and objectivity.

The second article, "The Law of Nature in Greco-Roman Thought," for the most part covers ground which has been covered before.[4]

Another Protestant view of natural law, and in fact of our moral theology in general is discussed by Dr. Benard: "Reinhold Niebuhr and the Catholic Church: Part III, Catholic Moral Teaching."[5] Dr. Benard finds Dr. Niebuhr a very unsatisfactory exponent of things Catholic, and, in particular, of the Catholic conception of the natural law. Perhaps it is an exaggeration

[4] James Luther Adams, "The Law of Nature in Greco-Roman Thought," *ibid.*, 97–118.

[5] E. D. Benard, "Reinhold Niebuhr and the Catholic Church: II. The Intolerance of Catholicism," *American Ecclesiastical Review*, CXI (1944), 401–18; "Reinhold Niebuhr and the Catholic Church: III. Moral Teaching," *ibid.*, CXII (1945), 81–94.

to say, "There is nothing mysterious about it [the natural law], nor is it difficult to understand." Sometimes I think our Protestant brethren, and our agnostic jurists, do not understand what seems so clear to us because they do not have access to the best treatises written in Latin, from which we study our principles of natural law. But apart from this, Dr. Benard, while recognizing the sincerity of Niebuhr's work, finds it "informed by an uncritical bias" when it touches things Catholic. "The irritating aspect of this attitude is, of course, the air of calm, superior, impartial scholarship which many modern non-Catholic writers assume when they speak of things Catholic." I have experienced this irritation, especially during the past few years. Am I mistaken in thinking that as between Catholics and Protestants there has been an increasing acerbity in expression of late? If so, I know of only one remedy: a single-minded devotion to the expression of the truth by both parties to a controversy, the frank admission both of points of agreement and of disagreement, with no attempt to gloss over or minimize the differences, and a rigid *presumptio de jure* that the other man is sincere and truthful and therefore immune from all personal attack, or bitter innuendo. I think Dr. Benard would agree with me on this. His criticism of Niebuhr's "unwarranted, uninformed, and unfounded attack upon something every Catholic holds dear" is strong indeed; but he makes it plain that his "remarks were never meant, nor do we believe that they can be construed, as an attack upon the man himself."

Like Professor Adams, Lucas de Penna (is the name unfamiliar?) bases the ultimate authority of law on the virtue of justice, which, conceived as transcendental in its origin, is immutable in its nature. But he is more explicit as to the divine element and asserts that "justitia (sicut verissime Trismegistus definit) nihil aliud est quam Dei motus." Dr. Walter Ullman writes of this too little known Italian jurist of the Neapolitan school (born about 1320) in "A Mediaeval Philosophy of Law."[6]

From the time of Savigny it has been fashionable in northern countries to belittle the contributions of mediaeval Italian scholarship to jurisprudence. Dr. Ullman supplies the few extant biographical details about Lucas and then describes his voluminous writings and "extraordinarily wide learning. . . . Work and method display the character of a unique personality, whose brilliance of thought, vastness of erudition, and power of lucid expression by far excelled those of his contemporaries. . . . His analyses are characterized by the exclusion of the dialectical method and by his independence of thought. He speaks of the dialectical method, in its heyday in his time,

[6] Walter Ullman, "A Mediaeval Philosophy of Law," *Catholic Historical Review*, XXXI (1945), 1–30.

in somewhat sarcastic terms. . . ." The paper proceeds to explain the salient features of Lucas' philosophy of law. Among the points in this scholarly paper which arouse interest, especially in view of the times in which Lucas lived, is his refusal to accept "a rigidly static and inflexible conception of justice. . . . In his opinion only a certain emotional attitude enables the interpreter (judge or commentator) to counteract those disagreeable excesses of interpretation. The intelligent and efficient interpretation of law presupposes the operation of a corrective or regulative element. This element, he declares, is charity, which at the same time is a constructive and creative element of the idea of law. . . . 'Superabundantia et defectus omnia corrumpunt, medium autem salvat, charitas aedificat.' "

The author also presents a summary of Lucas' thought on equity, that much discussed concept which moralists usually call *epikeia*. We may expect a dissertation in the not too far distant future on this somewhat baffling concept from the pen of Dr. Lawrence Riley, who is preparing it at Catholic University.

Since 1945 marks the four hundredth anniversary of the Council of Trent, *Razón y Fe* has devoted all of its large (300 page) issue of January, 1945, to a discussion of the Council. One of the papers, "El derecho Tridentino,"[7] summarizes the contributions of Trent to ecclesiastical law and remarks that *romanità*, centralization, and a greater insistence on spiritual values in canon law were the result of that great Council. The new orientation of religious life toward the apostolate, and the growth and influence of the present administrative bodies of the Church, the Roman Congregations, come in for special mention. The natural evolution of Tridentine decrees brought us finally (or should I say, up to the present?) to the formulation of the Code. I doubt if any large work of codification can be found to compare with that of the Code under which the Church now operates and lives. The Continental codes, some of them at any rate, are highly scientific, juristically. The *Restatements* of the American Law Institute, which are not legally binding but aim at stating the law in a codified form, are admirable. But the reason why the Code seems to me to have succeeded in surpassing other efforts, is that the philosophical concepts underlying canon law are so definitely and traditionally fixed, that the words expressing these concepts and the law itself have a comparatively clear and predictable meaning. Roscoe Pound calls attention to the crowning accomplishment of canon law—its combination of definiteness and stability along with a practical adaptability to changing conditions.

[7] R. Sanchez de Lamadrid, "El derecho Tridentino," *Razón y Fe*, CXXXI (1945), 127–49.

The mention of the *Restatements* brings to mind a paper by B. H. Wortley on "The Christian Tradition in English Law."[8] His object is to remind his readers of the priceless treasure of Christian ideals and concepts that form part and parcel of English law, even today when the culture of the country has become largely secularized. The article is not meant to be exhaustive, but merely lists somewhat haphazardly the examples which come to the author's mind ("away from law libraries, at odd moments of service life"). Some of these examples (e.g., extreme protection of chattel property, wide view of answerability for negligence, the presumption of good character and refusal to admit evidence of past unconnected crimes) do not seem to me particularly apt to illustrate the thesis that English law is based on Christian foundations. And perhaps I am captious in discerning a naive assumption of the superiority of Anglo-American law over Continental systems. When the comparison is with Nazi and Soviet innovations as to state supremacy, of course all will agree with it. Personally, however, I have found that common-law lawyers sometimes exalt the glories of their own legal system because of their slight acquaintance with any other. On the other hand, we should recognize the priceless things that our law has maintained for us and recognize their Christian origins. Mr. Wortley's article does this for us.

Two Spanish publications on law may be mentioned here. The first is a discussion of Suarez' conception of law.[9] It refutes successfully, according to Fr. E. Guerrero, S.J., the charge that Suarez was a voluntarist, who depressed the value of reason in the constitution of law, and the matter is apparently considered one of importance to the national reputation, for Father Guerrero congratulates the author on helping to dissipate "one of the blackest chapters of the black anti-Spanish legend: the attack on Francis Suarez as a Spaniard and as a son of the Society of Jesus." The theme of the book interests me because of some remarks I made previously in these pages about conceiving law and obligation independently of the divine will.

The other work is a general treatise on law by Fr. Lucius Rodrigo.[10] It is a large, comprehensive, and scientific work which receives the highest praise—in fact the praise is almost rhapsodic—from the eminent writer on law and politics, Fr. J. U. Guenechea, S.J. Though the work was published

[8] B. A. Wortley, "The Christian Tradition in English Law," *Month*, CLXXXI (1945), 28–38.

[9] Andres Avelino Esteban Romero, *La Concepción suareziana de la ley* (Sevilla, 1944); reviewed by E. Guerrero in *Razón y Fe*, CXXXII (1945), 79.

[10] Lucius Rodrigo, S.J., *Praelectiones Theologico-Morales Comillenses, II: Tractatus de Legibus* (Santander: Editorial Sal Terrae, 1944); reviewed by J. N. Guenechea, S.J., in *Razón y Fe*, CXXXI (1945), 393.

in 1944, I have not yet seen it in this country. Fr. Guenechea considers it an indispensable requirement in the library of every moralist and canonist.

The pages of *Razón y Fe* contain a great deal of interest to the moralist. The bibliographical material is excellent. A series of articles on the morality of bullfighting raises some fundamental issues. The first article, "La Iglesia y los toros," is of a general and historical character.[11] The writer whimsically indicates how these contests are so much a part of the national life of Spain that even the language of religious poetry borrows its symbolism from the ring. Of the Immaculate Conception Valdivielso wrote:

> Solo se escapó la Reina
> que al atrevesar la plaza
> quiere acometerla un toro
> y un galan le echó la capa.

During the sixteenth century there were several papal denunciations of bullfighting, which at that time involved a good deal of danger for the participants and even for the spectators. The rules of the game were not well established. The fights took place at times in the market places and all through the streets. The result was serious danger to life and limb and excessive cruelty to the animals. St. Pius V, partly at the instigation of St. Francis Borgia, published a brief condemning the fights as "turpia et cruenta daemonum non hominum spectacula," and punishing participants with excommunication, and clerics with further penalties. A few years later Gregory XIII restricted the penalties to clerics in major orders, and about twenty years after that Clement VIII restricted them to monks, mendicant friars, and all other members of religious orders. Father Pereda describes the excesses which led to these condemnations; it was even necessary for some diocesan synods to forbid clerics to try their skill as bullfighters!

Moralists who discussed the matter did not, however, think of bullfighting as something intrinsically wrong, and when they differed as to its sinfulness, it was generally because of differences in the concrete circumstances of the game, which varied the elements of cruelty and danger. Petrus Hurtado, the Jesuit moralist, was considered particularly severe in his interpretation of the papal documents, by those who tried to excuse from mortal sin religious who disobeyed the popes' commands and witnessed the spectacles. Even among the bishops there were some bullfight fans, and they were not too anxious to accept the papal decrees. A curious angle of ecclesiastical history is uncovered when we read that the bullfights were

[11] Julián Pereda, S.J., "La Iglesia y los toros," *Razón y Fe*, CXXX (1944), 505–24.

very frequently presented in connection with religious celebrations, such as the festivities occasioned by the canonization of St. Ignatius and of St. Theresa, which cost the lives of over 200 bulls.

The second article, "La Universidad de Salamanca y el breve de Sixto V sobre los toros,"[12] describes the particular difficulties in which the University found itself when its faculty and students were forbidden to participate in the *corridas*. The papal prohibition did not escape the distinctions of moralists, and apparently failed for the most part to diminish the enthusiasm of the University for its favorite sport.

The third article, "La Moral y los toros,"[13] defends the game against the charge of cruelty, made by Cardinal Gasparri in rather strong language in 1920, and frequently heard outside Spain. The author insists that animals have no rights; they are meant to serve man not only in his fundamental necessities but also for his entertainment; if the use made of the animals is according to reason, it cannot be called cruelty even if it involves some suffering on their part. He rejects the sentimentalism of those who weep at the sufferings of animals while hardening their hearts to human misery. Cruelty supposes an abuse of one's superior position and a cowardly pleasure in the sufferings of the victim. In the bullfight you have bravery and intelligence vs. blind force. The result is a spectacle of beauty. The author also points out the distinction between professional and amateur contests. The latter he considers generally indefensible. In the professional spectacle, however, he finds little to condemn, except the unnecessary exposure and suffering of the horses at the end. He confirms his defence of the institution by pointing out that, if bullfighting is immoral, so must be hunting and fishing for pleasure. And boxing, of which he promises to say more later on. Finally, as far as cruelty is concerned, he inquires what the bull would prefer if he could speak—to live a short life of splendid action and public glory, or a long, tedious life beneath the yoke. It is clear that Father Pereda thinks the trained fighting bull has the happier and more desirable lot. But it would not be too difficult to argue: *datur tertium*. Once you grant the bull the power to choose, he might choose a *long* life of public splendor.

The fourth article in the series, "La Moral y los toros: El peligro de muerte,"[14] takes up the morality of human beings' exposing themselves to the danger of death or serious injury in the ring. The author agrees that

[12] R. M. de Hornedo, S.J., "La Universidad de Salamanca y el breve de Sixto V sobre los toros," *Razón y Fe*, CXXXI (1945), 575–87.

[13] J. Pereda, S.J., "La Moral y los toros," *ibid.*, CXXXII (1945), 105–15.

[14] J. Pereda, S.J., "La Moral y los toros: El peligro de muerte," *ibid.*, 291–304.

for spectators to rejoice in seeing a human being in danger of death would be highly immoral. But he points out, first, that properly organized professional bullfighting involves only slight danger to the participants. He adduces many statistics to prove this point. In Spain during the season 1944–1945, there were contests in which 1500 bulls were killed and 2930 contestants participated; there were no deaths and only two injuries that could be called serious. He compares the danger in these spectacles with that of acrobats, tightrope walkers, wild animal acts, mountain-climbing for sport, etc.

The difficulty, he says, is not in admitting the fact of some danger for the performers, but in explaining how it is permissible for the spectator to take pleasure in the dangerous situation of a fellow-human. Unless there were danger, or the appearance of it, the spectacle would not be attractive at all. However, he believes that the direct source of the pleasure is the skill, elegance, and courage with which the performers overcome the apparent or real danger. (I am reminded of an old time circus performer who told me, in describing his somersaulting bicycle act, that it was a success because it gave the public just the right proportion of "danger and beauty; danger's not enough; it must be beautiful." Aesthetic preferences are unpredictable, of course). Father Pereda comments on the love of children for tales of dangerous adventure, and on the psychological fact that human beings are attracted naturally to what has the appearance of danger. And yet the great Scholastics and moralists never saw anything to condemn in such pleasure-seeking. To the objection that diversion is not sufficient reason to justify the exposing of human life to danger, the author replies by pointing to the slack-wire performers, mountain-climbers, auto races, etc., etc. And he believes that the *bonum delectabile* is important enough to justify whatever danger is indirectly involved.

I have resumed these articles somewhat at length because I think they treat a subject which involves several points fundamentally important to the moralist. Besides, they perhaps illustrate the divergence between Latin and Anglo-American culture, or, should I say, Latin and Anglo-American feeling. The points on which I should like to comment are, first, the morality of directly intending danger to one's own life, and secondly, the notion of cruelty in relation to animals, and the "rights" of animals.

What is danger of death? It should be conceived, I believe, as something existing objectively in the circumstances we call dangerous.[15] Since it involves, however, mere probabilities, one is tempted to think of it as

[15] On the definition of danger, see my notes in THEOLOGICAL STUDIES, III (1942), 589–90.

something with a conceptual rather than an objective existence. But if danger of death is defined as a set of objective circumstances or facts which taken together include causes which will probably result in death, the objective character of danger is more clearly indicated. The reason why this concept is of any moment for the moralist is because he has to decide when a man may endanger his own life and when he may not. It is clear that one may never directly intend one's own death; that is suicide. But do we not commonly say, "perinde est in moralibus facere ac exponere se periculo faciendi"? In other words, if it is wrong to intend one's own death, is it not also wrong to intend the danger of death? I think that it is, on general principles. But lest this be misunderstood, the reader should remember that I am speaking only of such dangers as include a real probability of the evil result. Besides, I am speaking only of the direct intent to endanger one's life. There are innumerable cases in which one undertakes a dangerous and permissible course of action, directly intending acts that are accompanied by danger; e.g., one may swim out to save a drowning man, etc. But in these cases the thing directly intended is not the danger itself. That is (actively) permitted, or, if you like, indirectly intended. The direct intent is, for example, to swim out and make the rescue. A large number of the cases in which it is permissible to endanger one's own life are covered by this principle of the double effect. But it seems to me that for clarity's sake, for accuracy and precision, we should point out that in such cases one intends to endanger one's life only indirectly, that the activity *as dangerous* is not a means to the end sought. One intends acts which are dangerous but not inasmuch as they are dangerous.

In most cases of circus performers, funambulists, high-divers, bullfighters, etc., it is possible for the performers to avoid intending directly any real danger to their lives. I am sure that, generally speaking, they do not as a matter of fact have any such direct intent. Furthermore, the skill of the performers is such that whatever danger there is, is more apparent than real. (One must admit, however, that such occupations are correctly termed dangerous for actuarial purposes. If the Wallendas have any life insurance, they are paying a very high premium for it.) Hence the thrill of qualified fear that delights the spectators is not a taking of pleasure in the danger of death. It is like the thrill that a spectator at a drama feels when the murderer creeps into the miser's study. Though we know that no real murder will be done, our imaginations are stronger than our intellectual appreciation.

Of most of these dangerous spectacles, therefore, I believe it can be said: (1) that there is little real danger, i.e., real probability of death or serious

injury; (2) that the performers do not intend directly the dangerous element of their performance; (3) that they have usually sufficient reason (the need of making a livelihood) to permit their incurring whatever danger there is; and (4) that the spectators' pleasure in the dangerous element in the performance is in the realm of make-believe. If the spectator were up on the high wire, it really would be dangerous; he can't forget that, and that is why he is thrilled with pleasurable feelings, mixed with awe, quasi-horror, and delight at the skill of the performer.

But suppose we change the case of the circus performer a little. Let us suppose that a trapeze artist who generally works with a full net below him, and occasionally falls into it, decides to increase the attractiveness of his performance by doing away with the net. I think such a way of acting is intrinsically immoral, not merely because he greatly increases the danger to his own life and limb, but because he directly intends the danger as a means of making more money. He uses the dangerous act *as such*, in order to attract the public. I think this is intrinsically indefensible. For the same reason I believe that a hunger strike is affective suicide. The striker intends the danger to his life as a means of compelling the unjust tyrant to change his course.

It was from this point of view that I condemned in these notes two years ago the practice of training soldiers by having them crawl under live machine-gun fire. Hardly anyone of those I heard from agreed with my solution of that case. Naturally, I am not so convinced of my opinion as to insist on it in the face of such opposition. But it makes me believe that the question of directly intending danger of death requires further study.

The most practical application of the principle occurs in the case of experimentation on human beings. All are agreed, of course, that in no case is it permissible to make a dangerous experiment on a human patient without his consent, or that of his legitimate guardian. It is likewise clear that the trial of a new procedure as a desperate expedient in order to save the life of a patient is permissible with his consent.

The point of getting the patient's consent is increasingly important, I believe, because of reports which occasionally reach me of grave abuses in this matter. In some cases, especially charity cases, patients are not provided with a sure, well-tried, and effective remedy that is at hand, but instead are subjected to other treatment. The purpose of delaying the well-tried remedy is, not to cure *this* patient, but to discover experimentally what the effects of the new treatment will be, in the hope, of course, that a new discovery will benefit later generations, and that the delay in administering the well-tried remedy will not harm the patient too much. In one highly

respected clinic the delay caused serious harm to several patients and was apparently the principal contributing cause of the death of one of them. This sort of thing is not only immoral, but unethical from the physician's own standpoint, and is illegal as well. But it is useless to proceed either at criminal or civil law against the practitioner. All the witnesses will be either physicians or other professional personnel. Even the questions of fact are almost entirely within the control of the persons accused. Proof in court is too difficult to be worth the trial. The patients in public mental institutions are particularly liable to mistreatment of this kind, though I have no current reports of abuses. These patients are often unable to give reasonable consent themselves, and the hospital authorities, when they ask permission of relatives or guardians, are sometimes not sufficiently clear as to the experimental nature of the proposed treatment. The permission seems to be asked in a formal and perfunctory way, with a view rather to protecting the hospital authorities legally, than to safeguarding the human rights of the patient.

But is it permissible to make a dangerous experiment on a human being even with his consent? Here I am speaking of an experiment involving serious danger to life itself. The word "experiment" is perhaps not very apt since it often has a different connotation to the professional medical man. A doctor may speak of a routine blood test as an experiment. To the layman and to the moralist, however, the word means a procedure comparatively new and untried; and as I use it here, it is restricted to seriously dangerous procedures. (The experiments which involve danger of sickness, or danger of the loss of a limb are governed by somewhat different principles; for to some extent one can make use of his own body and its members in the interests of the human family, even if the use results in bodily harm. Fr. Bert Cunningham's dissertation on organic transplantation develops this principle well.[16])

The yellow-fever experiments are a typical example. In those cases certain doctors and soldiers permitted themselves to be exposed to serious danger of death in order to find out whether mosquitos carried the deadly fever. Some deaths resulted, and naturally the men who volunteered were hailed as heroes. Their courage and unselfishness were beyond all praise. But did they have the right thus to expose themselves to death? I do not believe they did, because the nature of the experiment demanded not only the intent to do a dangerous thing, but the direct intent of the danger itself. It was only by means of the danger to the lives of the volunteers that the

[16] Cf. THEOLOGICAL STUDIES, V (1944), 517.

doctors were able to get the knowledge they wanted. The danger itself was a means to the end desired, as I read the history of the case.

It is interesting to note that when we say that the danger itself is a means, we are saying that it is a *cause* of the good result desired. And if it is recalled that the very notion of danger as defined above involves the objectivity of a probability, it is not surprising that the only cases in which it seems possible to intend as a means the use of danger as such are cases in which the causality is *moral* efficient causality. The trapeze artist uses danger to attract people. The danger motivates them through their intellectual faculties. The hunger-striker uses danger to put pressure on the tyrant. The medical experimenters use danger as a means to increase their own knowledge. In the machine-gun practice, the danger teaches the soldiers a lesson in a way they will never forget. All this may seem too finely drawn, but I offer these considerations with a view to exploring an elusive concept, and reducing to a consistent analysis moral solutions which most of us are agreed upon.[17]

Would the following be an acceptable summary? (1) It is never permissible to experiment without the patient's consent, which, however, can be reasonably presumed at times where minor matters are concerned.[18] The reason is the right of the patient to the integrity of his own members, and the further rights he acquires either because of his contract with the physician, or because the physician has undertaken to care for *him*, not for future generations or the advance of science. (2) It is permissible to experiment with the consent of the patient, when there is no danger to life, even if there is danger of sickness or temporary bodily harm. The reason why one may expose oneself to sickness or temporary harm seems to be based on the common-sense idea that a man has at least that much dominion over his body, so long as he is acting reasonably, and not uselessly or recklessly. (3) Whether it would ever be permissible to experiment with permission when there is danger of a permanent injury, such as the loss of an eye or a leg, is doubtful. The only principle that might justify it theoretically would be that of the unity of the human family and the consequent right we may have to make use of our members, even to destruction, for the sake of others. Even theoretically, I question this, and in practice there would hardly be a sufficient reason to justify the sacrifice of an im-

[17] Compare the question, when is it permissible to enter an occasion of sin, especially a mortal sin, thus endangering the life of the soul?

[18] Sometimes a patient has exaggerated fears, and has to be treated as a child. The mere request for permission to do anything might be distressing. In a minor matter, the conscientious doctor can use his common sense; for instance, he may take a few extra cc's of blood for his own laboratory purposes, in the course of a routine blood test.

portant organ for a vague and doubtful future good. In practice it should not be permitted. (4) A dangerous remedy used as a desperate expedient for the patient's own good and with his consent is permissible on the principle of the double effect. Or at least it can be said that the danger is not directly intended in such a case, and that there is sufficient reason to permit it. (5) But an experiment which is truly dangerous to life itself, the purpose of which is to advance scientific knowledge and benefit future humanity, cannot be permitted even with the consent of the patient. Neither the doctors nor the patient have dominion over his life. If there is some way of applying the principle of the double effect here, I do not know what it is. I think the nature of such experiments involves a direct intent to endanger life. And just as it is immoral to intend one's own death directly, so it is immoral to intend directly the danger of death. "Perinde est in moralibus facere ac exponere se periculo faciendi."

Turning from experimentation on humans to experimentation on animals, we meet the problems of vivisection and animal rights. The New England Anti-Vivisection Society publishes a monthly magazine called *Living Tissue*.[19] The objects of the Society are described thus: "The objects of this Corporation are systematic, scientific research, relative to the practice of vivisection, its relation to science, and its effects upon those who practice it and upon society; to make frequent public reports; to expose and oppose secret or painful experiments upon living animals, lunatics, paupers or criminals; to urge education and legislation in pursuance of these ends; to issue tracts, pamphlets and other publications; . . ."

This organization is probably representative of other antivivisection societies in its main purposes, but differs from them, I believe, in the type of publicity used. Their monthly magazine rarely shows pictures of animals tortured under the experimenter's knife, nor are such horror-providing exhibitions made use of any longer in their window displays. Most of the material is descriptive of animal pets, or tells stories of friendships between men and animals, the devotion and bravery of dogs, etc. The president of the Society contributes each month an article of a humane and uplifting character. Although one of the objects of the organization is to oppose human experimentation, the principal emphasis is on animals. Even in the statement of purposes, animals are named first and humans second, and not much data is gathered about abuses in the case of human beings; attention is devoted largely to the abuse of animals. This is not said by way of criticism but is merely mentioned as a matter of fact.

It may come as a surprise to read the strong statements from Catholic

[19] Published by the New England Anti-Vivisection Society, 6 Park St., Boston, Mass.

sources which favor the cause of the antivivisectionists. Cardinal Gibbons was a vice-president of the National Anti-Vivisection Society of England, and connected with the cause in this country. The late Archbishop Ryan of Philadelphia was an honorary member of the American Anti-Vivisection Society. Cardinal Manning spoke at seven antivivisection meetings and presided at one of them. He called vivisection "a detestable practice without scientific result and *immoral in itself*" (italics added). G. K. Chesterton confessed: "I am a strong antivivisectionist." Among the members of the New England Society there is at least one Catholic bishop.

If I am not mistaken, there is often a tendency among medical men and the Catholic clergy to consider antivivisection as a sort of fad which sensible people have nothing to do with. Perhaps this is due to exaggerated sentimentality on the part of certain antivivisectionists, and to the emotional and inaccurate way in which they have sometimes presented their case. But I believe that there really is a moral problem involved, and that therefore the subject deserves more serious consideration. Most of the ground has been gone over before, so my comments will be summary.

Cardinal Manning to the contrary notwithstanding, it is impossible logically to maintain that all painful experimentation on animals is "immoral in itself." And very few would agree with the late Lord Coleridge, Lord Chief Justice of England, who after long study said: "I have come to the conclusion that control it [vivisection] you cannot . . . and that vivisection should be absolutely prohibited." Animals are obviously made for man, and even their lives are at our disposal for legitimate purposes. They are not killed or caught for food without inflicting pain on them. It is legitimate to ask the absolute antivivisectionist how he justifies the killing of animals for food, or to ask the antivivisectionist woman why she wears furs that have been gathered only at the expense of much suffering and the life itself of the animals. I am sure the claim that all vivisection (which is not for the good of the animal itself) is intrinsically immoral can find very little support in a rational system of ethics.

For the Catholic moralist, the principal question is whether or not there are widespread *abuses*, i.e., the inflicting of useless and unnecessary pain on animals, and the further question whether legislation is the method of controlling such abuses, where they exist. The majority of medical men and scientists—the great majority, in fact—believe that at least some experimentation on living animals is not only useful but absolutely necessary for the protection of human life and health. The reason they rise up en masse and fight tooth and nail against antivivisection legislation is partly because they are afraid of that absolute prohibition favored by Lord Cole

ridge, at which antivivisectionists avowedly aim. Another reason may be that they are afraid that certain practices which they are only too ready to tolerate will be condemned as abuses. There is no doubt that the generality of scientific investigators would have a very different standard from that of the antivivisectionists for determining what was an abuse, what was really necessary suffering, etc. Their training makes them put a lower value on animals, and tends to make them underestimate rather than overestimate the evil of animal pain inflicted by human beings. My opinion from reading somewhat sketchily on this subject is that there are real abuses. Unnecessary painful experiments are repeated merely for demonstration purposes, not to acquire new knowledge useful to human life and health. Anesthesia is neglected even when it is practicable, and laboratories are not always too careful about the source from which their animals come. Their methods of obtaining them encourage the stealing of pets. And to correct these abuses I see no way except to encourage carefully drawn legislation which will safeguard the animal from abuse, while making it possible for scientists to continue their necessary researches.

The trouble is that about the only ones interested in promoting legislation at all are the antivivisectionists, and they are avowedly aiming at complete prohibition. I am afraid they will not get much of a hearing so long as they take this extreme position.

Some other reasons can be adduced why antivivisectionism does not generally appeal to the Catholic moralist. There seems to be a feeling that animal lovers love animals more than children or other human beings; also, that if a census were taken of antivivisectionist membership it would reveal a large preponderance of women, a preponderance of childless women, and possibly an undue proportion of women childless by choice. The publicity given by the press to eccentric wills in favor of animals, and to the excessive affection spent on animal pets, also hinders the cause of the antivivisectionists.

Another cause of distrust in Catholic circles is the recurring theme of the "unity of all living things." Thomas Hardy is quoted to the effect that "all organic creatures are of one family." No Catholic can subscribe to such dogma; it is heretical. So far as Catholic theology is concerned, the antivivisectionists weaken their case and fail to arouse any sympathetic response precisely for these reasons: they make the infliction of pain on animals absolutely immoral; they put their case on human and sentimental grounds, rather than on a rational ethical basis; and they come close to evolutionary theory by insisting on the unity of all living things.

One final point on the question of cruelty to animals will bring us back to

the bullfighting which led us to all these thoughts. Both antivivisectionists and Catholic moralists are agreed that the practice of cruelty to animals—real cruelty, the unnecessary or excessive infliction of pain—has an evil moral effect on the practitioner and leads him to become hard and insensible even to human sufferings. The last fifteen years have taught us to what utter extremes of horror human beings can go in inflicting torture on their fellow-men. The concentration camps of the Soviets, the mass-tortures by the radicals during the Spanish civil war, the unspeakable atrocities committed on a large scale by the Nazis and the Japanese, the occasional stories we hear about cruel treatment of the enemy by American soldiers, and, to top it all off, the greatest and most extensive single atrocity in the history of all this period, our atomic bombing of Hiroshima and Nagasaki—all this has been more than enough to teach us how prone to cruelty the human animal is. For that reason I think moralists should encourage a movement to the extent that it aims at eliminating abusive treatment of animals, and should not dismiss antivivisection with undue nonchalance.

And what about the bullfighting? I think Fr. Pereda's articles were very satisfying so far as the danger of death to the performers was concerned; but, if there was a weak spot in the argument, it was the too ready assumption that the bulls do not care, and if they did, it would not matter. I have never seen a bullfight, and hence it is hard for me to estimate to what extent sentiments of cruelty are fostered in the spectators. I suppose Father Ubach, now deceased, who wrote in the twenties and thirties, never saw a boxing match. He apparently thought the gloves were weapons; for he was firmly convinced that a prizefight was a duel, which is generally defined as a contest between armed men; hence he would consider the participants and spectators all subject to the excommunication of the Code. I think he would have made a stronger case, so far as cruelty is concerned, if he pointed at some of our American professional wrestling matches. At these matches the agony of the wrestlers may be for the most part simulated, but the simulated sufferings are presented for the delight of the audience. I believe it is much harder to justify this kind of make-believe than the pleasure the spectators take in watching a skilled circus performer put on his death-defying feat.

Without passing any moral judgment on bullfights, I should like these remarks to serve the purpose of calling the attention of moralists to the importance of combatting cruelty everywhere, whether to men or to animals, in order to safeguard man against his natural tendency to take pleasure in the sufferings of others.

Let me go on to comment on several matters connected with the virtue of

justice. First, there is the question of the right of a dead man to his reputation, even though he no longer derives any benefit from a good reputation. (His friends and relatives do, perhaps.) That is one of the points in the treatise *De Justitia* which is taught by everyone, so far as I know, but is not lucidly clear to everyone who teaches it. Another such point is the right of a secret sinner to his public good name. It is easy enough to see that the virtue of charity (the highest and most universally obligatory of the virtues) requires that I should not reveal a man's secret sins to his detriment without having a very grave reason to do so. But our teaching goes farther than this. We say that I violate commutative justice if I reveal such sins, and must make restitution, as one who has stolen something. In this case, the thing stolen is a good public reputation which the owner does not really deserve. Where is the right to a good name in these cases? The fact that a man *is* good gives him a right to a good reputation. But when the fact is otherwise, what title founds the right to a good opinion which is falsely entertained?

A man's public actions do not seem to be a sufficient title; for these, if they are good, are a good reason why men should think well of these particular actions, and think well of the man inasmuch as he is their author. But they do not seem to do more than this. The need of a man for a good name in order to reach his last end, etc., certainly shows that a man ought to keep his good name so long as his sins are not public. But how does this need become the foundation of a right in commutative justice? Is not this need satisfied by the obligations of legal justice and of charity, which make it obligatory on us to protect his reputation, especially when we consider that, once the secret has been given away, there is almost no means of making restitution, at least in practice. And the mere fact that he is in possession of a good name to begin with and does not lose it by the commission of secret crimes, does not seem to be a very strong argument in favor of his right; for mere possession does not found rights, but possession along with a legitimate title. And it is hard to find the title to a false reputation.[20] It remains true, however, that in spite of these speculative difficulties the common doctrine is so firmly established that in practice it would take a good deal more than this kind of "sniping" to dislodge it.

Father J. McCarthy discusses another problem-child of the treatise *De Justitia* in answering a question about the obligation of a possessor in bad faith to make restitution to the poor when he cannot discover the true

[20] For the general principles, see P. Lumbreras, O.P., "De Jure ad Famam," *Angelicum*, XVI (1938), 88–91.

owner of the goods.[21] He sums up his reply: "It is the almost unanimous opinion of moral theologians that the possessor in bad faith is bound to make restitution of his ill-gotten gains to the extent possible, even when the real owner is unknown. The contrary view proposed by Wouters is neither extrinsically nor intrinsically probable. In point of fact, Salsmans . . . does not put forward the unusual view of Wouters. Even if he did, the conclusions just given would stand. In our opinion the *obligatio possessoris malae fidei se spoliandi* is of natural law. The destination of the ill-gotten gains of which the possessor is deprived is a matter for positive determination when the owner is unknown. Custom seems to have determined that they go to the poor or to pious causes."

A religious institute is a pious cause. And according to canon law the salaries of professed religious who are teachers or are otherwise gainfully employed are acquired by the institute, not by the religious. The question arises, therefore, whether such salaries are subject to income tax, since they are paid in the name of the individual religious and not in the name of the institute.[22] The question has arisen, not in Russia, however, but in Ireland and in the United States. It is the opinion of Fr. McCarthy that there is no obligation in conscience for a professed religious to pay any income tax on such salaries, or even to make a return. (Of course, the case of religious who still own property and receive income from it is quite different.) In the United States, the Treasury Department recognizes the fact that the salaries of professed religious are acquired for their institute and hence it is not lawful for the employers of religious to withhold a percentage of their salary for income tax purposes.

If a religious were living under an unfriendly regime and were required to make a tax return, could she swear to a statement that she received no salary? In some countries, the statements must be made under oath; in others, they are made "subject to penalties for perjury," but no oath is required. In the United States, when an oath is required, it is generally left to the conscience and religious convictions of the individual to decide whether he shall "swear" or "solemnly affirm." This was a concession to the Quakers. I do not believe it would be a lie for a professional religious to say she received no salary. And she could swear to her statement. But whether, under an unfriendly regime, this would be the end of her income is another question. Practically, she would have to pay the tax in order to continue to receive any salary.

[21] J. McCarthy, "Restitution of Goods by Possessor in Bad Faith," *Irish Ecclesiastical Record*, LXIV (1944), 338.

[22] J. McCarthy, "Payment of Income Tax by Professed Religious Teachers," *ibid.*, 392.

Incidentally, is it permissible for a Catholic to choose the alternative granted by our laws, and "solemnly affirm" instead of swearing, when called as a witness in court, or when making out income tax returns, etc.? His reason for doing so would be obvious. He would intend to lie—a lie that would be only venially sinful—but would want to avoid the mortal sin of perjury. Would the "solemn affirmation" coming from a Catholic be the equivalent of a fictitious oath? In practice, I would strongly advise against all such evasions. The world has been brought to ruin by a lack of respect for common honesty in dealings between nation and nation, man and man. The truth is the most sacred thing there is to protect. Anything that breaks down respect for the truth will react eventually on the happiness of all men. It is hard on conscientious people, whether Catholic or non-Catholic, to live up to a code of truthfulness which demands financial sacrifices, when others, thinking lightly or not at all of the solemn character of an oath, invoke the name of God to confirm a lie without scruple. But the cause of morality will not be served by encouraging the harassed faithful to resort to subterfuge or questionable reticences and reservations when they are called on by government to swear or affirm. How far they can go without certainly incurring mortal guilt on an individual occasion is another matter.

A lie is so obviously immoral that most Catholic moralists and practically all Catholic ethicians in modern times have condemned it as intrinsically immoral. However, there is a statement from a high authority, Innocent III, which suggests that, as God permitted the patriarchs to have more than one wife, so He permitted a lie in the case of Jacob.[23] De Lugo discussed this decretal at some length and tried to show that it did not mean what it apparently says; but he was not altogether successful. Whether it has been discussed in modern times, I do not know. The difficulty with admitting that God permitted a lie, i.e., allowed it in such a way that no sin was committed, is that, if God can permit others to lie, then perhaps He can lie Himself, and that would be the end of divine revelation and our faith in it.

Father Francis J. Connell, C.SS.R., discusses "dishonesty and graft" in the *American Ecclesiastical Review*.[24] He states flatly that "the clergy of

[23] Innocent III wrote: "Nec ulli inquam licuit insimul plures uxores habere, nisi cui fuit divina revelatione concessum, quae mos quandoque, interdum etiam fas esse censetur, per quam sicut Jacob a mendacio, Israelitae a furto, et Samson ab homicidio, sic et Patriarchae et alii viri iusti, qui plures leguntur simul habuisse uxores, ab adulterio excusantur" (DB, 408).

[24] F. J. Connell, C.SS.R., "Dishonesty and Graft," *American Ecclesiastical Review*, CXII (1945), 1–11.

our own church, if they view the matter honestly, must admit that as a group they are not taking a sufficiently definite and outspoken stand on dishonesty in civil office." He treats of graft from the viewpoint of legal and distributive justice in this article, and in a later article he takes up "Graft and Commutative Justice."[25] As to the problem which presents itself to the confessor when a holder of public office presents himself: "The confessor of one who is vested with civil authority should deem it his duty to question this individual about his public conduct, if there is some reason to suspect that he is addicted to dishonest practices. This rule must be followed, even in the event that the penitent makes no reference to such misconduct. For, according to St. Alphonsus, the confessor of those in public stations must ordinarily admonish them about their duties even when they are invincibly ignorant of these obligations, because neglect of duty on the part of such persons is very harmful to the common good. The application of this rule is certainly called for in the case of a Catholic official who receives the sacraments regularly and yet gives every indication of being involved in dishonest practices."

One recalls the strong language used by St. Francis Xavier in instructing the missionaries he sent out from Goa. He was thinking of graft both in public life and in the business world, and he told his missionaries that the first thing they should do was to become acquainted with the procedures and the tricks of business transactions, so that they could question their penitents closely and discover if they were dishonest—and this, even if the penitent made no mention of the sin of theft. It was not enough, he said, merely to ask: "Were you guilty of theft?"; for the answer from these persons with blunted consciences would always be "No." It was necessary to ask in a detailed way about the manner in which they did business.[26] To apply such a rule nowadays would certainly be a difficult and delicate task. But the consciences of men in public life and in business need to be educated to the sinfulness of many common practices. It may be difficult to do this in the confessional, but it will surely be impossible for the priest to do it on the golf course, especially if he is the recipient of the grafter's benefactions. Possibly, to the categories of business and political graft there should be added another—ecclesiastical graft. If there is a blunting of conscience even on the part of those who should be the leaders of the flock, we can expect the usual consequences of the blind leading the blind.

Not everyone will agree that a public official—e.g., a police officer who takes a bribe to let off a traffic-law violator—is bound to restore the ill-gotten

[25] "Graft and Commutative Justice," *ibid.*, 161–71.

[26] Cf. Joaquin Azpiazu, S.J., *La Moral del hombre de negocios* (Madrid: Editorial Razón y Fe, 1945), who treats at length (701 pp.) the morality of business transactions.

gains either to the violator or to the public treasury. Many would hold that such an official violates commutative justice against the state to the extent that he has neglected to do the duty for which he is paid; but the amount of the bribe is not the measure of his dereliction of duty, and the transaction can be governed by principles for a *contractus turpis*. Fr. Connell is more lenient with the person who gives money to a dishonest public official in order to get a position, provided it is a real case of extortion.[27] One should remember here, however, that the laws generally forbid such transactions and make them criminal for both parties.

It is well to note, as Fr. Connell does, that the transactions which we commonly call graft sometimes do not amount to sins against commutative justice. It may be for this reason that people have an easy conscience in many of these matters. Since they are not stealing, they feel no qualms. But I am convinced that a very large proportion of the graft that goes on does involve commutative justice, and that only by constant preaching and exhortation will lay people and priests be brought to a sharp realization of the evil. Many a Catholic conscience needs a jolt.

In instructing people about graft it is necessary to define it, or at least describe it. The definition is difficult to construct. But if one goes through a long list of all the transactions to which the term is commonly applied, he will come across three elements that recur again and again. They are, first, secrecy; secondly, violation of trust; and thirdly, easy money. When all these elements are found in a transaction, one can be pretty sure that he is dealing with graft, though the absence of any one of them does not immediately indicate that no graft is involved.

First, secrecy. There is always something covert and underhanded in a grafting transaction, whether in business or politics. It is done on the sly. It is given a euphemistic name—a "contribution to the campaign fund," a "little present for the family," etc. Even in those forms of graft which do not involve commutative justice, the element of secrecy is almost invariably present. And this fact alone should raise the suspicions of the person who is tempted to participate.

Secondly, violation of trust. Whether the person concerned is a business man or a man holding public office (civil or ecclesiastical), the term graft is generally applied only to transactions that involve a betrayal of trust or confidence. A public official is the servant of the people and is obliged to administer his office for their benefit. When he abuses his position of authority to benefit himself at their expense, he violates a trust. In business, too, the directors of a corporation, who enrich themselves at the

[27] F. J. Connell, C.SS.R., "A Problem in Graft," *American Ecclesiastical Review*, CXII (1945), 472–73.

expense of the stockholders, violate a trust that has been reposed in them. And even the buyer who demands a bonus from those he patronizes is violating the trust which his employer places in him. The relation of employer to employe is one of confidence. The practice of demanding a bonus raises prices against the employer in the long run, and leads to other business dishonesty.

Thirdly, easy money. This means getting something for nothing, or something for very little.

The priest who is presented with the problem of deciding whether a given transaction is graft or not should apply this threefold test. If all three elements are present, he can be almost sure that graft is present, and that there is something sinful about the transaction. Of course, he still has to judge what kind of sin it is (whether against charity, or justice, and what kind of justice), and how serious the sin is, and whether an obligation to make restitution is involved.

In making this latter decision he may be aided by a consideration of the three degrees of graft, namely, the gift, the bribe, and the hold-up. Briefly, by a gift I mean something that is freely and spontaneously offered without any agreement to do what is evil and without any hope of recompense, at least in the near future. This type of graft will not involve commutative justice. A bribe means a contract in which both parties freely agree, one agreeing to pay money, the other agreeing to neglect his duty or do some other dishonest act. As between the parties to this contract, no commutative injustice need be involved; it can be simply a *contractus turpis*. By a hold-up I mean extortion. The typical case is that of the public official who will not appoint a schoolteacher, or will not grant a license, etc., unless the other party, who is at his mercy, pays him a private bonus to do what he is supposed to do anyway. There is no contract here; one party is forced by fear or necessity to an agreement to which he would never consent, if he could help it. It is plain extortion. It is the worst kind of graft and some of its forms cry to heaven for vengeance. Obviously it involves a commutative injustice against the unwilling party to the transaction.

The consideration of the "three elements of graft" and the "three degrees of graft" may help in the detection of grafting transactions and the classification of the kind and amount of guilt involved.

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NOTE.—The preparation of these "Notes" was first hurried, and then interrupted, by Fr. Ford's departure to assume the post of professor of moral theology at the Gregorian University, Rome.—EDITOR.