

Fellowship of Catholic Scholars Newsletter

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June 1986

Charles Curran and ACCU

In his letter of August 24, 1984 (N. 111) to the Congregation for the Doctrine of the Faith, Fr. Curran offered the following in partial defense of himself.

"I have never said the hierarchical magisterium is so completely wrong. (See Origins March 27, 1986, p. 678.)"

On July 7, 1978, Fr. Curran published an article entitled *Ten Years Later in Commonweal* (pp. 425-30), his reflections on the anniversary of *Humanae Vitae*. Declaring his unwillingness to find a way to mitigate the teaching contained therein so as to avoid accusing the pope of being in error, Curran declared:

"From my perspective it was important to take the more radical approach. The teaching condemning artificial contraception is wrong; the pope is in error; Catholics in good conscience can dissent in theory and in practice from such a teaching." (p. 426.)

To anyone old enough to know what it means to be a Catholic, the responses of Charles Curran, Richard McCormick, Walter Burghardt, Richard McBrien, and the *American Association of Catholic Universities*, and their related affiliates, to the present efforts by Pope John Paul II to restore both Catholic theology and Catholic Universities to the Church, especially in the United States, indicate how far *some* academic elites have departed from Catholic norms of belief and practice. (cont'd p. 3)

WHAT TO EXPECT IN THIS ISSUE?

—On Theologians and Canon Lawyers

p. 3

On page 18 of "DE LUBAC - A Theologian Speaks": We read: "There is no way of reading and interpreting the Bible if you cut yourself off from the living tradition which gives it to us. An individualist reading (even a very learned one) can be the quickest way to distort it."

Henri de Lubac in his 1980 *Petit Catechese* declared that "the post-Conciliar Church was almost immediately called upon to fall in line, not with what the Council said but what it should have said."

—On the Extraordinary Synod

p. 12

"The Fathers also dealt with the principle of subsidiarity. This was present in many of the reports of the conferences. It only appears three times in Vatican II and even there it refers to civil society. It is not then a theological principle. Its use in ecclesiology remains an open question that has to be studied." (*Catholic Standard and Times*, January 9, 1986, pp. 2,6)—
Cardinal Krol

—On Tradition

p. 17

More than one man has noted that "the most tradition minded centuries did the least talking about tradition. Rather they lived it. They were soaked through with it. It was through the eyes of tradition that they read the scriptures." *Splendour of the Church*. p.1

Items of Interest

- More than 25,000 women have signed the Affirmation for Catholic Women, expressing unity with the teachings of the Catholic Church and with Pope John Paul II, according to *Women for Faith and Family*, the St. Louis-based organization which has been collecting women's signatures. Included among the signers of the document is Mother Teresa of Calcutta. An earlier list of 10,000 names had been given to the Pope last June.

Women for Faith and Family was organized in September, 1984, just prior to the appearance of the original *New York Times* ad.

Dates for a second national conference of WFF have been set for October 3-5, 1986. Contact: Helen Hull Hitchcock, 6158 Kingsbury, St. Louis, MO 63112, (314) 863-1654.

- There seems to be a growing interest in the Roman Academic Centre's STL and STD program recently opened in Rome in collaboration with Spain's University of Navarre. Write Fr. John C. McCloskey, 330 Riverside Drive, New York, New York 10025, (212) 222-3285.

- Copies of *We Believe*, mentioned in the last Newsletter, are available from P.O. Box 4127, Heritage Drive, Portsmouth, N.H. 03801. \$14 soft-cover, \$23 hard-cover.

- *God and Money* is a 43 minute film, sponsored by the Corporation for Public Broadcasting for national telecast. It presents the Bishops' pastoral on economic life as a living process of reflections and action by 50 million American Catholics.

God and Money is available in 16mm film and all video-cassette formats simply by writing or telephoning California Newsreel, 630 Natoma Street, San Francisco, CA 94103 (415) 621-6196. Video rental \$55.00, sale \$49.00.

- A scholarly article entitled "The Changing Nature of the 'Italian Problem' in the Catholic Church of the United States," is available from Joseph A. Varacalli, Nassau Community College, Garden City, New York 11530.

- One-time *New York Times*' Kenneth Briggs on the Extraordinary Synod:

"... it seemed painfully clear that Rome's effort to pull in the reins is doomed to failure. Despite efforts to shun comparisons to secular politics, the church must come to terms with the great human movements toward participatory democracy and egalitarianism.

"Several of the local churches have begun to catch this spirit—as a gift of continuing revelation—and to incorporate elements of these movements. The vitality these days is in those places, not in the tired mechanisms of an old autocracy. As many bishops know, the action is back at home, not at headquarters.

"Correspondents at the synod sensed, I think, a rather desperate attempt to reverse recent change in ecclesiology without discrediting the wellspring of continuing reformist drives, Vatican II." (NC Reporter, January 24, 1986, p. 11.)

Books Received

Edwin Mellen Press (P.O. Box 450 Lewiston, New York, 14092)

- Donald Grayson, *Thomas Merton: The Development of A Spiritual Theologian* (220 pp. \$49.95)

This was originally a dissertation for the University of St. Michael's College, Toronto (1980), now updated. The writer is an Episcopalian from British Columbia. The book has eight chapters based mostly on Merton's *Seeds of Contemplation* and *New Seeds*.

- Daniel Liderback, *The Theology of Grace and the American Mind: A Representation of Catholic Doctrine* (158 pp. \$39.95)

This is another of the Toronto Studies in Theology (Volume 15) by a Jesuit from John Carroll University. The five chapters deal with the Christian tradition of grace concepts, the impact of modern anthropological and psychological studies in the American context.

- Andre Milavec, *To Empower as Jesus Did: Acquiring Spiritual Power Through Apprenticeship* (345 pp. \$59.95)

Volume 9 of the Toronto Studies, by a professor at the Sacred Heart School of Theology, deals with the transmission of religious heritage.

Charles Curran and ACCU (cont'd)

When first I read twenty years ago of Cardinal Newman's 19th century advisory, that the Catholic University would become a rival Church if it were unsupervised by hierarchy, my instinctual reaction was: "It can't happen here." But it has. Today, the above mentioned parties and others have set themselves up as a "rival Church" to the Pope and Bishops in union with him. They consider themselves entitled to teach against the magisterium of the Church and to persuade other Catholics, and the general public, that the Church is wrong and need not be followed in belief or practice when they so decide.

This is a solid Protestant view since it allows contradictory positions on faith and morals to be held as "true." The position is not only unCatholic for those who believe that the Church is Christ's Church with the mission to preach the truth, but it is philosophically indefensible. A "truth" cannot be true and untrue at the same time.

"Note clearly," says Curran in his response to Cardinal Ratzinger, "that I do not disagree with any dogmas or defined truths of the Catholic faith." (*Origins*, March 27, 1986, p. 666.

But doctrinal truths are involved. For one, there is the entire sexual morality of Catholic Christianity, a way of sexual life as old as Christ's words on marriage and lust. Then, there are dogmas which pertain to the Church's very Constitution and to Christ's command to Peter to confirm his brethren in their faith. It is *de fide* that the Church is an hierarchical body, that the pope has supreme jurisdiction of the whole Church, not merely in matters of faith and morals, but also in Church government. The teaching of the Church on the indissolubility of marriage would be considered infallibly taught.

John Paul II thinks the defiance of Charles Curran and others touches the "true and proper competence of the Church in the sphere of moral norms." In a recent address to *The International Congress of Moral Theology* (Vatican City, April 10, 1986) the Pope, speaking of the Church, said pointedly: "Her intervention in this area cannot be seen as the equivalent of one opinion among others, even if the opinion were granted a particular authority. It enjoys the *charisma veritatis certum* (CF. *Dei Verbum* 8); the Catholic theologian, therefore, owes obedience to it."

The Pope goes on to say: "To appeal to a 'faith of the Church' in order to oppose the moral magisterium of the Church is equivalent to denying the Catholic content of Revelation." Here John Paul II directs his attention to a doctrinal problem of high order one which, he says, concerns not only man's future on earth, but his eternal salvation.

* * *

It is clear, too, that John Paul II finds the roots of the Church's sexual morality in the deposit of faith itself. On Wednesday, July 18, 1984 in a general audience he reflected on the moral doctrine contained in *Humanae Vitae*:

"The author of the encyclical stresses that this norm belongs to the natural law, that is to say, it is in accordance with reason as such. The Church teaches this norm, although it is not formally (that is, literally) expressed in Sacred Scripture, and it does this in the conviction that the interpretation of the precepts of natural law belongs to the competence of the Magisterium.

"However, we can say more, Even if the moral law, formulated in this way in the Encyclical *Humanae Vitae*, is not found literally in Sacred Scripture, nonetheless, from the fact that it is contained in Tradition and—as Pope Paul VI writes—has been 'very often expounded by the Magisterium' (HV 12) to the faithful, it follows that this norm is in accordance with the sum total of revealed doctrine contained in biblical sources (HV 4)

"It is a question here not only of the sum total of the moral doctrine contained in Sacred Scripture, of its essential premises and the general character of its content, but of that fuller context to which we have previously dedicated numerous analyses when speaking about the "theology of the body."

"Precisely against the background of this full context it becomes evident that the above mentioned moral norm belongs not only to the natural moral law, but also to the *moral order revealed by God*." (Pope John Paul II, *Reflections on Humanae Vitae*, St. Paul Editions, Boston, 1984, pp. 9-10).

* * *

Charles Curran makes light of this infallibility of the Church's moral norms. But since his rise to prominence, public dissent has gone far beyond morality and against the nature of the Catholic faith itself. The Holy See has issued at least 24 doctrinal decrees or declarations since 1965 concerning denials of or doubts engendered about the Church's faith in the Trinity, the Incarnation, eternal life, the eucharist, the priesthood, abortion, euthanasia, etc.

Does anyone think that those now entrenched in public dissent would admit the doctrinal truth contained in *Humanae Vitae*, were the Pope to proclaim *its* truth in solemn fashion, as Popes and Councils have infallibly taught other dogmas now in contention from public dissenters?

Another recent document, this time one published by the *Association of Catholic Colleges and Universities* in response to Cardinal Baum, provides further evidence of how far removed from the Catholic core ACCU and 110 College presidents are. They take their principles and their framework from civil society, as these are defined indepen-

Charles Curran and ACCU (*cont'd*)

dently of religious considerations, then work to adapt the Catholic institutions under their jurisdiction to fit secular preferences. The results have been a disaster for the Church, for Protestant Churches once, and now after Land O'Lakes (1967) no less for the Catholic Church.

Ten years ago Cardinal Gabriel Garrone, Baum's predecessor as Prefect of the Congregation for Catholic Education, asked the question: "Is there no other voice in America for Catholic Higher Education than Fr. Hesburgh and the NCEA?" (It was this question which brought the *Fellowship of Catholic Scholars* into existence.) In the same year Fr. Hesburgh went before the Administrative Board of the NCCB on behalf of NCEA and said: "Trust us." Rome has rightly decided this no longer is possible. The American Catholic tradition has been reversed. Instead of Catholic academics and religious taking the U.S. civic scene as it is and turning it to the advantage of the Church's mission, something Catholics did well for two centuries, we are now imitating mainline Protestants who tended to adapt to the needs of civil society, to make their institutions serve civic interests, and now have empty churches.

James Turner, an historian of U.S. religion from the University of Massachusetts, has written a book entitled *Without God, Without Creed: The Origins of Unbelief in America* (John Hopkins Press). He does not blame secularization and modernity for our contemporary agnosticism. This, he says, "stands the problem of unbelief on its head." Unbelief, he continues, is not something that *happened* to religion: "On the contrary, religion caused unbelief." Protestant leaders adjusted to the new rules of knowledge, separated religion from truth, tried to up-date God and Christ, gave up the absoluteness of their moral norms, and lost their membership. Though almost every mainline Protestant (like mainline Catholics) claims to be a believer, says Turner, belief "no longer functions as a unifying element of the entire culture; too, no longer provides a common heritage that underlies our diverse views."

Today religion is at the fringe of our secular universities; ACCU would place the Church at the fringe of our Catholic universities. Not only does it wish to be free to go its own way, but one of its chief partisans Richard McBrien would have the U.S. hierarchy take on the Holy See in defense of the ACCU position. (*NC News*, April 7, 1986).

* * *

The issues are clear and so are the confrontations. Catholics, even learned Catholics, and Catholic institutions, are in the Church or they are not. There are lots of Catholics half in or half out, and the Church has plenty of room for most of us who fall short of her ideals and norms. But whenever anyone sets himself up within Church institutions as a rival to the Church, it is only a matter of time before Mother moves to protect her family.

That time of accountability has come. Walter Burghardt may tell a San Diego audience that Vatican II's teaching on the infallibility of the Church's ordinary magisterium (*Lumen Gentium* 25) is outdated and public dissent in in. (*S.D. Tribune*, April 5, 1986 p. A6) Richard McCormick dismisses infallibility as an issue in the Curran case because in his judgment all the Church's moral teaching is subject to error. (See *America* April 5, 1986 p. 264 ff) "What sin," he asks, "is occasioned by dissent from non-infallible teaching on sexual questions?" Well, if he does not know, there is no way to persuade him about adultery, abortion, indissolubility, etc.

The nub of the conflict is simple. Are the Church's clearly stated and ancient moral proclamations about sexual matters true. John Paul II says yes. Richard McCormick, Charles Curran and company say no. The dissenters recognize that if they are true, public dissent is invalidated. Infallibility is not a "gold star" added to a Church teaching which makes it really true, confining other serious and universal affirmations to the gehenna of doubt, because some extraordinary act of a Pope or a Congress of theologians has not given it the "gold star." The Church's teaching on adultery and indissolubility are just as firmly taught and as widely taught as Mary's virginity, and longer than the teaching about her Assumption. So, in spite of Fr. Burghardt, we may assert that they are infallibly taught by the ordinary magisterium of the Church. And, as John Paul II says, Catholic theologians owe obedience to their truth.

—George A. Kelly

- A Rochester pastor who apparently likes Fr. Charles Curran, took note of those who argued in his favor, citing the controversial CUA priest's amiability and goodness. He responded to this argument in his parish bulletin with the following summary of the Holy See's case.

"The trouble is that our expressions of friendship and praise, although perfectly true, are also completely irrelevant."

"The Vatican has not declared that Father Curran is *bad*. The Congregation for the Doctrine of the Faith has declared that he is *wrong*."

The Positive Quality of the Church's Teaching on Bioethics

We learn in freshman logic that by changing the quality and negating the predicate we can *obvert* propositions to demonstrate that affirmative and negative statements are equivalent to each other. Thus, "All men are good" is equivalent to "No men are not-good" (or "I am present" is equivalent to "I am not absent"). This is an important distinction to bear in mind before criticizing a position for being "negative." Since a "negative" proposition may be nothing more or less than an affirmative proposition obverted and therefore substantially the same thing, it is crass and simplistic to criticize something because its propositions happen to be cast in a negative form (as are most of the Ten Commandments).

It is commonplace for many critics to exclaim that Church teaching on the subject of bioethics is nothing more than an unbroken series of 'noes' to many biotechnological innovations that, presumably, stand to provide immeasurable benefits for countless human beings. This view of Church teaching as basically negative (and even anti-humanistic) is indeed crass and simplistic. Though many of its statements appear in a negative form, the Church's mind is fundamentally positive, affirming the inherent, created good of the human being.

The Church says "no" to biotechnological interventions that exploit man, only because she has already given her "yes" to the inherent good of man. Thus, her statements that man should not be harmed are rooted in her recognition that he should be affirmed. The obversion of the proposition "All men are worthy of being protected" is "No men are unworthy of being protected." It is myopic to dismiss the latter proposition for being negative because in doing so, one ignores the more relevant and fundamental fact that the Church perceives man to be good. The Church does not hold that all forms of biotechnology are bad, but only those that violate the good of man.

A more valid criticism may be levelled against these very critics of Church teaching themselves who are more enthusiastic about what contemporary scientists produce than about what original man needs. What is merely novel in biotechnology often has a hypnotic charm that can easily cause people to lose sight of what is original in the human being. And as a result of this infatuation with novelty, the potential harm to human beings that certain biotechnological innovations pose is either ignored or minimized.

But the Church has not forgotten the original constitution of man, nor has it forsaken its responsibility to protect that fundamental and original good. Church teaching on bioethics is based on a clear understanding of this good, and an equally clear realization of the moral principles that must be applied in order to safeguard that good. "Good" and "moral principles," therefore, are correlative terms, for the latter

exists in order to insure that the former preserves its essential quality. At the same time, it is useful to clarify the meanings of these basic terms:

The substantive notion of "good," in the sense that the human being is entitatively "good," is based on the scriptural notion that man is created in the image of God. Man is good inasmuch as he participates in or is a reflection of the deity who is good in an absolute sense. God is all-good and as such invests goodness in everything He creates. A fundamental affinity therefore exists between God and creation such that goodness inheres in everything that He creates.

With respect to the human being, we may understand his good in a general way and speak of a general principle which safeguards that good. Accordingly, Pope John Paul II states that "since, in the order of medical values, life is man's supreme and most radical good, there is need for a fundamental principle: First prevent any damage, then seek and pursue the good."¹

On the other hand, it is possible to understand the good of man in more particular ways. Hence, we may speak of man's *dignity, unity, integrity, identity, and spirituality*:

1) *Dignity*: By dignity, we refer to the fact that man is an intrinsic good and as such is an end in himself and therefore not a means to another good or another end. Man has dignity because he is not subordinated to any other creature. Dignity is the regal quality in man whereby his good shines as an end in itself.

2) *Unity*: Man is naturally constituted as a single, unified being. He is not to be regarded as so many parts or as certain parts dominating other parts. He is a unified wholeness. This wholeness is a good inasmuch as it is a natural affirmation of his reality as one being.

3) *Integrity*: Man is more than a natural unity; he is also a moral unity. His crowning moral good is achieved when his life is in harmony with his nature, when his moral "ought" is in agreement with his natural "is." Through will and effort, man achieves an integration of life and nature, freedom and destiny. His integrity is a good that results from a harmonious synthesis of what he is by nature and what he becomes through choice.

4) *Identity*: Man has a specific identity as a member of the human species and as an individual person. These identities are good in themselves. One should not renounce either identity in quest of a different one. Identity is a specific good that distinguishes one good, either as a species or as an individual, from other like goods.

5) *Spirituality*: Spirituality belongs to man as a good that accords with his origin (as created by a spiritual God), his life (as sharing God's Life), and his

Positive Quality of the Church's Teaching on Bioethics (*cont'd*)

destiny (as being with God). Man is not merely a material being and is not reducible to a collection of material parts. His spirituality is a good that proclaims his kinship with his Creator.

Each of these particular goods calls out for moral principles that are their natural and logical correlatives. A good and its correlative moral principle may be analogously compared with "value" and "protective policy." A man owns an automobile or a house which are said to have a certain market value. An insurance policy is routinely drawn up as a way of protecting these values. People readily understand that wherever there is a good or something of value, there should also exist some principle or policy to protect it. Just as an insurance policy protects an owner from losing the value he invested in his automobile or his home, so too, moral principles are designed to protect and safeguard the fundamental good of man.

Particular moral principles relate to particular goods. With respect to the five particular goods we have just enumerated, the moral principles are described as follows:

1) Since man has dignity, he should always be respected as an inviolable end and never used as a means, i.e. not *exploited*.

2) Since man has unity, he should be honored as a whole, and none of his parts should be treated in isolation of the whole, i.e. not *fragmented*.

3) Since man has integrity, his moral good should be upheld, and his morality should never be divorced from his nature, i.e. not *disintegrated*.

4) Since man has identity both as a member of the human race and as a unique person, these identities should be valued and allowed to develop and no

attempt should be made to modify or radically alter them, i.e. not *dehumanized*.

5) Since man has spirituality, that quality should be affirmed, and no attempt should be made to reduce him to his material components or to limit him to what is merely natural, i.e. not *spiritualized*.

Thus, Church teaching on bioethics has both a positive as well as a negative function. It is positive in that it seeks to affirm and cultivate the substantive good of man. In its negative role it seeks to protect man from the real dangers that certain uses of biotechnology represent. It might also be said that Church teaching is highly realistic. Not only is it based on a profound vision of man as he is originally constituted as a creature of God, but it is equally cognizant of specific threats that beset man in the present age. There can be no argument raised against the claim that modern biotechnology poses real threats to man in the way it can exploit, fragment, disintegrate, dehumanize, and despiritualize him. We need only think of a few biotechnologies in order to be assured of the reasonableness of this claim: using the human fetus as an experimental object or as an organ-farm for organ transplants (exploitation); employing abortion, contraception, and sterilization to divorce procreation from sexual intercourse (fragmentation); the attempt to perfect man through psycho-surgery and genetic manipulation (disintegration); attempts to produce mutants, cyborgs, supermen, hybrids, etc. which radically alter the identity of man (dehumanization); and attempts to program the behavior of man through various forms of genetic engineering, including genetic surgery and cloning, that regard man as merely material (despiritualization).

— Donald De Marco

- Richard John Neuhaus' *Religion and Society Report* (April 1986 pp. 2-3) summarizes Richard McCormick's *America* article on IVF.

"The Pope must depend on theological advisers who, like all of us, are pilgrims and see only darkly," he (McCormick) writes. For example, Pius XII, in his statements on artificial insemination, depended on a Father Hurth, whom Father McCormick apparently does not think much of. The intriguing implication is that, in terms of authority, there is nothing super-added, so to speak, to papal pronouncements. In that case, it would seem that the authority of a papal statement is no more or less than the quality of the advice the pope receives. That may be the case, of course, but it does not jibe with our Lutheran understanding of what the Catholic Church means by its magisterium, or teaching office."

McCormick reduces the views of the Pope to the quality he (McCormick) assigns to papal advisers. In the March 1986 issue of *Theological Studies* (p. 82), the Jesuit cites John Paul II's list of influences that undermine the sense of sin in our time. In the Apostolic Exhortation *Reconciliation and Penance* the Pope identified one such influence as "a system of ethics:" "This may take the form of an ethical system which relativizes the moral norm, denying its absolute and unconditional value, and as a consequence denying that there can be intrinsically illicit acts, independent of the circumstances in which they are performed by the subject."

McCormick's comment (italics added): "*The Holy Father was, I believe, ill served by his theological advisors in framing the matter this way.*"

The Laboratory Generation of Human Life

I - William E. May

The December 2, 1985 issue of AMERICA carried a wide-ranging essay by Richard A. McCormick, S.J., entitled "Therapy or Tampering? The Ethics of Reproductive Technology." In it McCormick claimed that "standard IVF" is morally unobjectionable. By "standard IVF" he understands the following procedure. An ovum is removed from the wife's body and fertilized in a laboratory petri dish by sperm "provided" by her husband (ordinarily by masturbation). The new human life is then implanted in the wife's womb with the hope that it will continue its development therein until birth. McCormick believes that this procedure (along with artificial insemination by the husband) is a morally permissible way to provide a couple, otherwise childless because of the wife's blocked Fallopian tubes (or other malady), with a child of their own.

McCormick notes that Pope Pius XII had firmly rejected *in vitro* fertilization (and artificial insemination by the husband) as a way of generating human life. He held that in God's plan human life is to be given in the personal marital act of husband and wife; therefore, since the laboratory generation of human life separated the biological process from the personal relation of the married couple, any type of such generation violated the divine law.

But, McCormick continues, the position taken by Pius XII on this question is, like that of Paul VI and John Paul II on the subject of contraception, grounded in a biologicistic understanding of natural law that interprets the "inseparable connection between the unitive and procreative meanings of the conjugal act willed by the Creator and unable to be broken by man on his own initiative" in too simplistic and literalistic a way. With some other contemporary theologians McCormick believes that there has been a genuine development of doctrine on this matter. In his judgment, it is not morally wrong to separate the bond between the unitive and procreative meanings of the conjugal act, so long as the "spheres" of procreating and of uniting are kept within the marital covenant so that there is "no procreating apart from marriage and no full sexual intimacy apart from a context of responsibility for procreation." *In vitro* fertilization, in his opinion, is not a "substitution for sexual intimacy, but *çisé* a prolongation of it."

What is to be said of this? In my opinion, McCormick in no way argues for his position. That is, he does not show, by appealing to relevant principles and evidence, that *in vitro* fertilization is a "prolongation" of marital intimacy and that therefore it can rightly be regarded as the begetting of a child through the personal union of the spouses in the marital act. Rather he simply asserts that it is.

Pope Pius XII's point, if I understand him properly, is that there is a profound difference, both descriptively and morally, between the generating of a child through the personal act of husband and wife and the generating of a child through laboratory techniques. My purpose here will be to show this difference.

First, let us consider the descriptive difference between generating a child through the marital act and through *in vitro* fertilization. When human life is given through an act of marital union, it comes, even when ardently desired, as a "gift" crowning the act itself. The marital act is not an act of "making," but one of "giving," of giving love and giving life. It is not a transitive act issuing from the spouses and terminating in some object distinct from them. Rather, it is an act freely chosen by them to express their shared life and their marital commitment. As such, it is perfective of themselves as spouses, ennobling and enriching their marital life, the life of which they are co-subjects, just as they are the co-subjects of the marital act itself. When they choose the marital act with the hope that through it new human life will come to be, they are not "making" this life. The life begotten is not the product of their art but is, as the authors of a report by the British Catholic Bishops' Committee on Bio-Ethical Issues put it, "a gift supervening on and giving permanent embodiment to" the marital act itself ("In Vitro Fertilization: Morality and Public Policy." London: *Catholic Information Services*, 1983é, n. 23). In other words, in choosing the marital act husband and wife submit themselves, as Pope John Paul II has said, to the "blessing of fertility." In giving themselves to one another wife and husband capacitate themselves to "give" life to a new human being.

But when human life comes to be as a result of *in vitro* fertilization, it is the end product of a series of actions, transitive in nature, undertaken by different persons. As a result of this process, as the same report of the British Bishops' Committee so well said, the "child comes into existence, not as a gift supervening on an act expressive of the marital union... but rather in the manner of a product of a making (and, typically, as the end product of a process managed and carried out by persons other than his parents)" (*ibid.*, n. 24). In short, *in vitro* fertilization is a way of generating human life by a series of transitive acts of "making" and "producing." The marital act is a way of generating human life by an immanent act of giving. There is thus an enormous difference, even descriptively, between these two ways of generating human life.

What of the moral difference? I believe it consists in this. When human life is generated a new person,

The Laboratory Generation of Human Life (*cont'd*)

equal in dignity and sanctity to its parents, comes into being. And human persons are to be respected both in their being and in their coming-into-being. They are not to be regarded as products inferior to their producers and subject to quality control. The generating of human life is not like the breeding of prize cattle. When the new human person comes into being through the marital act, this person is fully respected as a being of incalculable dignity. (Obviously, it is wrong to bring a new human being into existence in genital acts outside of marriage, not because the life brought into existence is bad—quite to the contrary—but the mode whereby it comes to be is wicked; similarly, it is wrong to generate human life through genital, but non-marital acts within marriage, e.g., when a drunken husband forces himself upon his wife against her reasonable desires; cf. *Humanae Vitae*, n.13.) The marital act respects the incalculable value of the life begotten.

When human life is generated through *in vitro* fertilization and other laboratory technologies, it is not properly respected. It is regarded as a product subject, in principle, to quality controls, and inferior in status to its makers. When human life is generated through *in vitro* fertilization the wife and husband do not “beget” it by their one-flesh, marital union. Rather, all they do is “provide” the materials that others will use to “make” new human life.

I submit that human beings are, as it were, created “words” of God Himself. We are the “created words” that the “Uncreated Word” became and is for love of us. Thus human beings, like the Uncreated Word of God, are to be begotten, not made. They are begotten through the marital act; they are made through *in vitro* fertilization. It is this basic human value, I believe, that lies behind the teaching of Pius XII (and still held by magisterium). McCormick and those who agree with him ignore this basic human issue and claim, by assertion, not by strict argument, that *in vitro* fertilization is a “continuation” of the marital act. It simply is not. And because it is not, it is a wrongful way for generating human life.

II - Joseph M. Boyle, Jr.

In my opinion the full theological account of the Church's authentic teaching on artificial reproduction has yet to be worked out. William May's comments in this issue show, however, that the needed theological developments are beginning to take shape.

He argues, in effect, that artificial reproduction, even when done in the context of marriage and at the service of family values, is morally deformed because it involves treating the child in its very coming to be as

an object, a product, and not as a person in real communion with his or her parents. The temptation to treat other people as objects is an abiding one, but human relationships need not be thus. The Church's teaching that children should come to be as the embodiment and full flowering of the marital love of parents expressed in marital intercourse preserves authentic communion between parents and children from the very start of this relationship.

I would add to May's analysis only a few remarks to put his points into a larger context of the serious challenges to human dignity in today's world.

Real community, true friendship, abiding and faithful love—these things are dear to us all. Not surprisingly, for these relationships are essential components of the kingdom of Christ which we hope for. But how hard these relationships are to establish and sustain. For we all have selfish inclinations which lead us away from true community. Prominent among these is the tendency to use other people. It is all too easy to relate to others on the basis of what we can get out of them, without regard for their needs and rights. This way of treating people is depersonalizing; it is the enemy of genuine community.

The natural tendency to use others is aggravated in our society. Today human relations seem to be almost automatically depersonalized because of the complexity and functional orientation of modern life. The reach of this depersonalizing tendency goes very far. Increasingly, it seems to extend to the most intimate human communities, even to the relationship between parents and their children.

The depersonalization of this relationship is most clearly exemplified in the literal depersonalization of the unborn: legally the unborn human is a non-person, and therefore, is taken to have no rights which might be violated, whether in the disposal of “excess” embryos produced by *in vitro* fertilization, or in experimentation on these tiny humans, or in the more common occurrence of abortion.

But there are other, more subtle ways in which this depersonalization takes place. For example, there is an increasing tendency to think of very young children as the property of their parents. This tendency is exhibited in the widespread attitude that there should be no social interference or oversight in decisions of parents to let their newly-born, handicapped babies die. It also underlies much of the practice of *in vitro* fertilization where the newly conceived life is often put in jeopardy or disposed of for the sake of the parents' interests only.

It is true that parents have the basic responsibility for their children, but ownership is a far cry from responsibility for a person. Ownership implies a radical inequality between the owner and the thing owned; it

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is a relation between a person and a thing to be used. But responsibility for a person implies the equal human dignity of both parties. For it supposes that the one who accepts the responsibility is prepared to act for the interests of the dependent person. It is a relation of love and service. Thus, even though it may be difficult in practice to sort out these two relations, they are mutually incompatible, and one cannot sensibly begin a relationship of love and service by treating the other as a thing to be used.

Another aspect of this challenge to the parent/child relationship is revealed in the current acceptance of abortion. Many dispose of the unborn because they are unwanted, much as one disposes of a faulty appliance. This would make some sense if the unborn child were a thing to be used; unwanted possessions are trash. But since the child is a person the whole idea is offensive. We often fail to notice, however, that it is equally offensive for us to want the child in the way we might want a new car or an appliance that works. The possessions that we desire and cherish are still things we use. The notions of *wanted* and *unwanted* which properly apply to possessions have no place in interpersonal relations.

Therefore, if we are to realize the relationships we care most about, we must systematically avoid any attitude of ownership or domination of those we wish to love. This means that their genuine needs, and not our desires and wishes, must be our main concern. With May, I believe that any form of artificial reproduction which substitutes a kind of manufacturing of babies for the procreation of marital intercourse cannot avoid these dangers. But all who plan to have children, whether by natural means or artificial, or even through adoption, should consider these dangers. For the fabric that binds us to our children is fragile, and precious. We must think hard and work to preserve the integrity of these deepest human relationships—the very relationships that God, our loving Father, uses to reveal his concern for us.

III - Hanna Klaus, M.D., F.A.C.O.G. (Sr. Miriam Paul, SCMM)

(Response of an obstetrician-gynecologist with expertise in natural family planning to Richard A. McCormick, *America* 7 Dec. 1985, 396-401.)

By now the prophetic quality of Paul VI's vision is historic. Not only is it possible to have sex without babies, but babies without sex. Paul Ramsey (*Fabricated Man*), Robert Brungs ("The Religious Implications of Fabricated Man," *Theology Digest* Winter 1976 24:367-379) and Donald Keefe ("Biblical Symbolism and the Morality of *In Vitro* Fertilization ITEST

1974 *et seq.*) have covered the subject more than adequately from the systematic perspective. William May has discussed it from the aspect of morality, and I expect William Smith will draw on his extensive knowledge of McCormick's writings (The revision of moral theology in Richard A. McCormick, *Homiletic and Pastoral Review* March 1981, 8-28).

I will focus on two aspects: 1. the current medical status, and 2. the implications for public policy.

Current Medical Status: The ethics of IVF/ET (*in vitro* fertilization/embryo transfer) are not quite stagnant, even though Walters' opinion is cited in support of that position. Quite apart from the morality of IVF/ET, there are ethical issues over oocyte retrieval. (The developing ovum is aspirated from the large follicle at the stage which precedes natural ovulation and then allowed to mature *in vitro* as its small size makes post-ovulation retrieval difficult.) Edwards and Steptoe used the laparoscope to aspirate the follicles. In order to provide more than one follicle the ovaries are "superovulated" with hormones, and as many oocytes as possible are obtained. Laparoscopy usually entails anesthesia and is done in an ambulatory care setting, which is less costly than hospital admission. Because some women's adhesions not only caused their sterility but precluded free access to the ovary via the transabdominal route the transvesical route was elected. The latter aspirates the ovary through the bladder, under sonographic control. The numbers of oocytes which are fertilized are fewer compared to those obtained by laparoscopy, and the successful intrauterine gestations are also fewer. Recently Dellenbach, Schulman and others are aspirating the oocytes transvaginally, using local anesthesia, which reduces risks and costs. Pregnancy successes are comparable to those initiated by laparoscopic aspiration. There are "in house arguments" over whether to replace more than 3 embryos, since more seem to risk multiple births, while with replacing up to 3, one usually imbeds successfully. The moral problems remain, regardless of the approach.

Another variation on the basic theme of IVF/ET is the GIFT (gamete intrafallopian transfer) procedure. Ovulation induction and ovum aspiration is similar to IVT/ET, but the oocytes, after aspiration and inspection are mixed with washed semen and placed into the fimbrial end of the fallopian tube through a catheter, so that conception takes place in the natural environment. Clearly the procedure still demands inspection of ova and presumably, discarding of unsuitable ones, as well as obtaining and treating semen prior to mixing. It is also open to the use of donor semen or ova. The success of the GIFT procedure demonstrates that the oocyte can mature outside the follicle *in*

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vivo as well as *in vitro*. One center reports 25% intra-uterine gestations while ten other centers who are introducing this method report only 15-25% success.

McCarthy (*Ethics and Medics* 11:3, Mar '86) cites D.S. McLaughlin's work of a morally acceptable variant of GIFT now called TOT (Tubal Ovum Transfer). Oocytes are aspirated after monitored ovulation induction. The couple had been instructed to have normal coitus during the fertile phase, but semen obtained with the use of a perforated condom is also obtained, washed and inserted by catheter into the distal tube, using air spaces between semen and ovum to prevent fertilization outside the tube. Semen contains prostaglandins, which are normally removed by the cervical mucus. If semen is to be directly introduced into the upper tract it must be washed to remove the prostaglandins, also its pH must be adjusted, etc. or direct introduction into the uterus or tubes would cause strong peristalsis, leading to more rapid propulsion of the ovum, possibly causing it to arrive in the uterine cavity before the endometrium is fully prepared for imbedding, or just simply speeding it out of the uterus—the same process as the do-it-yourself abortion with prostaglandin F2 alpha vaginal suppository. McCarthy reports that 2 successful pregnancies are near term; the Pope John XII Center has responded positively to an inquiry about the moral acceptability of the procedure: the procedure is not laboratory generation of human life, but the natural process assisted by technology. The method must pass the test of time and scientific scrutiny. It must also be adapted to cases with blocked or absent tubes. McCarthy states that TOT was originally performed with insertion of the ovum closer to the uterus. Evidently the lack of success prompted a change of approach. Clearly more work needs to be done.

The argument about the status of the preimplantation embryo has gone beyond McCormick's parameters: Zatuchni is quoted in a recent (popular) digest of *Ob/Gyn News* as stating that the IUD is not an abortifacient because there is no pregnancy prior to implantation (of the embryo), and the IUD prevents implantation. This is a restatement of Tietze who recognized the need to redefine conception at the point of implantation if the IUD were to gain acceptance in Catholic countries. (Paradoxically all IUD's except the "Progestasert" have been withdrawn in the U.S. because of litigation obviously related to safety. Rather than lose money, the IUD's are dumped onto Third World markets, whose women are evidently regarded as less valuable than ours. No need to elaborate the moral issue, except to invite protest!)

McCormick is concerned about the embryo's status as regards public policy without averting to his

own role in establishing this policy as a member of the Ethics Advisory Board when it dealt with *in vitro* fertilization and the question of allowable experimentation on the extracorporeal embryo (Cf. Smith, *op. cit.*) Evidently he found Rahner more persuasive than papal teaching, as may be inferred from his article. McCormick advocated permitting a two week period of experimentation on the extracorporeal embryo. This position was criticized in an editorial in the *Catholic Standard* (Washington) as inconsistent with Church teaching.

It is clear that a product of a human generation is human. (Even trophoblastic tumors—hydatidiform more, choriocarcinomas, etc.—are of the human species, but of course are not separate persons.) Whether the zygote splits into two or even eight, or remains single, it is still human. I leave the discussion of personhood to the moralists but recall the teaching that a hunter may not shoot if he is not sure whether the rustle in the bushes is caused by a deer or a fellow hunter. Whether it is one or two hunters doesn't change the principle.

The *wider issue of our humanity and the obligations which this imposes* is implicit in the debate, if not named specifically. The extent of care to be given the dying, irreversibly comatose person—or even the dying person who is not comatose (!) is the other end of the spectrum, while in youth and midlife the issues of the regulation of births, negotiation of the rights of the spouses and of children, and of "sexual preference" claim center stage.

The common denominator is the inseparability of our biology from our personhood. How far this principle can be asserted in a pluralistic society is the central question, but the challenge to integration is diluted by those who, while asserting membership in the Roman Church, teach and act in a way which legitimates not only the privatization of religion (Bellah) but also of sexuality. To teach that removing sexuality from accountability to the Creator gives persons greater freedom is a lie; the opposite is true. Removing sexuality from God's domain blocks its redemption.

Privatization splits the sexual drive, feelings and organs from the person, leading to fragmentation, not integration. The dissent from *Humanae Vitae* has not freed people, but has led to much unhappiness when viewed over the perspective of time. When Catholics who are ordained to teach the Good News of the Redemption teach the opposite, the seduction is cruel indeed. The current scene of depression, substance abuse, marital disruption, gender confusion etc. which we find even among our own people cannot be dissociated from preceding erroneous and despair-in-

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ducing teaching about the nature of the person, teaching which denies the freedom of the will and the fact that even sexuality is still under voluntary control!

A recent variation on H.V. is not mentioned by McCormick. There is a concerted effort by those in the public sector who support NFP to remove it from any religious base. While NFP is obviously compatible with Catholic teaching, its appeal is far broader. (In our cross cultural NFP acceptor study we found that even though all the programs which we studied were offered through the Church, over half the acceptors came from the country's predominant religion.) Some groups teach NFP within a Catholic religious-moral frame, while others communicate the values but do not moralize.

The thrust to remove NFP from religion is based on the assumption that a wider audience can be reached if NFP is taught as natural birth control, and that if only the days of necessary abstinence can be reduced, or even avoided by offering "other options" that there will be wider acceptance and continuation in the programs. Being pragmatic, some public sector providers offer "fertility awareness method" instead of NFP, and are either silent on the subject of abstinence and how to handle the fertile phase when the method is used to avoid pregnancy, or the client is told to utilize alternatives... barriers or other options.

Unless one understands the values of NFP one

is not able to help couples reach autonomy in its practice. If couples don't reach autonomy, that is, understand their fertility pattern and are comfortable with selective intercourse, they are unlikely to continue with NFP, or will experience failures. Thus the thrust to remove NFP from religion is based on a lack of understanding of the nature of NFP, and is often undergirded by a notion that people can't abstain, or won't. Evidently the sexual drive is seen outside the reach of grace, and beyond the person's will as well. We do people no service when we fail to challenge them to rise beyond their present level. Too often our supposed kindness is a mixture of condescension, moral and economic cowardice and lack of faith.

Economic cowardice stems from the fear that health care providers will lose clients if they do not provide "all methods" of family planning. While experience has shown the opposite, the fact of the still existent referral requirement in both domestic and international U.S. funded NFP programs underlines the fact that the legislation is written to support the goal of population control, not procreative choice, that contraception is more important than freedom of choice. Contraception is the standard by which all approaches are measured. When *a means* is telescoped into *the goal* we have a mammoth education task ahead—and it is not made easier by the lack of understanding of the Church's ordained teachers.

The Gift of Infallibility

James T. O'Connor, STD, *The Gift of Infallibility*, (St. Paul Editions 125 pp. \$6.00 paperback \$7.00 hard-cover)

Dunwoodie's dogma professor, Fr. James O'Connor has done it again. Only two years ago he gave us *The Father's Son*, a summary of Catholic teaching about Jesus of Nazareth, particularly relevant to the contemporary controversies about what Jesus did or did not know, what he did or did not do.

Now he takes up an important teaching about the Church, viz. her infallibility. And he does this by translating into English (for the first time) the Official Relatio (Draft) on infallibility by Bishop Vincent Gasser presented to the First Vatican Council (1870). Who was Bishop Gasser? "The most prominent theologian of the Council," says Dom Cuthbert Butler, whose *The Vatican Council* remains the most complete history of Vatican I in English. Why was Gasser important? Because the assembled Bishops at Vatican I deputed him to relay to the Council to present the rec-

ommendations of the *Commission De Fide* concerning infallibility and to give an *official explanation* of the draft being presented so that the bishops would know precisely what they were voting on. Gasser took four hours to deliver his explanation which today is considered a *theological source* for determining the Council's understanding of infallibility.

The first 92 pages of this book recount the history of the text and Gasser's long presentation. The final 32 pages are Fr. O'Connor's delineation of the meaning of the Church's infallible magisterium both as to its subject and object. Fr. O'Connor brings this latter subject right up to and including *Humanae Vitae*.

A very valuable book, clearly written, valuable to the clergy, seminarians, and educated laity. It is especially important that it be read by all those whose faith in infallibility has been shaken by Hans Kung and his American associates.

No important book should be published without an index. Unfortunately, this one has been so published.

Long Range Consequences of the Extraordinary Synod

This writer has been invited to speculate on the practical application in the near future and the long term effects of the Second Extraordinary Synod of Bishops which closed in Rome last Dec. 8.

The first premise to be declared in this regard is that the Final Document of the recent Synod is not a papal document. It contains the conclusions and recommendations of the Synodal Fathers who were convoked not to legislate but to advise the Holy Father, who permitted the document to be published but to which he personally made no direct contribution.

A Synod's function, of course, is to furnish assistance to the Pope through its advice. Consequently no one can say with certainty how much of the Synod's counsel will be accepted by the Pope. Undoubtedly many of the issues discussed in the Final Document are subjects on which the Roman Pontiff has himself been meditating recently, as they concern the state of the Church today, but he wished to have the comfort of listening to his fellow bishops from the Universal Church on these matters before taking concrete steps. This, of course, is consistent with his own convictions on the role of collegiality in the Church and it has the double advantage of winning support for eventual papal decisions from the bishops whose opinions were heard, and of forestalling criticism from the captious who attribute unacceptable decisions of the Holy See to Rome's ignorance of the true situation in a given country.

Although the Final Document is not papal, and it is conceivable that it will eventually be followed by an Apostolic Exhortation similar to "Catechesi tradendae" and similar papal declarations issued after previous Synods, nevertheless, we already have certain indications of what the Pope considers to be of immediate importance and of a certain urgency.

These indications are found in John Paul's closing address to the Synodal Fathers. He called for three specific matters to be resolved and suggested a number of broader issues which must be faced.

The three specific points he mentioned are: the publication of a "compendium or catechism of all Catholic doctrine to serve as a point of reference for catechisms or compendia in this field in the particular Churches;" a deepening study of the nature of Episcopal Conferences; the publication of the Code of Canon Law for the Oriental Churches.

With regard to the work which some are already calling the "universal catechism" many Synodal Fathers expressed surprise after the close of the meeting that there had been virtual unanimity among them on the desirability of the publication of such a

doctrine. Unknown to the Synod, although not to the Pope, the Congregation for the Clergy had been working for the past five years on an outline of Catholic teaching for catechetical use. Since this Congregation is the Curial office charged with responsibility for catechesis in the Universal Church, it had long been aware from experience of the need for such a work, which it had, in fact, all but finished when the Synod opened.

The universal catechism called for by the Pope and by the Synodal Fathers caught the eye of the media which immediately questioned Cardinal Oddi, Prefect of Clergy. Oddi surprised many by announcing that such a work was nearing completion in his Congregation. It consists of 160 doctrinal statements and 60 moral statements, in direct rather than question and answer form. Each statement is followed by copious references to the Scriptures, the Magisterium and particularly to Vatican Council II. The work is not intended for either catechumens or catechists but for those who prepare or approve catechisms.

It is unlikely that the Oddi effort will become the called for universal catechism because the Holy Father will surely wish the eventual production to be seen as a work of the Universal Church, but the Oddi text could well serve as a working paper for initial consideration by whatever committee or group to which the Pope decides to entrust the production of the catechism or compendium.

The second papal priority concerns the theological nature of Episcopal Conferences, which Card. Ratzinger's now famous, long interview with Vittorio Messori appeared to undervalue in the minds of some prelates. The Pope and the Synod both see this subject as a knotty problem demanding resolution, if the present thrust toward more collegiality so dear to the papal heart is to be maintained in such a way as to forestall the exaggerations of another Holland and the isolation of certain bishops whose fidelity to the Universal Magisterium makes them pariahs within their national Episcopal Conference. Whether the Holy Father will set up a special commission to pursue this study is not yet known, but consultation with the national Episcopal Conferences themselves will surely be an important ingredient of the study.

The third point selected by the Pope for special study will not interest the great majority of Latin rite Catholics, but it is a further proof of John Paul's solicitude for his entire family as a good father always demonstrates. The Pope has called for the publication of the new Code of Canon Law for the Oriental Churches which has been in the works for some time.

The Extraordinary Synod (cont'd)

ment, and coolly asked: "How many times?" That provincial anticipated the recent Synod by a good 15 years.

If the local synods contemplated by the Extraordinary Synod allow themselves to be guided by the clear, balanced, perspicacious, honest analyses, elucidations and recommendations of the Extraordinary Synod, the Church can look forward to the second spring which Vatican II ardently desired to bring about, but which, despite a kind of liberal triumphalism and verbal euphoria, has, in fact, been considerably less than evident on common scales of religious measurement.

The Extraordinary Synod resolved very little or nothing. It did point clearly, however, the direction that must be taken in the resolution of the serious problems currently facing the Church. What happens now will depend of the leadership and good will of the People of God, which has, thank God, reverted to being a mystery.

Certain serious differences of opinion between Latin and Oriental rite Catholics, for example in India, are

awaiting the new Code to be settled, and the Pope is clearly anxious that this be done as soon as possible.

But apart from these three points, perhaps the biggest step that must be taken is a return to a study of the documents of Vatican Council II. Most of us, perhaps all of us, who have found fault with some of the interpretations of the Vatican II documents, have no problem with the documents themselves and we feel that aberrations would not have sprung up had the People of God truly known and understood the documents. The Pope is calling on all now to go back to those documents in a serious way to ascertain what they *really* say. One of the methods suggested for this process is the celebration of local synods. So it is quite possible and most desirable that in a few years an astronaut looking down from a space station would see the entire Church at study. In the late 1960's this writer visited a bright young nun in formation. She told me that she had recently been proud of herself and boasted to her provincial that she had read all the documents of Vatican II. The provincial, however, seemed unshaken by the startling achievement.—Vincent T. Mallon, M.M.

John Paul II to Moral Theologians — April 10, 1986

"We need, in the Church, to rebuild a rigorous ethical reflexion. "This is a task that can be carried out only in specific conditions, some of which deserve to be recalled here briefly.

"First, ethical reflexion must show that moral good-and-evil possesses a specific originality of its own compared with the other human goods-and-evils. To reduce the moral quality of our actions, regarding creatures, to the attempt to improve reality in its non ethical contents would be equivalent, in the last analysis, to destroying the very concept of morality. The first consequence, indeed, of this reduction is the denial that, in the context of those activities, *there exist acts which are always and everywhere in themselves and of themselves illicit*. I have already drawn attention to this point in the Apostolic Exhortation *Reconciliatio et Paenitentia* (cf no. 17). The whole tradition of the Church has lived and lives on the conviction contrary to this denial. But even human reason, without the light of Revelation, is in a position to see the grave error of this thesis.

"It is the result of deep and serious presuppositions which strike at the *very heart* not only of Christianity, but also of *religion* as such. That there in fact exists a moral good-and-evil not reducible to other human goods-and-evils is the necessary and immediate consequence of the *truth of creation*, which is the ultimate foundation of the *very dignity* of the human person.

"Called, as a person, to immediate communion with God; the object, as a person, of an entirely singular Providence, man bears a law written in his heart (cf. Romans 2:14 and *Dignitatis Humanae*, 3) that he does not give to himself, but which expresses the immutable demands of his personal *esse* created by God, given an end by God and in itself endowed with a dignity that is infinitely superior to that of things. This law is not only made up of general guidelines, whose specification is in their respective content conditioned by different and changeable historical situations. There are moral norms that have a precise content which is immutable and unconditioned. You are undertaking a rigorous reflexion on some of these in the course of this Congress: the norm that prohibits contraception or that which forbids the direct killing of an innocent person, for example. To deny the existence of norms having such a value can be done only by someone who denies the existence of a *truth* about the person, of an immutable nature in man, based ultimately on the creative Wisdom which is the measure of all reality. It is necessary, therefore, that ethical reflection be founded and rooted ever more deeply on a true anthropology and this, ultimately, on the metaphysics of creation which is at the centre of all Christian thinking. The crisis of ethics is the most evident proof of the crisis of anthropology, a crisis in turn due to the rejection of truly metaphysical thinking. To separate these three comments—the ethical, the anthropological and the metaphysical—is a very grave error. And the history of contemporary culture has tragically demonstrated that."

The Internal Forum Solution

It is commonplace in some canonical circles, when the Annulment process fails to provide sufficient evidence that a given marriage apparently valid is *de iure* invalid, to suggest an "internal forum solution." Is there no other recourse, within the Church, some ask, to a person who sincerely wishes to enter a second marriage with the blessing of the Church?

The internal forum is the province of personal conscience. Jurisdiction in the internal forum concerns actions pertaining to a person's guilt or innocence before God. The exercise of such jurisdiction is private, having no juridical effects.

The direction of contemporary Catholic writing on this subject and divorce in general, follows two strains of thought: (1) the absolute indissolubility of marriage as taught by Jesus; (2) the nearly universal admission in recent writings that certain unions *RATUM* et *CONSUMMATUM* in traditional terms never reach the truly Christian notion of marriage and hence fall outside the ideal of indissolubility.

Should those who are involved in a second marriage after a valid and sacramental first marriage be admitted to, or be encouraged to receive the sacraments? If so, on what grounds? If not, why not? Since 1966, any number of theologians have reapproached the question. (Vass, Allard, McManus, Häring, Forley-Reich) have attempted to construct a pastoral approach by trying to reassess the present marriage. McManus stresses the marital mentality within it. Vass tries to establish its capacity to symbolize, even if imperfectly, Christ's union with the Church. Allard finds in its features similar to a marriage valid by law. Farley and Reich view it as a marriage under the sign of forgiveness. These approaches are not without difficulties. McCormick observes that the practical pastoral problems should be approached not exclusively in terms of the qualities of the second union, important as these are, but also in terms of the possibly doubtful status of the first union. Catoir treats of the "internal forum solution." Because of the imperfection of existing marriage law and the cumbersome character of tribunal procedures, many couples seek annulments but cannot get them. The tribunal system is severely limited in determining precisely what unions are truly binding and hence appeal to internal forum solutions. The internal forum route is legitimate precisely in so far as the public (external) forum is inadequate. So the argument is made.

The internal forum solution, therefore, presumes a threefold condition: (1) that there are good, though not legally demonstrable, grounds for challenging the first marriage; (2) that the public ecclesial forum has not worked or does not; (3) that scandal is avoided. Regarding the first condition (1), Catoir repeatedly refers to "annulment," "invalid marriage," etc. when

speaking of the first union. At one point, however, he speaks of a "broken marriage." Not every broken marriage would fit the category of one whose validity could be challenged. Admittedly some "dead marriages" must be judged as true Christian marriages, which collapsed after perhaps many years. Catoir's analysis would not apply to these. He argues about many "dead marriages" whose death traces back to a radical incapacity to sustain the duties and obligations of marriage. Such incapacity, difficult as it may be to determine, argues to the invalidity of the marriage. Hence, the suggestion that a good confessor can assist in the process of determining whether an internal forum solution is possible, and with it a legitimate second marriage.

What Can Be Said About the Internal Forum Solution?

The Editor asked six canonist/moralists to answer this question. The following is a summary of their views.

Fr. Joseph Farragher, S.J. (Moralist/Canonist)

The actual proposal for practice for the "internal forum solution" argues (1) "That there are good, though not legally demonstrable, grounds for challenging the first marriage." I would insist that the "grounds" be canonically acceptable grounds, and not simply what the interested party would consider good grounds for divorce. (2) "That the public ecclesial forum has not worked or would not." I would say that normally the case should be presented to a church tribunal, which would accept the grounds but denies a sentence for lack of available witnesses: "(3) That scandal be avoided." That is acceptable.

I agree that "It is possible to argue persuasively about many 'dead marriages,' that their death traces back to a radical incapacity to sustain the duties and obligations of marriage." I further agree that a confessor or a knowledgeable priest should be consulted. However, I do not think that a priest should simply say that all conditions are fulfilled. If he makes any such statement, it should be a conditioned one: if all the circumstances related are true, the marriage is very probably null and void.

I agree, too, that not all "dead marriages" can be traced back to conditions contrary to the validity of marriage at the time of marriage. To affirm that all broken marriages had some radical invalidating aspect in the beginning, is to deny that "a man who divorces his wife and marries another commits adultery."

The application of an internal forum solution is further complicated in that, even if one party involved in the previous marriage is certain of the invalidity of

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that previous marriage, how can the other present partner be sure? If the one making the claim of invalidity is the one who especially wants to get back to the sacraments, and realizes that lying about the previous marriage would make any subsequent reception of the sacraments sacrilegious, that person's testimony can be trusted. It's much harder to be sure of the invalidity of the previous marriage, if it is only or mainly the not-previously-married party who wants to get back to the sacraments legitimately.

For further thoughts on the subject, see my "Divorce and remarriage: 'good faith solution,'" in "Questions answered," HPR 79 (Nov. 1978) 69-71; and my review of Catoir's *Catholics and Broken Marriages* in HPR 80 (Jan., 1980) 78-79, and in the *FCS Newsletter* 3 (Dec., 1979) 10-11.

The authors mentioned (Allard, McManus, Häring, Farley and Reich) are dissenting. I am not familiar with Vass. McCormick is the best thinker of those mentioned, but is also a dissenter from received doctrine. At least McCormick recognizes that the qualities of the first union are also important. I would say that they are more important for any legitimate solution, than those of the second union.

Joseph M. Boyle, Jr., Ph.D. (Moral Philosopher)

The idea of internal forum solutions makes sense in philosophical terms, and is probably compatible with the principles of Catholic moral life. For there certainly are situations in which people know things that cannot be established in a court. This is not to say that I think it a good idea to establish such a practice, even for a very carefully defined set of cases. Perhaps, if there are cases which the law cannot presently handle in the tribunals, changes need to be made to allow the courts to deal with them.

The problem is that the conditions for the use of the internal forum are too loose. The issue to be resolved in cases concerning nullity is, as I understand it, basically a factual one, namely, whether a marriage actually took place. It seems to me that the Church should not be satisfied that a marriage between those who have made public vows and lived together as husband and wife has not taken place unless there is fairly strong evidence that it did not. (My guess is that something like moral certainty is required.) This raises my problem about the first condition: most cases in which one would have "good but not legally demonstrable grounds for challenging the first marriage" are *not* going to be cases in which the parties involved or their confessors could have anything like a firm, objectively based confidence that they were not really married. The only cases I can think of in which one might have such confidence are

those in which one of the parties *knows* that the other lacked proper intent in marrying, but the other refuses to participate in the proceedings, or even maliciously lies. No doubt there are other types of cases as well, but the list is surely a short one and should be spelled out narrowly and carefully. One kind of case surely should be excluded, namely, that in which a person presents his or her account of his or her own intentions and capacities at the time of marriage as the grounds for nullity, and the court finds this insufficient for declaring nullity. In such a case the person might *think* he or she knew the marriage to be invalid, but this belief could not be objective.

The second condition is surely necessary, but as stated it would surely be misunderstood in the present situation. One would need a criterion to determine when the public ecclesial forum "has not worked or would not." The suggestion of these paragraphs is that the tribunals are not working well enough, but how would one know that? I would think that the only way to tell would be to consider whether the decisions of the courts had succeeded or failed in properly determining whether the marriages in question really were valid or not. I suppose that this will become fully clear only at the final judgment, but in the meantime, only further work by the court could bring mistakes to light. I doubt a body of evidence exists to ground the judgment that the courts are not working. And if it did exist, there is no reason to suppose that it would show that too few marriages were declared null rather than too many.

The third condition also seems necessary, but clearly could not be fulfilled if there were any large number of internal forum solutions. I am not sure exactly what "scandal" means in this context: it is not clear that people would be led into sin by simply knowing that two people, apparently married to others, were both living as husband and wife and participating fully in the sacramental life of the Church. But if the numbers of such people were significant, surely the impression would grow that the Church was not serious about indissolubility. And that would make it harder than it now must be for young people to contract valid marriages. The present practice of American tribunals, even if completely justified, has surely had some bad consequences of this kind.

Fr. Robert Crooker CSB (Canonist/Moralist)

1. Such a "solution" is (or should be) unsatisfactory to those whom it purports to help, couples who "deserve annulments but cannot get them:" if the previous union was null, they have a *right* that its nullity be publicly recognized, and "mercy" is a poor substitute for justice denied. But if it was valid, the proce-

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dures is not (at least in sound theory) legitimately applicable.

2. There is a serious ambiguity, however, in the description of these people as "deserving:" in all too many minds, the objective demands of permanence in marriage are perceived as an arbitrary and evil imposition by church law. Persons of this mentality cannot imagine that a valid but unhappy marriage, like other misfortunes (e.g., cancer, famine, or terrorists) can place terrible and inescapable burdens on good people.

3. While there are doubtless occasional cases in which nullity is legally unprovable but morally certain (and only such cases can justify the proposed "solution" without an affront to Catholic teaching), there is still the problem of scandal: few indeed are the couples in such situations who do not have *some* relatives and friends who will be led to suppose the Church is softening her doctrine as well as her discipline if the new union enjoys ecclesiastical acceptance.

4. Similar difficulty seems to me to attend any adoption by Rome of the Orthodox approach of *oikonomia* to these problems: although not in direct conflict with Catholic doctrine, it would surely be widely perceived as doctrinal back-peddaling.

5. The real need is, above all, for wider and clearer perception that (as John Paul II has often said) the proclamation of even the most demanding moral truths is genuinely *pastoral*, i.e., that it serves rather than undermines what is truly beneficial to men and women.

Fr. Richard Roach, S.J. (Moralist)

The Church is an essential party to each marriage. She demonstrates her essential role in marriage by setting conditions for the validity of marriage. These conditions do not bind when they cannot be observed. So, if two Catholics cannot be married in a Church observing the proper forms, they can still validly marry. They are, of course, obliged to conform to the conditions the Church requires of them as soon as they are able. In my pastoral experience I know of one, and only one, case of a valid, unregistered marriage. It took place before a priest during a revolution in Latin America while the couple and the priest were with revolutionaries in hiding. The couple dutifully had everything regularized, just days before their first child was born, when they arrived as refugees in Canada.

Protestant and Orthodox Christians contract valid marriages without observing what the Church requires because their defect in faith makes the Church unavailable to them. But when need arises, the Church does not hesitate to adjudicate their marriages. I think all this proves that the Church in some

way must be party to the marriage for there to be a marriage. Now comes the problem with the term 'internal forum solution.'

There is a sense in which some defects of a marriage are solved in the confessional. Take the case of a spouse who was knowingly defective in consent at the time vows were exchanged. This defect is known to no one but the sinful spouse and cannot be proven. When the spouse repents, he or she rectifies the marriage by giving consent in secret. This often takes place in the sacrament of reconciliation. (Cf., Canon #1159) If this is what someone meant by an 'internal forum solution,' it would be valid. But what contemporary writings seem to envisage is the priest standing in for the marriage tribunal. The only way I can see the possibility of this taking place is by analogy with the couple I mentioned above whose marriage was unregistered.

If the country were torn by war or revolution and a man or woman, Catholic, knew that they had grounds for an annulment, reason to marry, and no way to appeal to a tribunal for judgment, it is, I think, possible that they could validly act on their own with or without the advice of a priest. But, I do not think that such a case is appropriately named an 'internal forum solution.' Furthermore, where the tribunal is available, I see no way in which a confessor can substitute for it, i.e., I see no way that a confessor's counsel or judgment or, perhaps even improper, administration of the sacrament can substitute for the judgment of the properly constituted authorities in providing the Church's role in a marriage.

I think that FAMILIARIS CONSORTIO strongly reaffirms the constant teaching of the Church in these matters, a teaching which I hope I have accurately interpreted. I do not think that section #84 of that document is open to the notion of an 'internal forum solution' usually proposed.

Msgr. William Smith (Moralist/Canonist)

There are at least four basic objections to the so-called 'Internal Forum' solution: It is contrary to sound Doctrine, sound Logic, sound Law and sound Theological and Pastoral practice.

1. *Doctrinal*. It seems to me that what some propose as 'Internal forum' or 'good conscience' solution is precisely what the Council of Trent formally anathematized in Canon 7 of Session 24 (DS. 1807). In particular, there is no shortage of learned studies about precisely what the Fathers of Trent meant by "matrimonii vinculum non posse dissolvere." For example Piet Fransen has written:

"This canon deals only with what the textbooks call 'intrinsic indissolubility' of marriage, namely that a marriage does not *ipso facto* break up be-

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cause of adultery, or in terms that come closer to Luther's though in his *De captivitate babilonica*, with the fact that the partners decide this question among themselves in their own conscience." P. Fransen, "Divorce on the Ground of Adultery" in *The Future of Marriage As Institution* (New Concilium, 55) (NY: Herder & Herder, 1970) p. 96.

Now, allowing as we must for all the needed distinctions and nuances of the famous canon 7 of Trent (especially what did not touch Eastern Orthodoxy), it seems to me what some propose as 'good conscience' solution is precisely what Trent did anathematize. Therefore, such a proposal is contrary to sound Doctrine.

2. *Logical*. Rev. J.T. Catoir has written:

The presumption for the validity of the first marriage may be wrong. He then counsels the following question via internal forum to resolve the fact. Do you feel you are living in sin? Do you understand your present marriage is an adulterous one? If the concerned person has studied the statements of the Church, reviewed his life situation with a priest, struggled with the questions involved, and "still has no sense of sin, then he ought not be deprived of the Eucharist." (J.T. Catoir, *Catholics & Broken Marriage* Notre Dame, Ind.: Ave Maria Press, 1979) p. 59)

This is both illogical and rests on a distorted notion of the autonomy of subjective conviction. If the other spouse of the same first marriage followed the same process, studied the same statements, asked the same questions, and still had a sense of sin—is it believable to state that she is married to him but he is no longer married to her?

It is simply illogical to confuse the order of thought and the order of reality. It makes no sense to pretend that subjective conviction makes or unmakes reality. Even if the person is absolutely subjectively convinced—in 'sincere' or 'good' conscience—that will not unmake or dissolve the ontological status of the marriage bond.

3. *Canonical*. Canon 1420, #1 denotes the Judicial Vicar or Officialis. Canon 1425, #1, 1^o, b, 'bond of marriage'—among those cases reserved to a collegiate tribunal.

Some advocates of so-called 'internal forum' sol-

ution limit their application to those cases that were introduced to a proper Tribunal but for some reason were not fulfilled or completed; some others place no such limitations. Nonetheless, it makes no canonical sense to say, in effect (via internal forum) that what the Officials can not solve in the external forum, any priest can solve in the internal forum.

The response of internal forum advocates will be that they are judging only subjective worthiness to receive the Eucharist, but Marriage is a social sacrament with public effects. One can not pretend to talk about only one aspect of the question as if that were a complete understanding of the whole question.

4. *Theological - Pastoral*. I would venture to say that few Pontifical documents have ever addressed this cluster of questions with more explicitness than the stated and repeated teachings of Pope John Paul II. In particular, consider *Familiaris Consortio*:

"...However, the Church reaffirms her practice, which is based on Sacred Scripture, of not admitting to Eucharistic Communion divorced persons who have remarried. They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and His Church which is signified and effected by the Eucharist....

"Similarly, the respect due to the Sacrament of Matrimony,...., forbids any pastor, for whatever reason or pretext even of a pastoral nature, to perform ceremonies of any kind for divorced people who remarry." (n. 84) Pope John Paul II, *Familiaris Consortio* (Nov. 22, 1981) n. 84.

The same teaching is repeated in n. 34 of *Reconciliatio et Paenitentia* (Dec. 2, 1984) also by Pope John Paul II.

Thus, although this is in concise and hurried form, it seems to me that continued proposals about so-called 'internal forum' or so-called 'good conscience' solutions are contrary to sound Doctrine, sound Logic, sound Law and sound Theological and Pastoral practice. To continue to suggest this possibility, while the highest authorities in the Church preclude it, is pastorally irresponsible in the extreme—since it offers a false hope to troubled persons which cannot be fulfilled.

Protecting the Revealed Message — Cardinal Newman

The most obvious answer, then to the question, why we yield to the authority of the Church in the questions and developments of faith, is that some authority there must be if there is a revelation given, and other authority there is none but she. A revelation is not given, if there be no authority to decide what it is that is given. In the words of St. Peter to her Divine Master and Lord, 'To whom shall we go?' Nor must it be forgotten that Scripture expressly calls the Church 'the pillar and ground of the Truth'...—Development of Doctrine, pp. 88

Books Received

Ignatius Press (P.O. Box 18990, San Francisco, California 94118-0390)

- Thomas Dubay, S.M., *Faith and Certitude*, (258 pp. \$9.95 soft cover)

Dubay, the widely respected author and professor, gives a thorough and concise analysis of the critical questions and issues concerning faith and certitude in our day. The relativistic and skeptical atmosphere of our times is far from congenial to anyone aspiring for certitude in matters religious and moral.

Investigating the roots of error, whether scientific or religious, particularly problems of biblical criticism and theological pluralism, Fr. Dubay shows how any person committed to an honest love of truth and goodness can attain a solid religious certitude which will not be shaken by developments in human events and academic studies.

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- Christopher Derrick, *Too Many People? A Problem in Values*, (120 pp. \$6.95 soft cover)

Derrick, the noted English author and critic, gives a vigorous analysis of the whole concept of "overpopulation." He aims to broaden the scope of Christian attention to this question of population control. He states that too many of us are concerned with the morality of the means, and strongly suggests that we should pay more attention to the implied value judgments that cause so many of us to see population as a 'problem', to which we must find a 'solution'. This is a timely book on an important question.

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- John Cardinal Wright, *Words in Pain*, (148 pp. \$7.95)

A series of meditations on the Cross and Christ's Last Words by a bishop who knew pain.

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- Adrienne von Speyr, *The Christian State of Life*, (213 pp. \$9.95)

A popular counterpart of Hans Urs von Balthasar's book with the same title. Ten illuminating chapters, the last five on "vocation"—in the Gospel, of the Lord, of the Apostles, of Bishops, of the Saints.

- *Collected Works of G. K. Chesterton*, (Volume I, 395 pp. \$12.95)

What more than *Heretics*, *Orthodoxy*, and the *Blatchford Controversies* in one place.

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- Fr. Jerzy Popieluszko, *The Way of My Cross*, (Regnery 267 pp. \$9.95)

Fr. Jerzy, as he is affectionately remembered, was Poland's modern martyr for his faith in the Church and the Polish workers' Solidarity Movement, abducted and murdered as much for one reason as the other. During the two years that Solidarity was under fire from the country's Communists, this "chaplain" to the worker preached to standing-room-only crowds in his Warsaw parish. His sermons were copied, taped, put on cassettes, and ultimately published. *The Way of My Cross* comes to us in English because Fr. Michael Wrenn was so moved by their beauty in the French edition. You will find here favorite poetic and biblical readings which sustained Solidarity in its dark hours.

After being tortured Fr. Jerzy was executed and buried November 3, 1984. *The Way of My Cross* is quite a testimony to a priest's faith.

Franciscan Herald Press

- James V. Schall, S.J., *Unexpected Meditations Late in the XXth Century* (142 pp. \$15.00)

Included here are just what the title suggests—Fr. Schall's personal meditations during his various travels to Rome, Freiburg, Ghent, Germany, England, and major U.S. cities. In many ways the book is an account of Fr. Schall's own life and very worth the reading.

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- Josef Pieper, *Problems of Modern Faith: Essays and Addresses* (307 pp., \$18.00)

This is not a theological treatise per se because the author insists he is a philosopher, not theologian. It is a translation from the German, one of those valuable interventions of Fr. Mark Hegener and his FH Press in making important European books of significance available to English-speaking audiences.

Among the ideas discussed in this book are: the sacred and the profane, consecration, the function of language, meaning of revelation, and the importance of the virtues. His chapter on the role of intellectuals in the Church is superb.

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Rape Within Marriage: A Moral Analysis Delayed by Edward J. Bayer, S.T.D. Lanham, Md.: University Press of America, 1985, ix + 150 pp. \$9.75 paperback.

This is a reprint of Bayer's 1982 S.T.D. dissertation in moral theology from the Pontifical University of St. Thomas (the Angelicum). Bayer's thesis is that a wife realistically threatened with rape by her own husband has a right to protect herself from pregnancy by using "conception preventing" means, including, in extreme situations, sterilization. Note well that Bayer is not seeking to justify contraception or contraceptive sterilization. Contraception entails, as Bayer clearly shows, both (a) the free choice to engage in genital coition and (b) the choice to make this freely chosen act of coition closed to the good of procreation. He thus clearly distinguishes "conception preventing" actions from contraceptive actions.

In order to sustain his thesis Bayer must show (a) that the notion of rape within marriage is valid and (b) that a wife threatened with rape can, as a legitimate way of avoiding a pregnancy that this act of rape might effect, use "conception preventing" means.

Bayer develops this thesis by a careful examination of the teaching of moral theologians and of the magisterium from 1600 to 1980. He divides his historical examination into four periods: (1) from 1600-1749; (2) from 1750-1879; (3) from 1880-1960; and (4) from 1960-1980. During the first two periods (1600-1880) no theologian accepted this thesis. In fact, only a handful of theologians, among them the celebrated Jesuit moralist Thomas Sanchez in the 17th century, admitted that sexual abuse or rape could even occur in marriage; and even Sanchez, who acknowledged that a husband could unjustly force his wife to have copulation, did not judge it legitimate for her, as he did for a woman raped by a male other than her husband, immediately to expel the man's semen in order to avoid an unjustly caused pregnancy. Only one author in these periods, John Angel Bossius, another 17th century writer, deemed it morally legitimate for a wife forced unjustly to have copulation by her husband, to expel his semen immediately so that she might not be made pregnant unjustly.

In fact, as Bayer points out in his study, an extremely legalistic concept of the "conjugal act" was regnant among Roman Catholic moral theologians from 1600-1880, particularly after 1750. For them, any complete genital act between husband and wife was regarded as the "conjugal act" and hence absolutely sacrosanct. Indeed, many asserted that a husband who forced himself sexually upon an unwilling wife (even if her "unwillingness" was legitimate and not frivolous) was merely taking possession of what

was rightfully his. It is hard to imagine a more legalistic interpretation of St. Paul's teaching on the "debitum coniugale" than the view that dominated Roman Catholic moral theologians from 1600-1880. Theologians who accepted this legalistic notion of the conjugal act rejected the notion that a wife might be unjustly forced to copulate.

Bayer shows that this extremely legalistic concept of the conjugal act has, particularly since 1940, been rejected by Catholic moral theologians faithful to the magisterium. In fact, the magisterium has itself clearly adopted the notion that the conjugal act, precisely as conjugal, must be an act that respects both its procreative and unitive meanings. Contemporary Catholic moral theologians, and, more importantly, the teaching of the magisterium as set forth by Vatican Council II, Pope Paul VI, and above all by Pope John Paul II, hold that the conjugal act is a sign of expression of the marriage itself, and, as such, must respect the unitive or love-giving meaning that it is meant to embody. Thus, just as it is wrong to change the conjugal act into a contraceptive act by repudiating its procreative meaning, so it is wrong to change the conjugal act into an act of spousal abuse or rape by setting aside or repudiating its unitive meaning. Bayer clearly shows that a proper understanding of the conjugal act as an act proper to marriage and participating in the covenant of marriage itself inevitably leads one to recognize that "rape" or sexual abuse can, and tragically and unfortunately does, occur within marriage. Bayer's historical analysis clearly supports this claim, central to his thesis.

His second claim is that a wife, realistically threatened with rape by her own husband, can legitimately use "conception preventing" means, including, in extreme situations, sterilization, as a way of avoiding a pregnancy that such rape might cause. As already noted, only one theologian prior to the 20th century, namely John Angel Bossius in the 17th, had held that a wife sexually abused by her husband had a right, like that of a woman who had been raped outside of marriage, immediately to expel the male semen. Still, those who followed Sanchez did hold that a woman raped outside of marriage had this right. In the 20th century A. Schmitt, in his 1940 revision of Noldin's widely used "De Sexto Precepto et de Usu Matrimonii," advanced the view held earlier by Bossius. Joseph Fuchs (in the days prior to his dissent from magisterial teaching) was the first to hold that a married woman might, if certain in her knowledge that her husband would abuse her sexually, seek to avoid a pregnancy as a result of forced copulation by the use of a pessary. As the theology of marriage matured in the 20th century, more theologians came to adopt this position. Also of great significance in the position taken by theologians was the under-

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standing of the principle of totality set forth in the discourses of Pope Pius XII. One of the most important theologians to adopt this view was Marcellino Zalba, who had earlier rejected the position taken by Fuchs. In defending this view Zalba took pains to show that it was, in part, rooted in the teaching of Pius XII on the principle of totality; he vigorously repudiated the views of some authors who sought to justify contraception by an erroneous application of the principle of totality. Bayer, it seems to me, succeeds in establishing this point of his thesis, namely, that a wife threatened with intramarital rape, can legitimately take conception-preventing means in order to avoid any pregnancy that might come about as a result of it.

Although I agree in substance with Bayer's thesis and hold that a wife would not be contracepting should she, knowing with moral certitude that her husband would sexually assault her when she has a legitimate right to abstain from the conjugal act, use some "conception-preventing" means, I have serious problems with the practical, pastoral applicability of this view. In my opinion, should a wife do this she would be sweeping a terrible marital problem under the rug. She is using "conception-preventing" means in order to avoid the consequences of rape. What she must do, I believe, is seek to avoid the rape. Efforts must be made to come to the root causes of the husband's behavior and, if possible, to make him cease his sexual assault on his own wife and, instead, to respect and honor her as his wife. If such efforts are not successful, in my judgment she ought, for her own good and that of her children (if any), leave her husband, and surely both the Church and society would support her in doing so. Then she would no longer be subject to being sexually assaulted by her own husband.

The principal values of Bayer's study are these: (1) it shows the terribly legalistic understanding of the conjugal act regnant among theologians from the 17th through 19th centuries and the leading role played by the magisterium in overcoming this legalism and in coming to a deeper understanding of the relationship between the conjugal act and the goods of marriage; (2) it provides an excellent account of the teaching of Pope Pius XII on the proper understanding of the principle of totality and its relevance to the subject matter of his thesis. While I have serious problems over the pastoral applicability of Bayer's claim, I think his work is most useful and challenging. In particular, it seems to me, it is necessary for contemporary moral theologians who, like Bayer, reject proportionalism as incompatible with Catholic thought, to examine more carefully the teaching of Pius XII (and of theologians like Zalba) on the principle of totality and its significance.

—William E. May

Thomas G. Weinandy, O.F.M. Cap., *Does God Change? The Word's Becoming in the Incarnation* Vol. IV, Studies in Historical Theology. Still River, Mass.: St. Bede's Publications, 1984. Pp. xxxii, 212.

This book is an important study in a central issue in Christology. From the first Christological disputes to the present Christian thinkers have been forced to face the penetrating questions: how is it possible for a perfect and unchangeable God really to become a man? How is it possible for the immutable God to be born, to suffer, to die, to love as a man?

In his forward to this book, the distinguished Anglican theologian Eric Mascall calls it a work of "highest value," and one that is original in the difficult way: not in receding from sound doctrine, but in finding new ways to grasp and reveal the amazing fertility and vitality of orthodox Christianity.

At stake in the questions this book addresses are the realism and seriousness of faith. In the face of the problems raised, many in the past and in our own century have ceased to believe in the literal truth of the central mysteries of Incarnation and Soteriology.

The proper and responsible stance of the believer in the face of towering intellectual difficulties is in question too. Surely faith is addressed to rational persons; we cannot responsibly affirm what is absurd. But is that absurd which strains the categories of a particular philosophy or the presuppositions of a given culture. Often it is said that the Christological councils imposed Greek categories on Christian faith. But careful study shows how superficial such a claim is. The early heresies sought to give a new meaning to what faith handed on precisely because the literal truth of faith offended the ideologies they clung to. But orthodox faith knew that the word of God had to judge the philosophies, not be judged by them. Faith is autonomous; it has its own intelligent criteria of interpretation and truth. But possession of this truth is guarded only by constant vigilance. In our day, too, scholars seek to subject faith to the demands of the attractive philosophies and ideals of our time, rather than allow our human thought to be deepened and transformed by the light that faith brings.

After an early study of scriptural roots and the teaching of the early Fathers on his central question, the author studies at some length the Nicean discussion of God's begetting and becoming. Then he treats the factors that led to the Chalcedonian position, and its distinctive way of treating "become" as a "personal existential." The author then explores the creative work of Aquinas on the mystery of God becoming man.

Some of Weinandy's most creative work is in his development of a "personal existential" account of

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becoming, and his creative deepening of St. Thomas's theme of "mixed relations."

Later chapters deal with difficulties in classical Lutheran Christology and the English Kenotic Christology that developed from that. Weinandy provides a lucid account of contemporary process theology and a devastating revelation of its crucial flaws. Finally, he studies key positions in three contemporary Catholic theologians, Hans Kung, Karl Rahner, and Jean Galot.

The historical approach of this work manifests vividly the entirely central place of Christology in Catholic faith. Efforts to restate faith ways in a way that subject belief to the demands of popular philosophies or to culturally molded interests of diverse ages prove especially disastrous in this field. Many philosophies can serve faith; all human interests can be illumined by it; but faith has its own inner meaning. It respects intelligence, and it itself seeks passionately to understand its faith. But faith may never allow changing human forms of thought to so dominate it that it forgets its own autonomy, its own sources of intelligibility and meaning.

Today too it is important to put the best resources of intelligence at the service of faith. There will always, of course, be a plurality of ways in which the one faith in Christ is reflected on with faithful love. We may pursue Christology "from above" or "from below" (Scripture and our long tradition have always done both). What is essential is that Christological thinking be "within," situated securely within a life of faith. This book is fully Catholic: it is therefore a creative and a liberating Christology.

—Fr. Ronald Lawler, O.F.M. Cap.

Henry Hyde, *For Every Idle Silence* (Servant Books, Ann Arbor, MI. pp. 135)

This book is the watershed publication on the issue of the role of conscience for the Catholic in politics. It documents, first of all, the extent to which the secularist power brokers will go to insure that religious based values play no role in the political process. During the litigation surrounding the Hyde Amendment, Mr. Hyde was followed to Mass and duly noted to have taken communion and to have read the epistle. All of his mail was read by ACLU and Planned Parenthood lawyers and each instance in which the correspondent had used an expression such as "God bless you" became part of a brief which was submitted as evidence of a religious conspiracy to deny federal funding for abortion. This was "evidence" that Congressman Hyde could not separate his religious beliefs from his political activity. If this seems like an outlandishly bigoted legal tactic, we should re-

member that the Hyde Amendment was barely sustained by a 5-4 majority in the Supreme Court.

Abortion is the focus of such attacks but the broader issue is whether religious beliefs should play any role at all in the political process. The ultimate goal as identified in a critique by federal Judge Bork is "the privatization of religious beliefs. The individuals are entitled to moral beliefs but may not gather as a community to express these moral beliefs in law."

Congressman Hyde dissents from this view of a power elite and points out that the framers of the Constitution did likewise. He quotes Jefferson as declaring, "The only firm basis of liberty is a conviction in the minds of people that these liberties are a gift of God" and cites a quotation from Hamilton affirming that "The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written as with a sunbeam in the whole volume of human nature by the hand of the divinity itself and can never be erased or obscured by mortal power." In view of the long tradition of religiously based political values going back to John Winthrop and the Pilgrims and continuing through Abraham Lincoln and the abolitionists and fifteen generations of the black churches, why is it that we suddenly find Henry Hyde standing somewhat alone as a beacon on a broad sea of gelatinous "personally opposed but" Catholic politicians?

As the author points out, no one opposed the involvement of the clergy in the political movements surrounding civil rights, antiwar, the environment or ERA. It was only when there appeared to be an unprecedented coalition gathering between the sixty million Protestant Evangelicals and the, almost, fifty million Catholics, on the pro-life and pro-family values; that religion was identified as a threat to "the American way."

Each of the chapters in this book contains a unique and carefully articulated position on issues such as abortion, religious freedom, handicapped newborns and the like but the truly seminal chapters are *Keeping God in the Closet* and *Spiritual Leadership and the Abortion Crisis*.

The first of these articles is taken from a speech delivered as a response to the highly publicized presentation by Governor Cuomo at the University of Notre Dame at the height of the 1984 presidential campaign. Congressman Hyde identifies the dilemma of the Catholic politician, usually a Democrat, who wants to retain his Catholic credentials but recognizes that, in today's Democratic party, to be upwardly mobile is to be very liberal. To retain liberal credentials, one must be a feminist and to be a feminist is to be pro-abortion. This gives rise to the type of politician whose "religion is so private that he will not even impose it on himself." The thrust of the

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campaign was to create the impression that abortion is a religious issue and that Catholics who speak out against abortion are suspect. The hope, of course, is to intimidate Catholics so that they would not speak out against abortion, a tactic which succeeded in the public positions of Mario Cuomo and Geraldine Ferraro, among others. The real question is why the issue was raised, in 1984, not against Jesse Jackson, an ordained Baptist minister who conducted his campaigns of registration and fund raising primarily in black churches; but against Jerry Falwell.

In point of fact, of course; unless a political issue is supported by a unanimous consensus (a situation which virtually never exists in the practical order) the enactment of any law will always involve the imposition of the views of one group on another. The involvement of the Evangelicals in political activities was certainly not unprecedented since the mainline Protestant churches had long been identified as "the Democratic Party at prayer." The position of Governor Cuomo was so hackneyed and cliché-ridden that one must marvel that both Father Hesburgh and Father McBrien gushed over it as "nuanced." Teddy Kennedy had been saying the same things for two decades and he could afford better speech writers.

As Congressman Hyde points out, Catholic immigrants to this country did not create the anti-abortion consensus, they found it already in place. *Roe v. Wade* did not express a new consensus. Governor Cuomo and others suggest that we wait for a consensus, Congressman Hyde wants to work for a consensus. This is in the tradition of the Civil Rights Movement which did not wait for a consensus but worked to create it. As the majority of the Supreme Court stated in sustaining the Hyde Amendment, "It does not follow that, because a statute coincides with the tenets of some or all religions, it violates the establishment clause."

In his chapter on *Spiritual Leadership and the Abortion Crisis*, Mr. Hyde forcefully and eloquently describes the inevitable political impact of the "Seamless Garment" approach. In his speeches at Fordham, St. Louis University and Georgetown, Cardinal Bernardin implicitly advances the "single issue politics" charge against the anti-abortion movement. Seamless garment arguments are obviously directed toward conservative and orthodox Catholics. The demand for a consistent ethic is never directed against liberals. No liberal is ever told that he could not credibly oppose war and poverty if he did not also oppose abortion. In fact one cannot recall when the "single issue" epithet was ever raised against the Vietnam war protesters or the Nuclear Disarmament Movement. As Congressman Hyde points out, there is very little said by the Bishops on war or poverty which

would disturb secular liberalism. Whatever the intended message, the message received by the Catholic electorate was that it was alright to be correct on every issue but one. The *National Catholic Reporter* claims that only 3 Senators and 7 Members of the House are entitled to be called "pro-life" under terms of the "Seamless Garment" standard. Since almost everybody falls short, Catholics are told that they can be justified in supporting pro-abortion candidates on the grounds that the lapse is not disqualifying. In a country where no politician publicly approves poverty, nuclear attacks on civilian populations, active euthanasia or hunger but where many espouse abortion on request, the political effects of the "Seamless Garment" rationale are devastating. Congressman Hyde and the other brave leaders of the Pro-life legislative battle, groan under its handicap.

Abortion for most politicians is a "no-win" issue. We must, as citizens, cherish and appreciate the courage of politicians like Henry Hyde who accept the risks of leadership and disdain the protection of the "personally opposed but" dishonesty.

—Eugene F. Diamond, M.D.

Women and Choice: A New Beginning by Mary Rosera Joyce, LifeCom Publishers, Box 1832, St. Cloud, Minnesota 56302, 1986, 178 pp., \$6.95 plus \$1.00 postage, paperback.

The time has come for a new women's movement in America. Reacting against the feminine mystique, the present movement boldly marched into excessively masculine ways of thinking, choosing, and acting. The mystique's "problem that has no name," its crisis of emptiness and boredom, was then buried in the puritan approach to work and the playboy approach to sex. Now the nameless problem is coming back to disturb women again. Many are ready for a better vision and another course of action.

Women and Choice exposes the overly masculine character of our culture, and shows how more balance with the feminine would help us live with our feelings and choose our actions as warm, resolute, affirming people.

Contents: *Part One: Facing The Problem*—Have Women Found Their Way? Stepping Into the Masculine Trap—What Women Need to Know About Their Own Minds; *Part Two: The Problem's Progress*—The Puritan Air We Breathe—Overly Masculine Performance Sexuality: from Puritan to Playboy—The Impotent Playboy, He Seduces a Nation, His Impotence Peaks; *Part Three: Finding a New Beginning*—Time for A Better Way, How to Live With Our Feelings, A True Sexual Revolution, etc.

Fellowship Study Commission

"Catholic Laity and Contemporary Religious Issues"

On March 15 Archbishop Jan P. Schotte, Secretary General of the Synod of Bishops in Rome invited the Fellowship to submit to him any study material we might deem appropriate for the forthcoming Synod of Bishops scheduled for Rome in 1987.

The precise subject of that Synod reads, "Vocation and Mission of the Laity in the Church and the World Twenty Years After the Second Vatican Council."

The Fellowship members listed below have volunteered to research and prepare papers under the specified categories.

For the moment we recommend the following procedures:

1. Committee members doing their own research on their chosen topics should communicate that decision to the Committee chairman immediately. (In his absence consult Msgr. Kelly.)

We must avoid reduplication.

2. Each chairman will be in touch with members of his committee when collaborative research is contemplated.

3. Although previously published manuscripts are welcome, it is recommended that each member prepare a special report for the Synod, even if it merely re-capsulizes earlier research.

4. Since the Synod of Bishops is dealing with the practical matter of implementing Vatican II thinking on the role of Catholic Laity in the Church and in the world, it is important

(a) That the pertinent Vatican II documents be studied.

(b) That the report prepared be pointed in its direction and clear in its language, rather than be esoteric and pedantic, of interest only to specialists.

5. All first drafts should be submitted first to the Chairman, then to Dr. May, finally to Msgr. Kelly. The deadline for these drafts is December 31, 1986.

It is recommended, however, that Committee members have specific plans intact by September 1st.

6. When Archbishop Schotte makes public the specifics of the Synod, that information will be transmitted to the members of the Fellowship commission.

General Chairman

Dr. William May

Associate Chairwomen

Dr. Mary Joyce

Dr. April Armstrong

I - *The State of Catholic Life: Lay Opinion*
(Survey the defacto Catholic situation)

Dr. Joseph Varacalli, *chairman*
Dr. Stephen Krason

II - *Catholic Laity: Citizens of Two Cities*
(Study of Social and ecclesial matters affecting laity)

Dr. John Guegen, *chairman*
Dr. Regis Factor
Dr. Brian Benestad

III - *Catholic Movements and their Relation to Hierarchy*
(Study of particular movements and the general hierarchical relationship)

Dr. James Hitchcock, *chairman*
Dr. Charles Rice
Dr. Joseph Boyle
Dr. Glenn Olsen
Mr. and Mrs. John Farrell

IV - *Marriage, Family, and Differential Roles*

Fr. Richard Roach, S.J., *chairman*
Dr. Ronda Chervin
Fr. Henry Sattler, CSSR
Mr. John Kippley
Mrs. Helen Hitchcock

V - *Adult Catechesis and Lay Spirituality*
(Just about what it says)

Dr. John Hammes, *chairman*
Miss Carol Cowgill
Fr. John Hardon, S.J.
Fr. Paul Quay, S.J.
Dr. Joseph Schwartz
Mr. Kevin Perrotta
Fr. George Rutler

Friends of the Fellowship

Bishop Edward Egan
 Bishop Bernard Flanagan
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 Bishop Anthony Mestice

Bishop William McDonald
 Bishop Joseph O'Keefe
 Bishop Fremiot Oliver
 Bishop Lawrence J. Riley
 Bishop Thomas Welsh

Archbishop John Whealon

Cardinal William Baum
 Cardinal John Krol

New York 1986 Convention News

Cardinal John O'Connor leads an all star cast at the September 26-28th Convention at the Roosevelt Hotel, N.Y.C.

Cardinal John Carberry will confer the Cardinal Wright Award, Bishop Edward Egan will deliver the keynote, and featured speakers include Fr. John Sheets, S.J., Fr. Bruce Ritter, OFM, Prof. Jude Dougherty.

The General Theme: The Spiritual Life of Catholics

143 members have registered for the 1986 con-

vention. General invitations to non-members will be mailed in July.

Registration is \$20 and the Saturday night banquet is \$40.

We are recommending pre-registration for \$50. Checks should be sent to Msgr. Kelly.

The 1987 Convention is scheduled for Los Angeles, California, Friday, September 25th to Sunday, September 27th, 1987. Archbishop Roger Mahony will be host.