

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY, 1947

LABOR

For the moralist, perhaps the most provocative article of the year is "Moral Theology and Labor," by Godfrey P. Schmidt.¹ Mr. Schmidt takes the moral theologians to task for their failure to develop a workable casuistry based on Catholic social doctrine and he invites them to "catch up with 1891 by making, now, a detailed and systematic study of the *particular* difficulties of conscience which harass every Catholic lawyer, employer, and worker in the area of modern industrial relations." Fortunately, Mr. Schmidt realizes that one can hardly expect satisfactory solutions from moral theologians when they are isolated from one another and from experts in other fields; hence he balances his devastating criticism with this constructive suggestion:

Let an outstanding Catholic university or the recently formed Catholic Theological Society of America establish a seminar or other project (to be conducted every two weeks or on any other convenient but regular basis) for eminent moral theologians. Let someone familiar with the actualities of labor relations present to this 'jury' or 'legislative body' of moral theologians the facts, case by case, of the leading labor-law decisions which in these matters have set the legal pace of our nation. Any good collection of cases on labor-law by Handler, Frey, Laeger, Landis and Manoff, or Raushenbush and Stein, could be made the point of departure for this program. The facts in each case would be presented as if they constituted not *law* cases but cases of *conscience*. The moral theologians would be asked to hand down a *moral* judgment on the conduct of the employers, the employees, the labor leaders, even the courts. Each case would be debated. The reasons for opinions would be elicited. The entire proceedings would be reported by stenography or stenotypy. After each treatise in the field of labor relations had been canvassed, the record would be combed for corrections and revisions. On such a basis a group of competent people would be charged with writing treatises on the ethics or moral theology of the involved phase of *labor relations*—a careful exposition and explication of the reasons and conclusions arrived at. Thus, in time, out of deliberations and treatises one could piece together a systematic and competent case book on the ethics and moral theology of labor relations—the first available in this or any language.

To the sessions of this group of moral theologians could be invited labor leaders, management representatives, lawyers, legislators and any persons of good will who could be expected to make a contribution to the discussion.

¹ *America*, [LXXVII (1947), 95-97.

Mr. Schmidt has no doubt touched a sore spot. I imagine that every moralist has felt a sense of frustration when faced with the necessity of solving an important social problem without being able to get a clear picture of all the facts in the case or of the attitudes of the different parties concerned. In the ideal order, Mr. Schmidt's plan seems excellent; for it would enable the theologians to discuss and judge the case after having obtained all pertinent facts and having heard the presentation of all conflicting attitudes and interests. I should like to see it applied not only to labor questions, but to all other moral problems pertaining to the social order, such as taxation, price-regulating, and so forth. But in the sphere of practicability it seems like a dream. It seems hardly possible to have the entire *dramatis personae* (theologians, economists, labor leaders, employers, government representatives, and so forth) free from other occupations at the same time, and especially over an extended period of time.

The following case, proposed and solved by Father J. Sanders, S.J., is not exactly what Mr. Schmidt wants, but it is a step in the right direction:

The employees (95% Catholics) of a concern wanted to form a union to defend their rights. The head of the concern (also a Catholic) opposed it on the ground that he can take care of his employees without being forced to do so by a union. He threatened to dismiss all those who would join the union. In spite of this the union was formed and the employer dismissed the employees who joined it. Some gave way and left the union; others stuck to the union and are now without work. Is the employer's action unjust? Has he to make restitution?²

After citing numerous papal documents to the effect that laborers have a strict right to form a union and that it is especially desirable that Catholics form their own union, Father Sanders points out that in the present case the employer not only goes counter to the papal proposals by preventing the formation of a Catholic union, but also violates commutative justice by using an unjust means (breach of contract) to frustrate his employees' natural right to form a union. Both the dismissal and the threat of dismissal are unjust. Father Sanders concludes:

In the present case commutative justice has, therefore, been violated: by using a threat of dismissal to prevent the formation of a good union; by wrongful dismissal of those who stood by the established union; by preventing, through the unjust means of threat of dismissal, the lawful exercise of a natural right.

² Cf. *Clergy Monthly*, X (1946), 132-36. Incidentally, *Clergy Monthly* is published at The Catholic Press, Ranchi, B.N Ry, India. Articles, cases, and responses are consistently excellent. The volumes run from July to June; hence the difference of years within the same volume.

Restitution is due by the employer in as far as by his unjust threat and dismissal he has willfully caused damage to his employees. Hence he is obliged:

1. To retract his threat, so that the employees may exercise their lawful right of forming a good union;
2. to reinstate or to compensate the employees dismissed;
3. to repair the damage caused through the wrongful dismissal; that is, he has to give proportionate compensation for loss of wages and other concomitant harm which he foresaw.

On the other hand the employees are bound to form and to conduct their union in such a way that in its spirit and activities it is in agreement with the principles of morality. They have no right to establish a union that runs counter to sound moral norms.

Besides this case, Father Sanders contributes two articles on labor organizations.³ In one of these essays he traces the history of International Trade Unionism down to the present World Federation of Trade Unionism. This organization, he says, is now strongly influenced by Communism.

The other article is a lengthy account of the International Labor Organization, which was set up by the 1919 peace treaties and the League of Nations. According to Father Sanders, this organization, in both its theory and its practice, is in substantial agreement with Catholic principles. In many of its basic points it furthers policies that Popes have repeatedly insisted on: for example, the abolition of class warfare; the tripartite co-operation of government, employers, and employees; appreciation of human dignity; freedom of association; economic security for all; and so forth. Father Sanders is clearly interested in having Catholics take an active part in this movement. And it seems, from what he says, that this is one case in which a fight against Communism need not begin with defense; the Communists, according to Father Sanders, have had little or no influence in the International Labor Organization.

We have already mentioned the attitude of the Holy See on Catholic trade unions. The introduction to an article on this subject recently published in *The Clergy Review* enunciates the entire Catholic policy very succinctly:⁴

It is no new idea that Catholic trade unionists should band together. Popes have had much to say on this subject ever since Leo XIII stressed the legitimate nature of trade unions. Their thought has followed a consistent line, and may be summarized as follows: (a) Catholic workers should belong to Catholic unions.

³ "International Trade Unionism," and "The International Labour Organization," in *Clergy Monthly*, X (1947), 253-64, and X (1946), 114-31, respectively.

⁴ XXVII (1947), 373-78: "Catholic Trade Unionists," by R. P. Walsh.

(b) Where circumstances justify it there may be 'Christian', i.e., mingled Catholic and Protestant unions. (c) No Catholic may belong to anti-Christian unions. (d) But where unions are 'neutral' in religious matters Catholics may join them. (e) Where circumstances allow Catholics to join these 'neutral' unions, they must be accompanied by organizations designed to provide a sound Catholic training to Catholic members.

In the same article, the author (R. P. Walsh), after having sketched the development of Catholic trade unions in Great Britain, explains the reasons, negative and positive, for encouraging such Catholic organizations. It is not enough, he says, to dwell on the need of resisting Communism; we must also have some means of instructing the Catholics themselves in Catholic social teaching and of exerting Catholic influence to secure the survival of true democracy.

Does a Catholic workman have an obligation to join a union? In an article which develops many of the points mentioned previously as constituting the papal teaching on Catholics in labor unions,⁵ Father Francis J. Connell, C.S.S.R., says that Monsignor John A. Ryan held that generally speaking there is an obligation. Father Connell is inclined to the negative view. He writes:

We must be careful not to multiply obligations binding under sin; and I would certainly not tell every worker who happens not to be affiliated with any union: 'You are committing sin if you do not join a union.' Nevertheless, I believe that there are times when, because of certain special circumstances—for example, when a small union is in need of every member it can obtain in order to secure protection from evident injustice—there would be an obligation of charity on individual workers to affiliate themselves with the organization.

Another question of obligation treated by Father Connell concerns the delaying of a strike until a fact-finding board has made its report. Father Connell shows that a form of legislation which would compel both labor and management to use a fact-finding board, but which would allow freedom to accept or reject the decision of the board, is quite in keeping with Catholic principles;⁶ and he considers that in this case there is a moral obligation to delay the strike until the board has done its work.⁷ In itself, this opinion seems quite reasonable; yet I have heard representatives of labor say that waiting for a fact-finding board is sometimes enough to defeat the cause of

⁵ "Catholics in Labor Unions," *Ecclesiastical Review*, CXVI (1947), 422-31; see pp. 429-30.

⁶ Cf. "Legislation as a Remedy for Strikes," *Ecclesiastical Review*, CXV (1946), 401-8.

⁷ "When is a Strike Lawful?" *Ecclesiastical Review*, CXVI (1947), 81-91; see p. 85.

labor, because it gives management just the time it needs to prepare for a successful resistance of the strike. I am not in a position to pass judgment on this objection; I simply mention it here as one of the possible complications of what might otherwise be an easily solved problem.⁸

FIFTH COMMANDMENT

L'Ami du clergé recalls an interesting moral problem that arose during the War.⁹ It seems that some prisoners of the Gestapo thought they were justified in killing themselves because of the fear that under severe torture they would give out information harmful to the resistance movement. A similar problem that I have heard discussed with great heat concerns the orders supposedly issued by some government authorities to secret service agents to kill themselves rather than fall into the hands of the enemy and run the risk of revealing valuable information.

In both cases there is question of direct killing. And each seems to be a case in which the judgment of the common man is prone to differ from the judgment of the philosopher or theologian. For, as *L'Ami* says in answering the first case, the individuals have no authority to take their own lives, even for praiseworthy motives; and, as we might add in answering the second case, a government has no authority to condemn an innocent man to death. Nevertheless, it is quite possible for untrained minds to see in such cases only a praiseworthy act of heroic charity or patriotism; hence good faith, even a rather wide-spread good faith, is a possibility. *L'Ami* recognizes this possibility of good faith, and says that a chaplain who knew of these suicidal plans should apply the ordinary principles concerning the disturbance of good faith.

The same response in *L'Ami* contains a clear discussion of the different kinds of fear: the emotional kind, which acts as a passion and makes reflection difficult, if not impossible; and the "cold-blooded" kind which allows for full deliberation, even though the choice is made with repugnance. In the latter case the choice is made wilfully, though not willingly. *L'Ami* believes that since these suicide plans are made in advance, they are usually characterized by the second kind of fear; hence the only excuse from grave sin is ignorance.

Another problem of more than passing interest concerns experimentation with the risk of life. Regarding this, *L'Ami* answers two questions: may a

⁸ In this section I have limited myself, with but one exception, to a survey of clerical publications. I found that I could hardly scratch the surface of the voluminous material in other publications.

⁹ *L'Ami*, Jan. 2-30, 1947, pp. 189-92.

doctor experiment on himself at the risk of his life? And may he, with their consent, use condemned criminals for the same purpose?¹⁰

L'Ami's answer to the first question is not categorical. It sees no justification for the practice in ordinary circumstances, but concedes that it might give a different solution for extraordinary circumstances such as an epidemic. It is regrettable that the reply does not expand on the meaning of the possible concession; for it would be interesting to compare such a discussion with Father Ford's careful analysis of the problem.¹¹ Readers will recall that Father Ford considered experiments which involve serious danger to life unjustifiable because they imply a direct intent to endanger life. "And just as it is immoral," he wrote, "to intend one's own death directly, so it is immoral to intend directly the danger of death."

Since reading Father Ford's argument, as well as discussing it with him, I have "had a feeling" that his analysis of this particular aspect of the experimentation problem is inadequate; yet prolonged and repeated thinking over the matter has failed to clarify my objection. At times I think there might be need and room for a distinction between experiments which involve the practically certain danger of death and those which involve only probable danger (that is, both danger of death and hope of recovery); yet at other times I wonder if such a distinction is either necessary or sufficient for the solution of the problem. My contribution, therefore, is simply an admission of mental confusion. This may console others who are equally puzzled, but it does not advance the science of moral theology.

As for experimenting on condemned criminals (for example, to find a cure for cancer), *L'Ami's* opinion is that from the point of view of *strict justice* this is permissible, since society has legitimately deprived them of their right to life. Yet *L'Ami* finds the practice both morally and socially objectionable; for, though they have been condemned to death, they have not been condemned to be treated as guinea pigs. But what if they consent to such experimentation? There are conflicting views on this matter, says *L'Ami*; its own view is that it is hardly becoming to ask them to do this for a society from which they have already been radically separated. This seems a somewhat exaggerated view. If the experimentation is permissible at all, it seems that it would be praiseworthy for the condemned criminals to offer themselves and quite becoming for society to accept the offer. Their separation from society has not broken the bond of human nature.

A matter of concern to both theologians and medical men is the question of removing a healthy appendix as a prophylactic measure. For instance,

¹⁰ *L'Ami*, Sept. 25, 1947, p. 679.

¹¹ *THEOLOGICAL STUDIES*, VI (1945), 535-37.

here is a clear statement of a medical view of the problem, as outlined for me by a competent doctor:

To the best of our knowledge the appendix serves no worthwhile purpose in the human digestive system and, as at any time it may flare up and cause serious trouble, even to the death of the individual, it is considered good practice to remove the appendix when other operations are in process, provided it does not add to the risk for the patient. If a patient was in an unsatisfactory condition it would not be advisable to prolong the operation to remove the appendix. However, in pelvic or gall bladder operations in which the patient is getting along very satisfactorily, it is considered here a routine process and is looked upon as an incidental appendectomy.

Perhaps the practice of this hospital is not universal; yet I suspect that it is not exceptional. I have no doubt that if we were to question a large number of reputable and conscientious physicians and surgeons, we should find that many would look upon this practice as good medicine and would see no moral objection to it.¹² This, of course, is not a convincing moral argument, for even conscientious doctors can hold erroneous views on moral questions; nevertheless, the case at least merits examination before being rejected as morally unsound.

The only pertinent case I have found in our medico-moral books is the following:

Question: While operating in the pelvic cavity for some other reason than appendicitis, is it lawful for a surgeon to remove an apparently healthy appendix, if he judges that unless he does remove it, it will form adhesions, and thereby render another abdominal operation necessary in the future?

Answer: Yes, it is lawful to remove it.

This answer is based on the fact that, although the appendix may be regarded as a distinct organ of the human body, in the light of our present experience its removal never seems to cause any serious inconvenience, whereas its presence, after an abdominal operation, constitutes a probable danger from adhesions that may render a second abdominal operation necessary. Therefore, under the circumstances, there is sufficient reason for its removal.¹³

It will be noted that Father Finney introduces the element of probable danger of adhesions—something which was not mentioned in the doctor's report to me. However, is not the essential point in his answer the fact

¹² I have discussed the matter with several doctors; all gave practically the same opinion as the one I have quoted in the text.

¹³ Finney, *Moral Problems in Hospital Practice* (St. Louis: Herder, 1945), q. 52, pp. 165-66.

that the incidental appendectomy is allowed in order to forestall the probable need of a second abdominal operation? It seems to make little difference in the case whether the danger of the second operation arises from the probability of adhesions or from the probability that the appendix itself will become infected; in either case the mutilation only slightly affects bodily integrity, causes little or no immediate inconvenience to the patient, and removes the probability of serious inconvenience and even of great danger to life.¹⁴

A somewhat different angle of the problem of removing a healthy appendix was introduced into a question recently proposed to Father Connell.¹⁵ The question concerns a man who is going to a region where it will be difficult if not impossible to secure competent medical or surgical care; hence the man wishes to have his apparently healthy appendix removed before starting on his journey, to forestall the danger of future trouble which, in the new circumstances, might even jeopardize his life.

In syllogistic form Father Connell's reply may be summarized thus: "The mutilation or excision of a part of the body is permitted only when there is certainty or probability that benefit will thereby come to the whole body in sufficient measure to compensate for the harm that has been done." But, in the present case, there is sufficient probability that such benefit will be derived from an appendectomy. Therefore, the appendectomy is permissible.

The major, says Father Connell, is a Catholic moral principle. To prove the minor he appeals, first, to statistics which show that one out of five Americans needs an appendectomy at some time in his life and which, therefore, indicate a probability that the traveler will need the operation; and secondly, to the fact that a delay of the operation till actual need will very likely be too late. A consideration of these probabilities leads Father Connell to the conclusion expressed in the minor of the syllogism. "In view of the fact that there is grave danger of death if one is seized with appendicitis in the circumstances visualized, the probability based on the fact that one in five eventually contracts the disease would seem sufficient to justify the operation."

¹⁴ There may be some difference in the two cases. In Father Finney's question the danger of adhesions seems to be an effect of the operation; hence it is causally present at the time of the operation. The report given to me simply speaks of the danger of a flare-up, and this might refer even to a condition which is in no sense present at the time of the operation.

¹⁵ Cf. "Surgery for the Healthy," *Ecclesiastical Review*, CXVI (1947), 143-44.

Father Connell admits that other theologians might solve the case differently. My own inclination is to agree with his reasoning; I would allow the operation if doctors thought it advisable, on the score that it is not clearly wrong and that it seems at least probably licit. However, my purpose in dwelling on this case is not to express a personal opinion but rather to indicate that this case, as well as the doctor's report on incidental appendectomy, forces us to face and answer such important questions as these: (1) What is an adequate working formulation of the Catholic principle concerning mutilation? (2) May we allow the mutilation of a healthy organ on the mere basis of statistics? (3) If we readily allow the excision of such organs as the appendix and tonsils, even when healthy, does this lead us logically to conclusions that are inadmissible?

Regarding the first point, someone might tell me that the best and only formulation of the Catholic doctrine on mutilation is contained in *Casti Connubii*. Pius XI stated very clearly that private individuals "are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, *except when no other provision can be made for the good of the whole body.*"¹⁸ Taken literally, the words I have italicized mean that a mutilation is permissible only when *necessary*, and indeed the necessity demanded seems to be *physical*, not merely moral. If the words do mean this, then a man who can preserve his health either by a mutilating operation (for example, removal of the gall bladder) or by going on a severe diet, is morally obliged to choose the diet, even though it must be prolonged over many years and might even reach the proportions of heroic mortification. I wonder how many theologians interpret the Pope's words that strictly, at least when there is a question of a mutilation which does not involve the reproductive organs? It seems to me that the words of the encyclical admit of interpretation in terms of moral necessity; in other words, a mutilation is permissible when it is morally necessary for the good of the whole body, or when it is morally impossible to preserve health or safeguard life without the mutilation. If this interpretation is correct, a man who is faced with two alternatives, one of which is mutilation, for preserving his health, may licitly choose the mutilation, provided the use of the other means involves a proportionately serious inconvenience, that is, an inconvenience which would be extraordinary with reference to the harm done by the mutilation.

I have seen other statements of the Catholic principle of mutilation which

¹⁸ *AAS*, XXII (1930), 565.

do not adhere strictly to the literal significance of the Pope's words. For example, last year in these pages I cited Father J. McCarthy as saying: "If we may introduce here terminology, dear to us, we would say that direct mutilation is lawful, provided the subordination (the sacrifice of one entity to another) is due and provided there is a compensating cause."¹⁷ And Father Connell, in the question we are discussing, is quite confident that he is stating Catholic principles accurately when he says that a mutilation is permissible when it is certainly or probably *beneficial* to the whole body, or, as he puts it later in his reply, the mutilation is permissible, if it is proportionately *useful*.

If these various statements are correct and in keeping with the words of the encyclical—and I believe they are—it seems that we can say that according to Catholic principles a mutilation is permissible when it is morally necessary or genuinely useful for one's physical well-being. (I am pre-scinding here from the possible extension of the principle to include such things as transplantation.)¹⁸ However, to be universally applicable, this principle must be somewhat qualified. For we know, through the teaching of the Church, as well as through reason, that contraception is always morally wrong; and it follows from this that a directly contraceptive operation is also illicit. Perhaps, therefore, the adequate statement of the principle of mutilation should run as follows: Mutilation is permissible if it is not directly contraceptive and if it is morally necessary or genuinely useful for one's physical well-being?

This qualified enunciation of the principle is also in complete accord with another statement in the encyclical: "private individuals have no other power over the members of their bodies than that which pertains to their natural ends." For with regard to the reproductive organs we must always distinguish two natural ends: they are organs of the body, and as such they are subordinated to the individual's corporal good; and they are generative organs, and as such they serve the species, not the individual. A directly contraceptive operation attacks the generative function as such, and is therefore contrary to the natural purpose of the faculty and beyond the sphere of legitimate mutilation.

¹⁷ Cf. THEOLOGICAL STUDIES, VIII (1947), 99, or *Irish Ecclesiastical Record*, LXVII (1946), 197.

¹⁸ In answering the present question, Father Connell incidentally mentions that "this principle may be extended to include benefit to the body of another person." Although I am inclined to favor this extension, I doubt if the licitness of transplantation is as yet sufficiently established to warrant Father Connell's apparently unqualified confidence; see the discussion of this problem in THEOLOGICAL STUDIES, VIII (1947), 97-101.

May we allow the mutilation of a healthy organ on the mere basis of statistics? Very likely all theologians would reply in the negative to the question, as phrased. Yet it seems that statistics (the law of averages) in combination with some other factor might be legitimately considered in making a decision. For example, in the two cases concerning appendectomy we regard not merely the statistical probability of future adhesions or appendicitis, but also the special factors of each case, in coming to a decision. In the first case, there is the fact that the abdomen is already open; in the second case, the fact that a future operation may be impossible; and in both cases, the apparently slight infringement on bodily integrity. I think that statistics may be used in making such decisions; but it is not clear to me just where the line should be drawn. Further discussion of the point, especially with reference to practical cases, would prove helpful.

If we allow such operations, are we logically forced to permit things that would clearly be against our principles? For instance, someone might argue that because of the probability of future appendicitis, anyone might licitly have an appendectomy anytime. Obviously, we need not admit that conclusion, for in ordinary circumstances there would be no real benefit in having the operation while in perfectly good health. After all, four out of five never need it; and among the other fifth comparatively few are in serious danger of death when they have proper surgical care.

A more serious objection was presented to Father Connell shortly after he published his solution. "Why could not a woman use this same argument," he was asked, "to justify the removal of a sound womb or healthy ovaries, on the plea that it is probable that at some future time such an operation will be necessary?"¹⁹ Father Connell's answer is that the law of proportionate benefit is not preserved in this case; for the removal of ovaries or womb does serious harm both to the individual and to society and is therefore justifiable only when it is solidly probable or morally certain that the operation is necessary. I suppose this answers the particular problem presented, but it makes us wonder just where we must draw the line when there is question of mutilating a generative organ. There is little danger of abuse with regard to the excision of other healthy organs, but that danger might be very great with regard to the generative system.

While we are considering the mutilation of the generative system I might mention that *L'Ami du clergé* presents a complete and illuminating discussion of punitive sterilization.²⁰ It is hardly necessary to comment on all

¹⁹ Cf. "A Problem in Surgery," *Ecclesiastical Review*, CXVI (1947), 469-70.

²⁰ *L'Ami*, June 12, 1947, pp. 481-84.

points; for example, that some theologians think that punitive sterilization is not included in the recent papal condemnations; that among those who look upon it as an open question, some hold that the state does not possess the right even theoretically, while others admit the theoretical right but deny its exercise in practice on the score that sterilization is not an effective punishment. The conclusion of *L'Ami* is that it would be difficult, if not impossible to prove that the civil authority has the power, and that, if it does possess it, the conditions for the legitimate exercise of the power can scarcely, if ever, be fulfilled. And we need not be surprised, adds *L'Ami*, if the Holy See would settle the entire controversy by declaring punitive sterilization illicit.

One point of special interest in *L'Ami's* discussion is a reference to certain countries (Denmark and Switzerland) which are said to use castration not merely as a punishment, but as a means of curing morbid sexuality. I have read about this at various times, and my general impression has been that medical authorities are not in agreement concerning the therapeutic value of castration. That impression is confirmed by the citations in *L'Ami*. It seems to me that if such therapeutic value could be established with a reasonable degree of probability, the castration could be allowed—provided, of course, that there were not some less drastic means of curing the morbid sexuality. I base this opinion on the obvious assumption that the cure would be effected through a suppression of some faulty endocrine function, and not through mere sterilization.

I have two more problems to discuss briefly in this section of notes. The first concerns the Rh factor. The *Linacre Quarterly* contains two articles on the subject, one dealing with medical aspects of the problem, the other with certain moral aspects. In this latter article,²¹ Father Alphonse M. Schwitalla, S. J., warns us "that the possession of the Rh factor or its absence in either the mother or the father has been made the occasion or excuse (a) for contraception, (b) for abortion, (c) for radical obstetrics, and (d) for preferential mating involving the conduct of engaged couples or of those who might plan to be engaged." Father Schwitalla discusses each of these points and shows that, from the data now at hand, there is not even medical justification for them.

With regard to contraception, Father Schwitalla refers not merely to the case in which a doctor advises some contraceptive practice—for this is obviously immoral—but also to the case in which the physician simply tells the people that they should not have any more children. He shrewdly ob-

²¹ "The Moral Aspects of the Rh Factor," *Linacre Quarterly*, XIV (1947), 9-18.

serves that for most people this is tantamount to encouraging them to practice contraception, and he adds that the lack of certainty concerning the status of future offspring simply does not warrant the advice. The same is to be said concerning therapeutic abortion; even aside from the moral issue, which is incontrovertible, available data will not justify it medically. Speaking of radical obstetrics, Father Schwitalla has principally in mind the question of Caesarian section soon after the infant is viable; and he cautions the doctors to be conservative, because medical opinion is sharply divided concerning the advisability of this procedure.

Of particular interest is Father Schwitalla's conclusion concerning the fourth point. After showing that the possible Rh combinations are extremely variable and highly complicated, he says:

I am entering into these details merely to show how futile it would be to use any of this information at the present time as a basis of premarital advising regarding human mating. I wish to emphasize the thought too, that anticipatory fears regarding matings based upon the possible occurrence of erythroblastic infants, certainly outrun the present day findings of scientific research. They should not, therefore, and must not be made the basis of moral judgments. Advice cannot be justified that a Rh-negative girl should not marry a Rh-positive man even if it were known that the girl has previously received transfusions. Least of all would it be justified to forbid such a marriage on moral grounds for fear that the result of a pregnancy might be an erythroblastic infant.

Our final medico-moral problem concerns ectopic operations. In a recently published article by Father Connell we read: "Nowadays it is held by many reliable theologians that the excision of the tube is permitted as soon as it is discovered to contain an ectopic fetus."²² The footnote refers only to Father Davis; but in *Morals in Politics and Professions*²³ the same opinion is referred to Father Bouscaren. It seems to me that the statement does not accurately portray Father Bouscaren's text, which explicitly demands that the doctor judge each individual case and use expectancy treatment if he prudently judges that this can be done.²⁴ Perhaps this is merely

²² "Does Catholic Doctrine Change?", *Ecclesiastical Review*, CXVII (1947), 321-33; see p. 323.

²³ Westminster, Md.; The Newman Bookshop, 1946; see p. 118.

²⁴ T. L. Bouscaren, *Ethics of Ectopic Operations* (Milwaukee: Bruce, 1944); see pp. 156-62; or see first edition (Chicago: Loyola Press, 1933), pp. 163-69. It is one thing to say that the removal of the pregnant tube is not a direct attack on the fetus, quite another to say that there is always a proportionate reason for removing the tube. Our present knowledge seems to indicate that the operation attacks pathology, not the fetus, but a proportionate reason is still required for permitting the hastened death of the fetus.

a theoretical requisite; perhaps the doctor will always judge that delay is too dangerous. To my mind, the making of this practical judgment is the doctor's own responsibility; and even if he would always judge it too dangerous to wait, the theologian would not by this fact be relieved of the duty of giving him the correct theoretical principle. Sound reason and the declarations of the Holy See both demand that the doctor do all he reasonably can to preserve both lives; and this is included in our theory only when we state that expectancy treatment must be used if it does not notably increase the mother's danger. Father Bouscaren insists on it repeatedly—and rightly so, it seems to me. Furthermore, if the rule of thumb is adopted of operating as soon as the pregnancy is discovered, how can we hope for any progress in the treatment of ectopic pregnancies?

SEVENTH COMMANDMENT

I have not noticed any material on the Seventh Commandment that seemed to call for extended survey or comment. Among the questions calling for some attention are three proposed in the *Irish Ecclesiastical Record* and answered by Father P. F. Cremin.

One of Father Cremin's questioner's wishes to know if a debtor is bound in conscience to pay statute-barred debts, and he cites Tanquerly and Noldin for the opinion that the obligation in conscience is extinguished.²⁵ Father Cremin replies that one may not generalize in this matter from country to country. In England and Ireland the civil law does not extinguish the debt, but merely denies further right of action in court. This case is not complicated, but it is important in that it reminds readers that in some things the civil law determines the obligation in conscience. Prescription usually confers a valid title to ownership, even in conscience, whereas civil laws differ considerably with regard to statute-barred debts and bankruptcy.

The mention of bankruptcy reminds me of an interesting case solved by Father J. Backaert, S.J., in the *Clergy Monthly*.²⁶ The case concerns a man who in good faith and according to the law of India was declared insolvent. Despite his insolvency he always retained the interior intention of repaying his creditors, if he could; and many years later, having made a great deal of money, he did pay a large sum to a former creditor. He balked, however, when the creditor wanted the interest that had supposedly been accumulating through the years! Father Backaert solves the case on the basis of Indian law, which is the same as English law and which, if the discharge is

²⁵ "Statute-barred Debts and Conscience," *Irish Ecclesiastical Record*, LXIX (1947), 46-48.

²⁶ X (1947), 265-68.

absolute, entirely extinguishes the debt. Father Backaert concludes that the man not only has no obligation to pay the interest but that he has already made his former creditor a handsome gift.

In reply to another question Father Cremin clearly explains the differences between life insurance and fire insurance: in the former, the beneficiary is entitled to the full amount of the insurance, whereas in the latter he is entitled only to compensation for damages (provided they fall within the limits of the policy); moreover, life insurance can be carried in many companies and the beneficiary is entitled to the full amount from each company whereas if fire insurance is carried in more than one company, each company is obliged to pay only its proportionate share of the damage done.²⁷ One obvious reason for the limitation on fire insurance is that it diminishes the incentive to arson.

Father Cremin's third case concerns a married woman who secretly takes from a negligent husband the money needed for her own and her children's support, although she has private means of her own.²⁸ Proposing this case, the questioner asks, among other things: what right has a married woman over her husband's property? When does she steal from her husband? Is it perfectly lawful for her to take her husband's money, provided no strict injustice is involved? A wife has a natural right, replies Father Cremin, to what is required for the decent support of herself and the children; and today this right is usually confirmed by civil law. She steals when she secretly takes what she is not entitled to and against her husband's reasonable will. Father Cremin's concluding paragraphs contain not only the reply to the third question, but a good summary of his entire answer and some sound pastoral advice:

Even when a wife does not sin against justice, she may sin against some other virtue by taking the property of her husband without his approval. If he is quite willing to give his wife what she is entitled to receive, he may very reasonably object to her taking it without his knowledge, and, if he does, she sins against obedience or charity when she disregards his wishes or endangers domestic peace. On the other hand, if her husband squanders what is necessary for the support of his wife and family, or if he refuses to provide for them or makes serious unpleasantness when he is asked to do so, his wife may lawfully take what is necessary even without asking him. In that case, however, she must be careful to avoid extravagance and keep her own and her household expenses within reasonable limits, and she must not deceive herself into thinking she has rights which she does not possess.

When cases of this kind are submitted to a confessor, he will frequently find

²⁷ "A Case of Fire Insurance," *Irish Ecclesiastical Record*, LXIX (1947), 427-28.

²⁸ "A Wife's Property Rights and Thefts," *ibid.*, 224-27.

that he must exonerate the penitent from injustice or an obligation of restitution even when he cannot regard her conduct as lawful in other respects. He must ensure, especially, that justice is not being violated and, remembering that the ideal in this matter is that a wife should act only with the full approval of her husband, he will endeavour at the same time to secure that obedience and charity are observed.

The first post-war number of *L'Ami du clergé* poses two typical present-day problems: the black market, and the feeding of much-needed grain to cattle.²⁹ The discussion of each point is thorough; but the conclusions seem so obvious that the mere summarizing of them is sufficient for our purpose.

The black market, says *L'Ami*, is the offspring of greed. Supposing that the legal price is just, it is a violation of commutative justice to force others to pay more. If buyer and seller are both willing, commutative justice is not violated, but both parties sin against social justice. These are the essential points of the answer. Other practical solutions contained in the discussion are (a) that those who hoard commodities waiting for higher prices violate social justice, and (b) that the producer—for example, the farmer—cannot excuse himself for demanding more than the just legal price on the score that others are charging him unfair prices. The fallacy in this excuse, says *L'Ami*, lies in the fact that this “occult compensation” is taken from an innocent third party.

Some might prefer to speak of a violation of legal justice rather than social justice; but this seems to be mainly a matter of terminology. I can think of no substantial objection against the solutions of *L'Ami*, considered theoretically; but in practice it seems that problems concerning the black market can be quite complicated. There may be arguments against the justice of the price, cases of moral impossibility to observe the law, and so forth. For uniformity in answering cases we apparently need to follow a plan similar to that proposed by Mr. Schmidt with regard to industrial relations; that is, we need more opportunity for discussions involving not only many moralists but also others who are conversant with the local and regional difficulties that should be considered in interpreting price laws and in placing responsibility.

For the farmer who feeds his grain to his cattle while human beings are starving *L'Ami* can find no valid excuse. He sins against social justice in thus preventing his property from being used for its social purpose, and against charity for neglecting those who are in great need. To the question, “Has not the farmer any rights?”, *L'Ami* replies that he has a right to sell

²⁹ *L'Ami*, Oct. 10, 1946, pp. 12-15.

the grain at the just legal price, but in the time of great need he violates social justice and charity by hoarding the grain or by feeding it to the cattle. *L'Ami* concludes that such practices can easily be mortally sinful; and for confirmation of its stern doctrine it appeals to these strong words of Pius XII:

Let none of you be numbered amongst those who, in the midst of the terrible calamity in which the human family finds itself at present, see in that tragedy only a propitious occasion to enrich themselves through dishonest means, by taking advantage of the suffering and need of their neighbor and raising prices without limit in order to procure profits that are scandalous. Look at their hands; they are besmirched with blood; the blood of widows and orphans; the blood of children and youths, whose physical development is impeded or retarded by malnutrition and hunger; the blood of thousands and thousands of unfortunates of all classes whom they have sacrificed at the altar of their despicable trade. This blood, like that of Abel, cries to heaven against the new Cains.³⁰

EIGHTH COMMANDMENT

Is the *falsiloquium* always a lie? The question seems ever ancient, always new. The literature on the nature of a lie is indeed voluminous; but when it is sifted of all its subtleties and vague contentions, it usually, if not always, can be reduced to the same old question: Is the *falsiloquium* always a lie?

The most recent attempt at a solution is an article by Father Martin E. Gounley, C.S.S.R., who answers the question in the negative.³¹ The first step in his argument is to question the validity of the assertion that the purpose of the faculty of speech is unalterably to communicate one's mind. Father Gounley claims that this is only a secondary purpose and that it is in turn ordained to a further purpose:

Thus the faculty of speech is of *itself* (*per se*) ordained to represent in words or signs one's knowledge or belief, *but this representation is itself essentially ordained to a further end or purpose*, namely, the establishment and maintenance of peaceful, helpful social intercourse, the proper milieu of man. Therefore, as a means it is to be gauged, determined and limited by this, its *raison d'être*, and can therefore *per accidens* have some other purpose in a given case.

If Father Gounley's contention is correct, it seems to follow logically that when circumstances are such that truthfulness does not serve the primary end of the faculty, and especially when truthfulness is harmful to this pur-

³⁰ *AAS*, XXXVII (1945), 112; for English translation see the *Catholic Mind*, XLIII (1945), 258-59.

³¹ "Praise or Blame—Which Shall It Be?", *The Priest*, III (1947), 824-29.

pose, the *falsiloquium* is permissible. One example of such circumstances is the time of war:

In the time of war, social intercourse has ceased between belligerent nations. The demands, therefore, of social intercourse upon the use of the faculty of speech are inoperative as between the peoples of the belligerent nations in the prosecution of the war. Consequently, for all the nationals, both combatant and civilian, the use of the faculty of speech in the actual prosecution of the war has an end in common with all their other faculties and resources, the successful issue of the war. The faculty of speech, therefore, with all one's other faculties and resources, may be used in the prosecution of the war in any way which is not, from some other source than the non-existent social intercourse, sinful. It may, therefore, be used to deceive the enemy by false statements. And these false statements are no violation of the faculty of speech but in accordance with its nature and consequently no lie.

Although it was the special condition of war that occasioned his article, Father Gounley's thesis is not limited to such circumstances. Here again I quote him because his own words express his views more aptly than would any summary of mine:

While we are at it, we might as well consider the question of false statements outside the time of war and its prosecution. Can they ever be justified? There can be no doubt that occasions arise when a person subjected to well-put questioning cannot protect a secret which he is bound in conscience not to reveal, except by a blunt and thumping false statement. To refuse an answer, to hesitate at all, or to give an equivocal answer, would be tantamount to confirmation of the suspicions of the inquirer. May he make such a false statement?

If peaceful, helpful, social intercourse and its requirements are, as we contend, the end or purpose of the faculty of speech and the determiner of its use, the answer is evident. *From one and the same source*, namely, *the demands of social intercourse*, arise both the obligation of truthfulness in normal conditions on the one hand, and the justification *per accidens* of a false statement in the exceptional cases referred to on the other hand. And it cannot be argued that such procedure would tend to undermine mutual trust and confidence *any more* than does the liceity of the use of mental restrictions in such cases. The aim of the speaker in both instances is the same, to deceive the inquirer, even though those who allow only mental restrictions euphemistically speak of the inquirer as deceiving himself.

In the course of his article Father Gounley mentions that some moralists have held that a *falsiloquium* is not necessarily a lie. He gives no references. Perhaps he is referring to Tanquerey, who cites several Catholic authors as holding this opinion, and whose own judgment is that those who are dissatisfied with the notion of mental reservation may hold that a *falsiloquium*

is allowed in the same circumstances in which the more traditional doctrine allows a mental reservation.³²

Or Father Gounley might have Genicot-Salsmans in mind. Genicot was not content with the customary explanations of the lie and the mental reservation.³³ He believed, and rightly so, that both the learned and the unlearned should have a ready means of defending their secrets, and he considered it useless for a confessor to try to explain the intricacies of the broad mental reservation to the untrained mind. He therefore advised confessors to tell unlearned penitents who confess that they were "forced to lie" that such things are not really lies. Salsmans kept intact the words of his predecessor, and in more recent editions he himself suggested in a footnote that these forced falsehoods might be called *locutio conventionalis*, or at least that they might be explained as licit by saying that *mendacium* is not absolute'y evil. And if these suggestions do not satisfy, he added, perhaps we should coin a new terminology which is more sincerely adapted to practices universally considered as licit.³⁴

Vermeersch wrote copiously about *mendacium*; but since his own conclusions are summarized in the third edition of his moral theology it is not necessary to refer here to his other writings.³⁵ He refused to depart from the traditional definition (*locutio contra mentem*), but he explained *locutio* as *locutio formalis*. Speech is formal only in those circumstances in which the speaker can be reasonably thought to be communicating his mind. Vermeersch was particularly interested in providing everyone with an effective means of defending a secret; hence the most practical application of his theory of "formal" speech is that he allowed a falsehood for this purpose, when no other effective means is available. He considered this a parallel with the defense of one's life against an unjust aggressor.

Reference is often seen today to an article in *Periodica* by J. J. Van Rijckeverse, S.J.³⁶ The article defends the Vermeersch theory by what I found to be a bewildering series of majors and minors. Both this writer and Vermeersch explain the possible licitness of false (material) speech as an application of the principle of the double effect. Vermeersch is a staunch defender of the application of this principle to the case of unjust aggression.

³² Tanquerey, *Theol. Moral.*, III (1937), n. 383, p. 196; see also footnote 3, p. 192.

³³ Genicot, *Theol. Moral.*, I (1905), n. 416, p. 394.

³⁴ See Genicot-Salsmans, *Theol. Moral.*, I (1946), n. 416 and footnote, p. 341; see also their *Casus Conscientiae*, (ed. 7), case 193, for an interesting example of the *locutio conventionalis*.

³⁵ Vermeersch, *Theol. Moral.*, II (1937), nn. 652-54, pp. 632-35.

³⁶ "De Malitia Mendacii," in *Periodica*, XXIII (1934), 48*-54*.

For myself, I fail to see the necessity of resorting to the principle or the possibility of applying it reasonably either in the case of unjust aggression or in the use of the *falsiloquium* to defend a secret. *De gustibus . . . !*

The most expansive study of the lie that I have seen was published in *Periodica* through the years 1943–45. A brief summary of the same matter was published the following year. The author, Father Michael Ledrus, S.J., certainly takes us through labyrinthine ways, but we emerge with apparently the same practical conclusion that was reached by other authors already mentioned here—that a *falsiloquium* is not necessarily a lie. According to Father Ledrus, the essential evil of the lie consists in a violation of the mutual faith that should characterize social intercourse; hence if conditions are such that this faith is not called for, the falsehood (*sermo falsus*) is not a lie. Father Ledrus insists, however, that even in the circumstances in which a falsehood is not a lie, it is nevertheless morally unbecoming, like the violent resistance of an unjust aggressor or like serving as an executioner; hence the falsehood is always to be affectively abhorred and deplored.³⁷

The Capuchins, Varceno and Loiano, offer a definition of *mendacium* that merits consideration: “locutio contra mentem communicabilem,” or “negatio veritatis communicabilis.” They reject the older and more common definition on several counts. It is founded, they say, on the unproved assumption that the essential evil of the lie consists in discord between speech and mind; and it either provides no really effective means of guarding a secret or in practice contradicts itself by allowing “mental reservations” which are simply falsehoods. In establishing their own definition they say that the intrinsic purpose of speech is to reveal one’s communicable mind and that the essential evil of the lie consists in the discrepancy between words and the communicable mind. The same nature, they argue, that forbids us to lie also commands or at least permits us to guard our secrets; both these natural aspects are expressed in the word “communicable.”³⁸

To return to Father Gounley: I imagine that some parts of his argumentation might be open to strong attack. In fact, his main contention—that the *falsiloquium* is not necessarily a lie—may be, and very likely will be bitterly opposed. In holding it, however, he appears to be in very good company. Certainly the general trend that characterizes the works cited here is a more sincere approach to a question that concerns the ordinary life of the ordinary man, than is the subtle and often far-fetched mental reservation.

³⁷ Father Ledrus’ articles “De Mendacio,” are in *Periodica*, XXXII (1943), 5–58, 123–71; XXXIV (1945), 157–209; XXXV (1946), 271–74.

³⁸ Varceno-Loiano, *Theol. Moral.*, II (1935), nn. 419–23, pp. 508–17.

PRECEPTS OF THE CHURCH

Servile work is another topic which has been treated frequently and at great length in ecclesiastical periodicals since the turn of the century. And, as in the case of *mendacium*, the literature plainly manifests dissatisfaction with a traditional notion—or perhaps I should say, dissatisfaction with what is often referred to as “the manualists’ interpretation of the law.” A critical survey of the expanding literature on servile work, published by Father Vincent J. Kelly, C.S.S.R., in 1943, contains the following suggestion among its conclusions:

There was a time when the notion and extent of servile work could be fairly well determined. However, owing to changes in society and the ever increasing numbers of different types of work, it has become more and more difficult to judge many works. It has become necessary in the light of these factors to break away today from the traditional definition based on something extrinsic to the work. What that should be, is to be determined by the custom and practice of the people. The number of writers is ever increasing who think, like the present writer, that common estimation at the present time seems to find the determination of servile work in the work which one does for a livelihood. Therefore it seems one may prudently define servile work as that work which one does for a livelihood. Such work is the work he should avoid on Sunday.³⁹

Despite Father Kelly’s dissertation and the numerous articles in diverse languages that preceded it, servile work still presents a vexing problem. Looking through the ecclesiastical journals of the past year I have found two questions and one lengthy article on the subject. One question, concerning knitting, was proposed to Canon Mahoney. His reply comes to this: in solving the problem of knitting one may either follow the recent trend, which is inclined to consider that such hobbies as knitting are not to be classed as servile work, or follow the more traditional view that it is really servile work, but one which readily admits of excuse or dispensation.⁴⁰

The question is given a somewhat broader formulation in *L’Ami du clergé*; it includes not only knitting, but also working about the garden, embroidery, and crocheting.⁴¹ It seems that, in the casuistry of the past, embroidery and crocheting have generally been considered as artistic occupations; hence our interest in *L’Ami*’s answer centers upon the knitting and garden work. The answer, as a matter of fact, is not perfectly clear. It appeals

³⁹ *Forbidden Sunday and Feast-day Occupations* (Washington: Catholic University of America Press, 1943), p. 204.

⁴⁰ “Is Knitting Servile Work?”, *Clergy Review*, XXVIII (1947), 266–68.

⁴¹ *L’Ami*, Dec. 19, 1946, pp. 156–57.

to custom as the deciding factor, and indicates that customs which approve of such light occupations as a means of Sunday relaxation seem to be on the increase. (*L'Ami* obviously believes that such customs *should* be growing.) But whether these laudable customs are merely establishing legitimate excuses for performing certain servile works or whether they are modifying the interpretation of servile work itself is not clear from the response in *L'Ami*. In practice, this makes little difference; but from the speculative point of view it means much.

The article to which I referred was written by Father Sanders, and was published in two installments.⁴² The first installment contains a brief survey of the history of the law and an examination of the theories and conclusions of some of the manualists. At the end of his historical survey, Father Sanders remarks:

Briefly, what we have today is, with some minor modifications, an interpretation of the law based on the customs of the Middle Ages, or at best on a theory worked out in the light of these centuries-old customs. St. Thomas himself warned us not to stop at that when he wrote: "Opera autem secundum se considerata immutari possunt pro loco et tempore."

The conclusion of the survey of the manualists is an equally striking paragraph:

Going through all this, one feels that after their solemn protestation that the intrinsic nature of the work, not the intention of the worker nor the fatigue the work entails, must be the prime criterium, the manualists have to resort to a good deal of intellectual contortion to produce a list of forbidden servile works that, to say the least, does not look too bewildering. Happily, the common sense of the priests and the Christian people expressed in the customs of which the manualists must necessarily take account, keeps them from deviating all too far from reality. If they were thoroughly logical, it might be much worse!

In the second installment Father Sanders brings together an array of modern writers clamoring for a more realistic and up-to-date interpretation of the law. He cites Father McReavy, who believes that forbidden servile work should include only what "the average man holds to be menial, and the prudent judgment and custom of instructed Christians interprets as a violation of the Sunday rest." Also cited is Father P. Berte, S.J., who suggests that servile work should be "the work done during weekdays for a salary or for the profit one hopes to make." Then there is Father H. Michaud, who argues that "true servile work in the proper sense is the week-

⁴² "Opera Servilia," *Clergy Monthly*, X (1946-47), 145-60, 181-92.

day's work, the exercise of one's profession, performed for a salary." Canon Mahoney's contribution is also included, namely, that we are bound to abstain from those works which, "in the sound judgment and custom of Christians, are opposed to the purpose of the precept, which is to secure a weekly rest in order better to serve God."⁴³

Having established a good case for the general need of some adaptation of the law, Father Sanders then turns to the main purpose of his study, which is to bring about an interpretation of servile work that will be uniform throughout India, which "sincerely good Catholics with sound judgment will not and cannot regard as unreasonable, and which does not oblige us to admit that a very great number of our people must be excused from strictly observing the law just because they need occupation."

How is this interpretation for the whole of India to be made? First, by an investigation into the customs and attitudes of the people to ascertain just what the average instructed Catholic holds to be menial and a violation of the Sunday rest. Once this investigation is made, the local ordinaries of India, acting as a group, are to declare officially what is to be henceforth interpreted as servile work within their jurisdiction.

Can this be done? Father Sanders believes that it can, and in confirmation of his view he cites the action of the Belgian Hierarchy with regard to the law of fasting. He is referring to the fact that in 1937 the Provincial Council of Mechlin officially declared the relative norm of fasting to be applicable in Belgium. Father Sanders is of the opinion that such a declaration of local usage (custom, in a wide sense) is within the competency of the hierarchy when there is question of general laws which admit of varying local interpretations.⁴⁴

I have been very much impressed by the fact that Father Sanders and others who have written on this subject are extremely careful to point out that they are not urging a change in the law forbidding servile work but only a more practicable interpretation of the meaning of servile work. Perhaps this will do away with all the headaches; yet I doubt it. Moreover, I wonder if reverence for ecclesiastical legislation demands that we dare not even suggest a change in the law. Might we not, within the bounds of reverence, suggest that the law itself is not adapted to our complicated civilization? Would it be temerarious to put forth the opinion that it would be better to

⁴³ Exact references to authors cited here are in Father Sanders' article.

⁴⁴ An attempt was made several years ago to interest our own bishops in the relative norm of fasting, but the response was not encouraging; see L. J. Twomey, S. J., "The Lenten Fast: Is It an Insupportable Burden?", *Ecclesiastical Review*, XCVIII (1938), 97-110.

confine strict legislation to the positive side of the feast-day precept and to make the negative aspect merely exhortatory or directive? Other Church laws have been changed or abrogated; and I see no irreverence in suggesting that the *prohibition* of servile work be abrogated, and that in its place we have an *exhortation* similar to that of the Council of Laodicea: "As for Sundays, the faithful are urged, out of respect for the sacred character of the day, to observe such repose as circumstances will allow, and in the spirit that befits a Christian."

One other question concerning the precepts of the Church may be mentioned here, namely, does a Catholic family enjoy the workingman's privilege if the father is a non-Catholic? Father Edwin F. Healy, S.J., answers this question in the negative.⁴⁵ He argues that the father does not receive the privilege because he is a non-Catholic, and that the family does not receive it because it is communicated to the family through the father. Father Connell recently answered the same question in the affirmative; his reason is that the wife and family, as well as the breadwinner, are the direct recipients of the privilege.⁴⁶ It seems to me that Father Connell's solution is more in keeping with the wording of the indult as given in *Canon Law Digest*,⁴⁷ and as usually communicated by local ordinaries.

THE EUCHARIST

It happens occasionally that a priest who wishes to celebrate Mass has no server and cannot get one, at least without serious inconvenience. Does canon 813, §1, absolutely forbid the celebration of Mass under such circumstances? In a critical survey of the question Father Walter W. Curtis finds that there is now sufficient agreement among authorities to allow the Mass "for the sake of Viaticum, for fulfillment of the Sunday precept by people or priest, for the continuation of the Mass when the server departs and fails to return," also for "the celebration of a funeral Mass when the server fails to come and no other is available, etc."⁴⁸ In cases such as these, says Father Curtis, "the elements of grave scandal, of scrupulosity, and of great spiritual good are here sufficiently weighty to excuse from the positive law."

But what is to be said of the celebration of Mass in a parish church on an ordinary weekday, when some, perhaps only a few, faithful attend; and

⁴⁵ Cf. *Teachers' Manual for Moral Guidance* (Chicago, Loyola U. Press, 1942), pp. 66-67, answer to case 6.

⁴⁶ "The Workingman's Privilege," *Ecclesiastical Review*, CXVI (1947), 227.

⁴⁷ I, 591-92, under canon 1253.

⁴⁸ "Mass Without a Server," *Ecclesiastical Review*, CXV (1946), 364-75.

above all, what if the priest is alone, and his sole reason for celebrating is personal devotion? Both questions are of concern to priests; the second, I believe, is of particular concern to the devout priest who deeply loves his daily Mass. After a critical examination of both cases, Father Curtis judges that reasons and authorities are sufficient to justify the celebration of Mass in the first case, but not in the second.

Canon Mahoney is in perfect agreement with Father Curtis in his negative solution to the second case;⁴⁹ in fact, it is his opinion "that even an indult for saying Mass without a server does not include the case when no one at all is present in the church." With regard to the first question, he is not as reassuring in his reply as Father Curtis. He thinks it clearly permissible to celebrate without a server "on some special occasion such as a nuptial Mass, or when many people are present at a Mass of devotion, as on the First Friday"; but for the ordinary weekday Mass, "it is for the conscience of the priest to discern a grave reason, e.g., the fear of scandal."

Devout priests who are disturbed by such writers may obtain a measure of consolation by reading the rebuttal to Father Curtis written by Father Patrick O'Brien, C.M.⁵⁰ The conclusion of Father O'Brien's argument-for-argument reply is:

... that from the extrinsic authority quoted and the intrinsic probability of the arguments adduced it is certainly probable that a priest may, *ex devotionis causa tantum*, celebrate Mass without a server, *seclusa negligentia*. We will recall here the necessity for using a relative moral diligence to provide a server and the necessity of undergoing some inconvenience if a server may thus be obtained, e.g., by waiting for a reasonable time until someone is free to serve the Mass.

It is hardly necessary to recall and evaluate the details of this debate; yet I should not want the occasion to pass without breaking at least a small lance in the cause of the devout priest. It seems to me that Wouters (who is cited by Father O'Brien, but not by Father Curtis) offers the most cogent reason for permitting the occasional celebration of Mass without a server, *etiam devotionis tantum causa*. Wouters argues from the fact that the Holy See grants many indults for *habitual* celebration without a server to the sound probability that *occasional* permission may be reasonably presumed.⁵¹ Personally, I like this argument because it interprets the severe prohibition in the light of the spirit which characterizes the legislator.

Canon Mahoney might object that the indults presuppose that some

⁴⁹ "Mass Without a Server," *Clergy Review*, XXVI (1946), 652-53.

⁵⁰ "Mass Without a Server," *Ecclesiastical Review*, CXVI (1947), 432-47.

⁵¹ Wouters, *Theol. Moral.*, II (1933), n. 269, p. 196.

persons will be present at Mass, and therefore the deduction from habitual permission to occasional presumed permission is invalid. I am aware of no proof for his contention, and I know certain cases which seem to nullify it. For instance, I have definite knowledge of several cases in which the indulgences were given precisely for circumstances in which no one would be present at the Mass. And in at least one diocese in this country the indulgence, as communicated to the priests, says nothing about the need of a congregation. Nor is this restriction to be found in the faculties granted to military chaplains.⁵² Finally, the apostolic faculties are not limited in that way. It is true that these faculties are conditioned by the phrase, "in casu necessitatis," or, "urgente necessitate," but commentators are quite mild in explaining this condition. "The sense of the words, 'in casu necessitatis,'" writes Father Francis J. Winslow, M.M., "may be understood as meaning when otherwise one would be obliged to omit the celebration of Mass. It would not be lawful to make use of the faculty when all the customary requisites for Mass are present; e.g., to celebrate without a server if one were available."⁵³ Vermeersch⁵⁴ and Vromant⁵⁵ give the same interpretation.

It seems to me, therefore, that Father O'Brien's conclusion is defensible and that it can be followed without scruple by the devout priest, unless some definite declaration of the Holy See contradicts it.⁵⁶ But it should be noted, with Father O'Brien, that the opinion refers to occasional, not habitual, celebration. When circumstances constantly make it impossible to have a server an indulgence should be requested. Moreover, even indulgences presuppose that there is difficulty in obtaining a server; and there is no justification for failing even to try to get a server merely because an indulgence has been granted.

⁵² Cf. *Canon Law Digest*, II, 609, n. 7, which reads: "to celebrate Mass without a server if one cannot be had." In replying to a question about this faculty Canon Mahoney gives his argument that such privileges do not mean celebrating alone. He quotes from a typical indulgence given by the Congregation of Rites which warns the petitioner at least to have someone present "to represent the people." Vermeersch says that the Congregation of Rites always adds this warning in giving indulgences; but he does not say that other Congregations have a similar practice. Moreover, even if such a warning is added, it is not clear that it is a *condicio sine qua non* for the use of the indulgence; Cf. Mahoney, *Questions and Answers* (London: Burns, Oates, & Washbourne, 1946), q. 108; and Vermeersch, *Theol. Moral.*, III (ed. 3), n. 296, p. 262.

⁵³ *A Commentary on the Apostolic Faculties* (New York: Field Afar Press, 1946), 39.

⁵⁴ *Periodica*, XI (1923), p. (130).

⁵⁵ *Facultates Apostolicæ* (Louvain, 1926), n. 37, p. 31.

⁵⁶ The encyclical *Mediator Dei* insists on the observance of canon law, but it says nothing that would nullify interpretations given here.

PENANCE

A search through the literature on the sacrament of penance focuses our attention on an elusive psychological problem. In the *Clergy Monthly* for March, 1947, Father P. de Letter, S.J., published an analysis of the elements of repentance; and shortly afterwards a correspondent sent the question which, in an interesting and concrete manner, introduces our problem:

Your article on repentance decides me to write for enlightenment about the following. Paulus sent away his wife Catharina, and just 'took' Josephine. After this he had pangs of conscience which he silenced for ten years. Then Catharina died, and immediately Paulus went to have his marriage settled with Josephine. Has the parish priest to be very happy with the return of the lost sheep? Is it a return? In my opinion, as long as Paulus does not say to God: 'I am so sorry for my sin, that if (*per impossible*) I were put again in the same circumstances (of youth, prospects, etc.) as ten years ago, I would, with Thy grace, never do the same thing again,' he is not truly repentant. *Viz.*, my opinion is that it is not enough for him to thank God that Catharina is dead and that now he can live exteriorly as a Christian again. It is not enough for him to decide not to do the same thing again, now that the circumstances have entirely changed. In other words, there is, I find, a way of wishing to 'undo' one's sins, which is essential to a good contrition.⁵⁷

This query touches what is certainly not the least of the serious problems pertinent to true contrition. Again and again sinners "return to God" *after* the opportunity of committing a particular sin ceases to exist: for example, the contraceptionist will be repentant after the menopause; the girl who has consistently fornicated will make her peace with God after the boy has gone overseas; the person who has been sterilized will be contrite once the damage is irremediable; and so forth. The confessor wonders at times if this return to the sacraments is merely *post hoc*, or if it is *propter hoc*; in other words, he wonders if there is true contrition, which, according to Trent must look not merely to the present and future but also to the past. This means that there must be a detestation of the sin committed, a rejection, in some sense, of that particular sin.

Sinners themselves often sense a difficulty here; they feel insecure and uncertain about their contrition because they realize that they no longer have a definite way of testing themselves regarding that particular sin. Sometimes they must endure what seems to be a psychological penalty for their delayed repentance in the form of an interior terror arising from the

⁵⁷ Cf. "Repentance," *Clergy Monthly*, X (1947), 312.

suspicion that perhaps they would not be returning to God, if their sinful acts had not been terminated by some fact beyond their own control. Confessors wonder what they can tell such people. Perhaps Father de Letter's reply to the query may be of help:

It is perfectly correct to say that 'it is not enough to decide not to do the same thing again, now that the circumstances have entirely changed.' The opposite view, viz., that it is sufficient for repentance to decide not to do the same thing again, was the opinion of Luther and the Protestants, and was condemned by Pope Leo X (*DB*, 747) and repudiated by the Council of Trent: "Declarat sancta Synodus hanc contritionem non solum cessationem a peccato et vitae novae propositum et inchoationem, sed *veteris etiam odium* continere" (*DB*, 897). Hatred of the past sins is therefore essential to repentance, and this may be called 'a way of wishing to undo one's sins.' What does this disposition imply?

The frame of mind expressed in the conditional: '... so sorry that, if I were put again in the same circumstances ...,' can be understood in two ways. First negatively, as excluding a certain disposition, incompatible with true repentance, viz., voluntary attachment to the past sins. Unless this attachment be excluded, the sinner would still be ready to sin; only owing to changed circumstances, would be unable to carry into effect his affective inclination to sin. It is evidently essential to repentance to exclude this disposition. Secondly, the attitude of mind described in the conditional phrase may be taken as positively demanding a test. A repentant sinner should actually imagine himself in the same circumstances of his past sin, and if he were not sure enough of himself, and had no sufficient guarantee that he would not 'do it again,' he would be considered as not well disposed. This imaginary test is not required for true repentance. We have to, and may, judge ourselves, not on what we *would do if* ... , but on our actual dispositions. These may be good and sufficient, even when we cannot vouch for a successful passing of imaginary tests.⁵⁸

A simpler aspect of the psychology of contrition is the problem of the *recidivus*. Father Sanders proposes this in the form of the ordinary case of young men "who for months accuse themselves at every weekly confession of about the same number of solitary sins against chastity."⁵⁹ In discussing the principles on which the case is to be solved, he is careful to note that the confessor can give unconditional absolution only when he can exclude prudent doubt concerning the penitent's disposition. Legitimate controversy among theologians cannot refer to the principle; it can refer only to the means of judging the presence or absence of the requisite disposition. Unfortunately, some controversies have confused this issue, and a difference of terminology—for example, some say the confessor must have a "broad

⁵⁸ *Ibid.*, 312-13.

⁵⁹ Cf. *Clergy Monthly*, X (1946), 161-66.

moral certainty," others that he must have a "solid probability"—is still a source of confusion.

The solution to the case contains helpful pastoral suggestions. Father Sanders believes that such young men are seldom *formal* recidivists: they usually wish to be rid of their habit, but they may be very weak or at a loss what to do. Therefore, he says, "what they need most is encouragement and to be followed up." But this encouragement is not to be interpreted as superficiality, much less as laxity, on the part of the confessor. The practice of dismissing such penitents without a word of advice and with only a small penance "to make it easy for them," is unjustifiable; from practices such as this "they may get the impression that their way of acting is taken as more or less natural, not so bad after all. This would diminish the will to get out of it."

MARRIAGE

Out of the usual abundance of material on marriage I am selecting only one question, the relation of double vasectomy to impotence. Readers will remember that only a few years ago Father Edward H. Nowlan, S.J., published the fruits of a research which led him to conclude that "the permanently vasectomized man seems capable of contracting marriage because, according to the present state of canonical knowledge, his impotence is not certain."⁶⁰ The principal reasons assigned for this conclusion were these: the controversy among reputable canonists; obscurity concerning the essential notion of the marriage act; the probability that *verum semen*, as understood in the *Cum Frequenter* of Sixtus V and in theological tradition, is not restricted to semen elaborated in the testicles; and the fact that the moral and physical disabilities of the eunuch enumerated in the *Cum Frequenter* are not verified in the case of the vasectomized man.

Father Nowlan's thesis dealt explicitly with the question of permanent and irreparable vasectomy; however, in the course of his discussion he manifested a decided optimism about the possibility of successful reoperation. Father John J. Clifford, S.J., was by no means optimistic over this possibility; after much personal consultation and careful study of available statistics, he concluded that "the total series of cases reported both for epididymo-vasostomy and for reversal of vasectomy is so small that percentage figures of success cannot be very significant."⁶¹

It is worthy of note that Father Clifford, while not optimistic about suc-

⁶⁰ "Double Vasectomy and Marital Impotence," *THEOLOGICAL STUDIES*, VI (1945), 392-427.

⁶¹ "Reoperation after Double Vasectomy," *THEOLOGICAL STUDIES*, VII (1946), 453-63.

cessful reoperation, expressed himself as decidedly in favor of Father Nowlan's main thesis, that the vasectomized man is not impotent. Others who have very recently indicated a favorable attitude are Father Connell,⁶² and Father P. J. Lydon.⁶³ Moreover, while preparing his dissertation Father Nowlan sent two carefully-worded cases to about one hundred moralists and canonists. From the replies to his questions it is obvious that a substantial number of those consulted did not consider the vasectomized man to be impotent.

All this is interesting background for considering an attack on Father Nowlan's thesis by Father Philip Aguirre, S.J.⁶⁴ The occasion of Father Aguirre's article was a Rota decision of October 25, 1945, concerning the validity of a marriage contracted by a man who at the time of the marriage was suffering from a complete and irreparable occlusion of the epididymides.⁶⁵ The court of the first instance had argued that the man was not impotent, and in doing so had questioned the certainty of the principle ordinarily applied by the Rota, that the testicles must co-operate in the marriage act and that a man who is incapable of emitting semen elaborated in the testicles is unable to place an *actus per se aptus ad generationem*. The Rota decided that the marriage was null by reason of antecedent and perpetual impotence, and in discussing the case it defended its own jurisprudence point for point against the court of the first instance. Father Aguirre's arguments follow the same pattern as those of the Rota.

On one point it is hardly necessary to delay, namely, on the jurisprudence of the Rota. Father Nowlan admitted that this might be cited as an argument against his thesis. Nor is there anything substantial to add regarding the *Cum Frequenter*. Father Aguirre says that Sixtus V undoubtedly considered *verum semen* to be semen elaborated in the testicles; but, since he offers no new proof for the assertion, it is not necessary to re-examine Father Nowlan's argumentation in this regard.

In his thesis Father Nowlan referred to a rumor that the Holy Office had told some German bishops that certain permanently vasectomized men might be allowed to marry. Since this was only a rumor he did not offer it as an argument, but only as an interesting observation. This rumored reply is explicitly mentioned in the Rota decision, but is not quoted. We

⁶² Cf. *Ecclesiastical Review*, CXVI (1947), 70-71.

⁶³ Cf. *The Priest*, Dec. 1946, p. 48.

⁶⁴ "De impotentia viri juxta jurisprudentiam Rotalem," *Periodica*, XXXVI (1947), 5-23.

⁶⁵ The decision is printed in *Periodica*, XXXV (1946), 5-28.

can thank Father Aguirre for giving us the exact text of the question and answer.

In substance, the question sent to the Holy Office by the Bishop of Aachen is this: If a man has undergone a total and irreparable double vasectomy or some similar operation which absolutely prevents the discharge of sperm by the natural method, can he be safely allowed to marry according to the norm laid down in canon 1068, §2?⁶⁶ The reply, as quoted by Father Aguirre, is: "In casu sic dictae sterilizationis iniqua lege impositae, matrimonium ad mentem p. 2 can. 1068, non esse impediendum." (The question is dated Dec. 17, 1934; the reply, Feb. 16, 1935.)

The Rota recognized the validity of this reply, but interpreted it as expressive of a *dubium facti*, not a *dubium juris*. In other words, despite the fact that the question speaks of the men as *irreparably* vasectomized, the Holy Office considered this *fact* to be doubtful and replied accordingly. Knowledge of this reply has not affected the Rota's constant policy of admitting no *dubium juris* in the case of those who are unable to emit semen elaborated in the testicles. Father Aguirre, be it noted, admits that the reply of the Holy Office is open to either interpretation, *dubium juris* or *dubium facti*, but he thinks that the present Rota decision, containing as it does a solemn declaration of nullity, is a powerful argument against the former interpretation.

A final argument is indicated by the Rota, and developed by Father Aguirre. At times, when it was proved that during the period of his marriage a man had been unable to emit semen elaborated in the testicles, the Rota has considered the marriage as not consummated and has recommended a dispensation *super matrimonio rato et non consummato*, and this dispensation has been granted by Popes. In this way, says Father Aguirre, the Popes have used their power as Vicars of Christ indirectly to confirm the jurisprudence of the Rota.⁶⁷

Thus run the arguments developed in Father Aguirre's article. For myself, I have always held the view hopefully expressed by Father Clifford,

⁶⁶ Here is the text of the petition, as given by Aguirre, *op. cit.*, p. 14: "An vir qui subiit vasectomiam bilateralem, totalem et irreparabilem vel aliam operationem chirurgicam ejusdem effectus, qua scilicet omnis communicatio cum testiculis irreparabiliter ita intercluditur ut nulla sperma ex iis traduci et transferri naturali via possint, nihilominus ad matrimonium ineundum admitti tuto possit juxta normam in 2 can. 1068 statutam." In the light of this petition it is difficult to see how the reply of the Holy Office could be interpreted as expressing a *dubium facti*!

⁶⁷ Father Aguirre, *op. cit.* p. 19, cites one such favor granted by Pius XI on May 22, 1932, and another granted by Pius XII, December 10, 1943.

namely, "that the main thesis of Father Nowlan will find general acceptance among canonists, and that therefore the vasectomized will soon be eliminated from the category of the impotent." The case as exposed by the Rota and by Father Aguirre has considerably weakened my confidence. I am especially impressed by the argument based on the dispensations *super matrimonio rato et non consummato*; and at present I can see no answer to it. Perhaps others who are interested in Father Nowlan's thesis can suggest a reasonable answer?

VOCATIONAL GUIDANCE

The present section is a sort of supplement to the notes. I include it because no small part of the priestly ministry is concerned with vocational direction and I think that in this matter priests might find much help in the literature summarized or referred to here.

With regard to the priestly vocation, an article by Father Connell explains four possible obstacles to the reception of major orders: laziness, disobedience, scrupulosity, and impurity.⁶⁸ I might observe, before commenting on his excellent article, that he seems to overemphasize the function of the confessor. In my opinion, the confessional, despite all that is written about it, is not the most apt place for spiritual direction; I think guidance on most, if not all, these points could be given more effectively by the spiritual father, outside of confession. There is little utility, however, in delaying on the point; the much more important message of Father Connell's article is this: whoever directs the seminarian should know the latter's duties and should be prepared to guide him to a proper fulfillment of them.

As for the seminarian's personal duty, a theologian can hardly take exception to Father Connell's clear and decisive statement of the cases. A young man who lacks genuine piety, that is, who is spiritually lazy (*acedia stricte dicta*) or who is lazy in the ordinary sense to such an extent that in the priestly life he is "likely to seek primarily his own ease and comfort, contenting himself with the least possible amount of work," certainly should have grave doubts about his fitness for major orders and therefore must not take the step until such doubts are properly dispelled. The same is to be said of one whose external conduct and particularly whose internal spirit of pride and contempt indicate that he lacks the reverence and obedience to ecclesiastical authority which is promised on ordination day and which is absolutely necessary for the harmonious government of the Church.

The scrupulosity referred to is not the transient kind, but the ingrained type which is manifested by "one who has developed over the course of years

⁶⁸ "The Seminarian's Confessor," *Ecclesiastical Review*, CXVI (1947), 174-83.

a pronounced tendency to see sin where there is no sin and is unable to make definite decisions like a normal adult of his years and education." I wonder if any experienced confessor or spiritual director would refuse to say "amen" to Father Connell's assertion that "it is a risky thing to admit such a person to the priesthood"?

"Whatever good qualities a young man may possess, if there is no well-founded assurance that he will live a chaste life, he must be barred from Holy Orders." This is a clear statement of the norm for chastity. Yet the candidate for sacred orders should not wait to "be barred." It is his own obligation, and a serious one, to make this decision on the basis of his conduct and temperament; and if he has a solid doubt concerning his ability to preserve habitual personal chastity and avoid scandal, it is his duty to⁴ defer ordination. Pope Pius XII, in an address to all clerical students in Rome, did not mince words in this matter. Rather, he warned the young men emphatically:

The priestly office demands of you, We may say, extraordinary sacrifices, among them that central and complete sacrifice of self to the service of Christ by celibacy. Test yourselves! And if any find themselves unable to keep this obligation, We beg them to withdraw from the seminary and go elsewhere, where they may live a good and useful life, whereas in the priesthood they would be in danger of losing their souls and of bringing discredit upon the Church.⁶⁹

Father Connell suggests no specific remedies for laziness and disobedience.⁷⁰ With regard to scrupulosity, he lays great stress on the need of absolute obedience to direction. I take it that he means this as the first step in the treatment; and I think that this must be emphasized. A man is never really cured of scrupulosity as long as he must substitute another's judgment for his own; and one whose sense of insecurity is so great that he cannot make prudent moral decisions for himself is not fit for the priesthood.

A habit of consummated sin with another, formed after one has entered even a minor seminary, is, as Father Connell observes, scarcely susceptible of treatment which will be a sufficient guarantee against future disastrous relapses. Habits of self-abuse and of indulging in such dangerous entertainments as indecent shows and magazines can be definitely corrected; but a

⁶⁹ A.A.S., XXXI (1939), 249-50; *Canon Law Digest*, II, 431-32.

⁷⁰ For a good treatment of "spiritual half-heartedness," with copious references to the literature, see Zimmermann, *Lehrbuch der Aszetik*, 2nd ed., 1932, p. 191 ff; also De Guibert, "Médiocrité spirituelle," in *Revue d'ascétique et mystique*, 1935, pp. 113-31. On obedience, especially appropriate for seminarians is L. Tronson, *Traité de l'obéissance aux supérieurs, au directeur de conscience, au reglement* (1824); and, of course, Tanqueray, *The Spiritual Life*.

fair judgment of lasting reform can normally be made only after the lapse of time. How long a time? Father Connell wisely admits that this time-element cannot be measured mechanically; nevertheless, speaking of the habit of self-abuse, he makes this estimate: "I am inclined to the view that in practice a proof of at least a year's duration must be demanded of a young man aspiring to the priesthood who has contracted the unfortunate habit in question, before he can safely be admitted to the sub-diaconate. This would ordinarily mean that he must prove himself for two years before receiving the priesthood."

This seems a prudent estimate. It is seldom wise to trust reforms that include only the school year, but not vacation; and it is especially dangerous to rely on a reformation that is brought about during the year immediately preceding ordination. The proximity of ordination, with its temporarily enhanced spiritual motivation and the natural incentive of avoiding disappointment of self and parents, can easily be the occasion of a merely superficial reform.

For the guidance of those who are choosing or have already chosen the vocation to the religious life, priests will find *Testing the Spirit*, by Father Felix D. Duffey, C.S.C., quite useful.⁷¹ In the second part of this book Father Duffey suggests and explains twenty-one questions to be kept in mind in judging the fitness of a candidate to the religious life and in directing young religious. Several of these questions bear directly on emotional maturity, the lack of which, according to the best psychological studies, is one of the principal causes of maladjustments in married life. This lack seems to be no less a cause of failure to make proper adjustments to the demands of the religious life and the priesthood.

Priests had always to be prepared to direct souls striving for perfection in the world; now they must be ready to give advice on the comparatively new calling to perfection "in the world but not of the world," that was crystallized in the Apostolic Constitution *Provida Mater Ecclesia*. An English translation of this important document may be found in *The Homiletic and Pastoral Review*;⁷² informative commentaries were published in *The Clergy Review*,⁷³ and *The Clergy Monthly*,⁷⁴ by Fathers McReavy and

⁷¹ St. Louis; Herder, 1947.

⁷² XLVII (1947), 940-44; Francis B. Donnelly, J.C.D., translator.

⁷³ XXVIII (1947), 153-60, "The New Law for Secular Institutes"; Latin text is on pp. 196-207. *Periodica*, XXXVI (1947), 104-25, also has Latin text and commentary by Father Creusen.

⁷⁴ X (1947), 281-88, "Official Recognition for a New Form of Christian Perfection"; Latin text, pp. 289-97.

Sanders respectively. It would be difficult to find a better brief description of these secular institutes than the following paragraphs taken from Father McReavy's article:

The Constitution begins by settling the question of their name and status. In order to distinguish societies whose members, while remaining in the world, profess the evangelical counsels, from the ordinary Associations of the Faithful, dealt with in the Code (Book II, part III), they are henceforth to be known as 'Secular Institutes.' Since they do not take *public* vows, nor require community life, at least of the strictly canonical type, they cannot be classed either as 'Religious' or as Societies of Common Life without vows. They are therefore not bound by the special law proper to such bodies, nor may they normally even use it. Instead, they are to be governed by the general norms of this Constitution, by such rules as the Sacred Congregation of Religious (on which they depend) may hereafter issue for them, and by their own duly approved statutes.

In order that a pious association may be formally erected as a Secular Institute, those who aspire to membership in the strict sense must, in addition to the other requisites of the State of Perfection, fulfil the following conditions: first, they must make a profession before God of celibacy and perfect chastity, confirmed by vow, oath, or consecration binding in conscience; secondly, they must dedicate themselves wholly to God and to works of charity or of the apostolate, by a vow or promise of obedience which puts them permanently under the constitutional control of their superiors; and thirdly, they must make a vow or promise of poverty, restricting their free use of temporal goods in the manner described in their constitutions. Moreover, their incorporation in the Institute must be stable, so that, if their profession is temporary, provision must be made for its renewal in due course; and it must also be mutual and complete, in the sense that the members must give themselves entirely to the Institute, and the Institute must assume full care and responsibility for its members. Even though they do not observe canonical community of life, they should have one or more community houses, where the superiors may reside, where the members may come for their spiritual formation and periodical exercises, and where those among them may be received for whom residence in private houses is impossible or inexpedient.

Secular Institutes can be canonically erected by the Bishop, but he must consult the Sacred Congregation of Religious beforehand, and notify it afterwards. Like Religious foundations, they are *iuris dioecesiani* until they obtain either formal approbation or a *laudis decretum* from the Holy See; thereafter, they are *iuris pontificii*, and subject to the local Ordinary only in the same degree as non-exempt Religious.

Christian marriage is also a vocation—an inspiring fact too often unknown or ignored. And one obstacle to the achievement of the Catholic ideal is the mixed marriage. Catholics often fail to recognize their duty to avoid

such marriages and are therefore all too thoughtless in keeping company with non-Catholics with a view to marriage. Father Connell answers a question on this topic by giving in a nutshell one of the main contentions of Ter Haar's book on mixed marriages.⁷⁵ The principle cannot be questioned: it is a mortal sin to keep company with a non-Catholic with a view to marriage unless one has good reason to believe that one has or will have before the marriage a justifying cause for entering the union. This means that one has a reasonable assurance either that the non-Catholic will be sincerely converted before the marriage or that there will be a sufficient positive reason (and not merely a "tolerating" cause) for granting a dispensation at the time of the marriage.

The direction of good Catholics is sometimes rendered particularly difficult by the fact that they are subjectively convinced that the non-Catholic will be converted. Priests need some test questions to help the Catholic determine whether this subjective conviction is in keeping with the facts in the case. Last year I had the good fortune to participate in a lengthy discussion on this subject. At the conclusion of the discussion it was decided that these three questions cover the matter very well: (1) Is the non-Catholic definitely attached to some sect? (2) Does he or she hate the Catholic Church? (3) Does he or she have moral standards at variance with Catholic teaching, especially with regard to divorce and birth control? If all these questions are answered in the negative, there should be good hope of making a solid conversion, provided the Catholic is willing to take the initiative. On the other hand, if any of the questions is answered in the affirmative, the prospect of a conversion is slight, and the prospect of a successful mixed marriage seems equally slight.

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⁷⁵ "The Problem of Mixed Marriages," *Ecclesiastical Review*, CXV (1946), 386-88.