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AUTHORS' NOTE. *Since the publication of the encyclical Humanae vitae, dated July 25, 1968, it has become indubitably clear that the supreme magisterium of the Church is not in a state of doubt as to the intrinsic immorality of contraception. Consequently, the essential content of the following article – written last March and first published in April – now stands again confirmed by the clear and explicit teaching of Pope Paul VI, who declared in his encyclical that he spoke as he did of contraception “by virtue of the mandate entrusted to Us by Christ.”*

Contraception: A Matter of Practical Doubt?

Rev. John C. Ford, S.J. and Rev. John J. Lynch, S.J.

It is now over four years since public controversy over contraception became commonplace among Catholic theologians. Today we have with us a

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considerable number of competent moralists of repute—to say nothing of certain individual members of the hierarchy—who will either deny or at least call in question the validity of traditional Church teaching on contraception in general. Apparently there are certain others, increasingly few in number, who will restrict their challenge to the teaching of Pius XII with respect to oral contraceptives, although they still pledge allegiance to traditional doctrine relative to other modes of artificial birth control.

The question, therefore, stands: May one assume that the morality of contraception in any or all of its forms is presently in a state of practical doubt and that consequently one may, by legitimate recourse to probabilism, solve that doubt in favor of freedom to practice contraception, at least when serious grounds can be invoked for so doing?

We two authors of this article are of the conviction that as of today (March 1, 1968) this theological state of affairs does *not* obtain, and that the doctrine of the Church on contraception is *not* "in a state of practical doubt" in this sense. It is not our intention here to attempt either to vindicate the theological and philosophical bases of this doctrine, or to establish the position that in its substance it pertains to the unchangeable teaching of the Catholic Church. We want merely to advance our reasons for maintaining that up to now the magisterium has in no sense retreated from its perennial position as summarized so clearly by both Pius XI in *Casti connubii* and by Pius XII in his 1951 address to obstetrical nurses. And since (in common with what appears to be a very large majority of theologians of all schools) we cannot see either logical or theological justification for approving the oral contraceptives while at the same time rejecting other artificial methods of birth control, we shall speak for the most part only of contraception, on the understanding that the term in our vocabulary is intended to include that use of "the pill" which by direct intent is contraceptive.¹

The 1964 Papal Statement

The theologically knowledgeable person would, in all likelihood, agree

that up to late 1963 or early 1964 Catholic theologians in the writings had been for all practical purposes unanimous in their rejection of contraception on moral grounds. Dissension began to characterize their publications on this issue only with the appearance then of three articles, by Canon Louis Janssens² of Louvain, Belgium, by Dominican Father W. van der Marck³ of Nijmegen, Holland, and by Auxiliary Bishop J. M. Reuss⁴ of Mainz, Germany.

It was doubtless by way of reaction to articles and discussions such as these that Paul VI, on June 23, 1964, issued the first of several statements on the matter. Speaking on that occasion to a group of cardinals, the Pope introduced the subject of birth control, reaffirmed the right of the Church to "proclaim *the law of God* [emphasis added] in the light of scientific, social, and psychological truths," and assured his audience that every effort was being made to conduct such a study which he hoped would be completed in the near future. Thereupon he added this statement on the subject:

But meanwhile We say frankly that We do not so far see any adequate reason for considering the relevant norms of Pius XII to be superseded and therefore no longer obligatory; they should, therefore, be regarded as valid, at least as long as We do not consider Ourselves in conscience obliged to modify them.⁵

Most would probably agree — although documentary proof of the point is simply not available — that in this statement Paul VI was principally, if not exclusively, concerned with the

oral contraceptives and not with contraception in general.⁶ With due allowance for the possibility that the reference to "the relevant norms of Pius XII" embraced also the broader question of contraception in any form, the history of the matter nonetheless strongly favors the more restricted interpretation of the allusion.⁷ Practically, however, it makes little difference, since Pope Paul's reasons for endorsing Pius XII's norms with respect to the pill would *a fortiori* apply also to all other forms of contraception.

Secondly, the text itself would seem to preclude any personal doubt on Paul VI's part in his confirmation of the norms of Pius XII. If truthful words mean anything, the Pope's assertion that "We do not so far see any adequate reason for considering the relevant norms of Pius XII to be superseded and therefore no longer obligatory" must express concomitant conviction as to the truth of what Pius taught. His subsequent qualification of that statement ("at least as long as We do not consider Ourselves in conscience obliged to modify them") need signify no more than his assurance that he was not closing his eyes, ears, or mind to any new evidence or argumentation which might make necessary some modification of a conviction which in June, 1964, he held firmly. With the Council in session restating Catholic teaching; with development of doctrine in the air; with a special commission already in existence to study in depth "certain questions" raised on the occasion of the controversy about the pill, it is not to be supposed that Paul VI was unaware either of the possibility that legitimate theological development might call for a reformulation of our traditional

teaching on contraception, or of the possibility that new medical information might require modification of Pius XII's position on the pill. But we are aware of no evidence to support the idea that he ever had any doubt about the substantial teaching of Pius XI and Pius XII on contraception. In fact, the evidence points in the opposite direction.

It would also seem necessary to concede that the 1964 statement represents a doctrinal expression of the Church's position and not merely a disciplinary measure.⁸ It must be remembered, first of all, that the "relevant norms" of Pius XII were beyond question of a doctrinal kind, and it was these norms that Paul reaffirmed in a context of proclaiming the law of God. Cogent substantiation of this point is provided in these observations made by R. A. McCormick, S.J.:

... it seems difficult to maintain that the statement was merely disciplinary.... a disciplinary decree would have, in the circumstances, made little or no sense. As everyone knows, disciplinary decrees, like Church laws, are subject to excusation through proportionate reason. As disciplinary, the decree would have bound only in so far as there was no legitimate excusing cause. As soon as a couple would experience hardship from its observance (and what couple would not?), it would cease to bind them. Practically this would mean that Pope Paul had issued a disciplinary decree which would not bind in at least very many cases — hence which would be practically meaningless. One is hesitant to accuse the Supreme Pontiff of perpetrating an all but meaningless decree.⁹

Consequently it seems to us impossible to avoid the conclusion that as late as mid-1964 the magisterium of the Church, as presented in authoritative papal teaching, had not detracted or departed in any way from the traditional teaching on the matter of contraception; nor did Paul VI's convictions in this respect, according to his own testimony, differ from those of his predecessor. (Incidentally, in his address of February 12, 1966, the Pope explicitly reaffirmed the position he had taken in June, 1964.)¹⁰ Finally, there had not been up to that time, nor have there been since, any authoritative statements from bishops or groups of bishops (in the form, for instance of diocesan or regional pastoral letters) which depart from the traditional teaching or give grounds for treating this teaching as being in a state of practical doubt.¹¹

1965: Pope Paul and Vatican II

After many vicissitudes in committee the principal text on contraception in Vatican II finally read as follows:

Accordingly the moral character of the conduct, when there is question of reconciling conjugal love with the responsible transmission of life, does not depend solely on a sincere intention and a weighing of motives, but should be determined by objective criteria derived from the nature of the person and the nature of his acts, which [criteria] preserve in the context of true love the integral meaning of mutual donation and human procreation; and this cannot be achieved unless the virtue of conjugal chastity is cultivated wholeheartedly. Relying on these principles, children of the Church are not permitted, in the regulation of procreation, to follow

paths that are disapproved by the Magisterium in its explanation of the divine law.¹²

This text certainly does not detract or depart in any way from the traditional teaching of the Church, and we maintain that these two sentences in their very wording, in the context, in their history, and as officially explained to the Council Fathers by the Theological Commission's reports, and even apart from footnote 14, deal with contraception and prohibit it. If they do not prohibit contraception, what meaning do they have? It is our contention, furthermore, that the second of these sentences, taken together with its footnote reference (n. 14) to Paul VI's statement of June 23, 1964, excludes, as it did, any state of practical doubt even with regard to the pill, and calls for adherence to the norms of Pius XII. One must keep in mind, of course, that the Council Fathers voting for the conciliar texts gave the authority of the Church only to the texts themselves, not to the footnotes. The famous note 14 is very important for showing the meaning of the text according to the mind of the Conciliar Father — or at least the minds of those subcommittee members who drafted the note, and those commission members who voted for it. But conciliar footnotes do not have the force of authentic conciliar teaching.

In order to confirm our present point, which is to show that the magisterium of the Church, especially as authoritatively presented by Paul VI, has not up to the present taught or admitted or even encouraged the idea that there exists any *practical* doubt in the matter of contraception, we publish here in full two letters¹³ from the conciliar documentation which

reveal with unusual force and clarity the mind of Paul VI on contraception.

Two weeks before the close of Vatican II, while the section on marriage in the *Constitution on the Church in the Modern World* was still undergoing final revision, Cardinal Cicognani, Vatican Secretary of State, by mandate of Paul VI addressed a letter to Cardinal Ottaviani as head of the Theological Commission whose function it was to prepare the emended text for the approval of Pope and Council. Dated November 23, 1965, and communicated to the Commission the following day, the letter read as follows:

From the Vatican Palace
23 November, 1965

Most Eminent and Most Reverend
Lord:

In willing fulfillment of my office, I announce to you that the August Pontiff desires that you, by reason of the office and authority which are yours, inform the Commission which, after considering the *modi* for Schema XIII, is deliberating about its rewriting, that there are certain points which must of necessity be corrected in the text which is to be proposed to the General Session of the Ecumenical Council, Vatican II, with regard to the section which treats "of promoting the dignity of marriage and the family."

For in the treatment of this section, mention must be made in the first place of the main points of the doctrine which up to this time has been declared by the Supreme Magisterium of the Church, especially the explicit mention of the Encyclical Letter of Pius XI which begins with the words "*Casti connubii*," and of the address of Pius XII to the midwives; it is to be kept in mind especially that the chief points of that doctrine must

be considered as still valid. The matter is all the more serious and dangerous seeing that in some quarters a certain opinion seems to be gaining ground rather widely: to wit, that these pronouncements of the Supreme Pontiffs are already obsolete and therefore can be ignored.

Secondly, it is absolutely necessary that the methods and instruments of rendering conception ineffectual — that is to say, the contraceptive methods which are dealt with in the Encyclical Letter "*Casti connubii*" — be openly rejected; for in this matter, admitting doubts, keeping silence, or insinuating opinions that the necessity of such methods is perhaps to be admitted, can bring about the gravest dangers to the general opinion.

Furthermore, it is most fitting that the aforesaid text speak clearly about the fostering of conjugal chastity, and about the proper manner of using marriage for the sake of human dignity and in accordance with divine law.

On a page which is attached to this letter some "*modi*" are indicated which it seems should be introduced into the text.

In communicating these matters to you, I gladly avail myself of the opportunity of professing myself with all due reverence,

Your Eminence's most devoted servant,
[signed] H.J. Card. Cicognani
Secretariate of State of His Holiness
N. 58669

After strong pressures had been brought to bear on Paul VI both from within and from without the Council, this letter was followed on November 25 by a second letter which read:

Secretariate of State of His Holiness

The matters which were communicated in the letter dated the 24th of this month [the actual date was the 23rd] to His Eminence Alfred Card. Ottaviani and which concern the chapter "On fostering the dignity of marriage and the family" of Schema XIII of the Ecumenical Vatican Council II, should be considered as the counsels [*consilia*] of the Supreme Pontiff in this matter of such great importance. With regard to the manner of expression, however, they do not contain anything definitive, and therefore need not necessarily be adopted word for word.

The Commission can, therefore, propose other formulations also, which, however, should take account of these counsels and satisfy the desires of His Holiness. These new formulations will be carefully weighed by the Holy Father, and can indeed be approved, if they appear to him to agree with his mind.

25 November, 1965.

As a result of these two letters the text of the then current schema was modified and strengthened in some respects, but not nearly so much as the Pontiff had asked in the first of the letters, to which his four amendments were attached. For instance, the explicit page reference to *Casti connubii*'s condemnation of contraception was added in note 14. But the phrase "*artes anticonceptionales*" which he had asked to have inserted in n. 47 (second paragraph, first sentence, along with polygamy and divorce) as a deformation of the dignity of the *institution of marriage*, was reformulated as "illicit practices against generation" and classified with egoism and hedonism as a profanation of *nuptial love* in the second part of the same sentence.¹⁴

We have introduced these letters as documents useful to our present purpose. First, they show clearly the unshaken conviction of Pope Paul at that time as to the "absolute necessity" of retaining the substance of the traditional teaching with respect to contraception. Secondly, they throw light on the meaning which Pope Paul himself attached to the conciliar text when he signed it. These are not the sentiments of a man who is in a state of doubt, or who thinks that the magisterium of the Church is in a state of doubt, in these matters.

Paul VI and the Birth Control Commission

Not long after the conclusion of Vatican II, Pope Paul completely reorganized the Pontifical Commission for the Study of Problems of Family, Population and Birth, commonly referred to as "The Birth Control Commission." He named sixteen cardinals, archbishops, and bishops as its members. They became the Commission; they alone had a right to vote on the final report. All the others (theologians, physicians, demographers, married couples, etc.) who up to then had constituted the Commission became equivalently its *periti* or expert advisers. They remained its "members" only in this limited sense. A large dossier containing the "final report" of the Commission itself, together with a mass of documentation from the advisory members, was handed to the Pope about the beginning of July, 1966.

Four months later, on October 29, 1966, after extended personal study of this documentation and conclusions, the Pope declared: "These conclusions cannot be considered definitive, by reason of the fact that they contain grave implications as to other questions, by no means few or

unimportant... both at the doctrinal level and at the pastoral and social level... This fact... imposes on Our responsibility a supplementary study, which We are resolutely attending to with great reverence for all who have already given it so much attention and labor, but with a sense, nevertheless, of Our Apostolic office..."¹⁵

These words, even when first published, indicated clearly enough to any experienced reader of Vatican prose that the Pope was refusing to accept at least some of the more important conclusions of his Commission. A rereading of his words today, in the light of certain documents from the dossier of the Commission which were published without authorization the following spring,¹⁶ makes it still more evident that the Holy Father was refusing to accept conclusions which departed substantially from the traditional teaching of the Church as to the intrinsic immorality of contraception. He seems to us to have been saying politely, but very clearly, to the Commission: "Thank you for all your work. I cannot accept your conclusions. I shall now make further studies."

It should be kept in mind that this 1966 allocution contained Paul VI's first public utterance on birth control since receiving the documents of the Commission. If after four months' consideration of these documents the Pope found himself obliged to insist upon the validity of traditional teaching, as he did in this address, is not this tantamount to a rejection of the arguments and conclusions to the contrary contained in the documents? At the very least it must be conceded that up to the time of this 1966 allocution, the Pope had found no arguments sufficient to change his own

conviction that contraception is intrinsically wrong.

The papal address almost a year later, in September, 1967, to the Redemptorist Fathers at the conclusion of their General Chapter, would seem to confirm our interpretation of the Pope's mind on this matter. In the course of his remarks on this occasion, he urged his audience to "make every effort to show the close and harmonious connection which exists between the doctrine of the Council and the doctrine previously proposed by the ecclesiastical magisterium. Never let it happen that the Christian faithful be led to another opinion, as if, in accordance with the magisterial teaching of the Council, certain things were now permissible which the Church previously declared intrinsically evil."¹⁷ Given the circumstances of this rather solemn admonition, it is hard to understand this allusion as not including the Church's teaching on contraception.

The Papal Statement of October 29, 1966

The October, 1966, papal statement on birth control is clear in some respects and obscure in others. As far as we can see, the following points are expressed without any ambiguity:

1. "The thought and the norm of the Church [on the question of birth regulation] are not changed; they are those in effect in the traditional teaching of the Church."

2. Vatican Council II has not dealt with "the Catholic doctrine on this topic" in such a way "as to change its substantial terms."

3. "The norm taught until now by the Church, completed by the wise instructions of the Council, calls for faithful and generous observance..."

4. This norm "is constituted best and most sacred for everybody by the authority of the law of God, rather than by Our authority."

5. This norm "cannot be considered as not binding, as if the magisterium of the Church were now in a state of doubt..."¹⁸

It seems to us that this last statement, as it stands, is a clear and explicit rejection at least of the position of those theologians who now justify the practice of contraception by arguing that the magisterium is in a state of doubt on the matter and that probabilism may therefore be invoked in favor of moral freedom in this regard. We recognize the difficulty of explaining with precision the language used, and we are especially aware of the further difficulties raised when the statement is taken in conjunction with the subsequent admission that the magisterium is in a state of study and reflection. But what is obscure in it does not nullify what is clear. To call the statement mendacious, as Charles Davis did, is insulting; to call it a meaningless use of language or a merely verbal denial of the existence of magisterial doubt does not do justice to the text nor to its author.

That this same document is a teaching statement and not one to be considered merely disciplinary, is clear to us for the following reasons. First, we are mystified when any theologian imagines that a pope would attempt to deal with a problem like contraception by means of canonical legislation based on merely human ecclesiastical authority.

Secondly, Paul himself explicitly declares in the document that the norm he is insisting on is one which is "constituted best and most sacred for everybody by the authority of the law of God, rather than by Our authority." Moreover, the reasons

adduced by Fr. McCormick¹⁹ for considering the June, 1964 document to be a teaching statement are equally, if now *a fortiori*, applicable to the October, 1966 document. (Incidentally, if the Pope had taken the opposite position and had said: "The magisterium of the Church is now in a state of doubt, but is studying and reflecting on the problem," would anyone have raised the least question as to the doctrinal character of *that* statement? In brief, it is (to our mind) inconceivable in context that this pronouncement could be merely disciplinary. Consequently, it simply must be doctrinal — unless one is willing to dismiss the entire allocution, although published in the *Acta*, as an interesting but otiose monologue to a group of doctors.

It is not theologically legitimate, in our opinion, to set about interpreting this pronouncement by minimizing its clear teaching of the practical obligation to accept and to follow the traditional norm, while enlarging on those parts of the statement which give rise, at a more speculative level, to various doubts and obscurities.

Admittedly difficult to understand is Pope Paul's assertion that the magisterium of the Church is not now in a state of doubt, "whereas it is in a state of study and reflection on whatever has been proposed as worthy of most attentive consideration." Quite clearly he is disclaiming the existence at least of that kind of doubt on the part of the magisterium as such which would justify the practice of contraception. But how then explain the magisterium's "state of study and reflection," existence of which is no less clearly asserted? How explain the statement made earlier in the allocution, that he is unable under present circumstances to pronounce

the decisive word which is expected of him?

Clarity Amid Obscurity

We do not pretend to be able to explain why the Pope is not ready to speak decisively. We do not pretend to have a complete understanding of the distinction he seems to have in mind when he says that the magisterium is not in a state of doubt but is in a state of study and reflection. We do not pretend to know the precise questions on which the magisterium is said to be reflecting. (The "certain questions" mentioned in note 14 of n. 51 of *Gaudium et spes* have never been exactly specified in any authentic document, either inside or outside the Council, as far as we can discover.) But for us, these difficulties do not in the least obscure the plain, practical teaching of the document as to the obligation to accept and to follow the traditional doctrine of the Church.

It may be permissible, however, to resort to surmise on the causes of delay and on certain questions which are still undergoing study. Perhaps they include: 1) Questions about the philosophico-theological bases of the doctrine perennially taught, and the failure of the familiar natural-law arguments to convince many of the People of God that contraception is always against His will. 2) Questions about the prudence as yet of issuing a final and decisive reaffirmation of traditional teaching at a time when papal teaching authority is being challenged from so many quarters. Perhaps the Pope would prefer to put his authority to the test on some clearly defined matter of faith, such as an article of the creed, rather than on this emotionally charged moral issue. 3) Questions about the medical intricacies of the oral contraceptives and the bearing such considerations

might have on the Church's perennial rejection of all direct contraceptive sterilization. 4) Questions about the proper formula for reasserting traditional teaching without creating obstacles to legitimate evolution of doctrine in the future. The Pope is reported to have said to an American bishop: "I know what I cannot say; I do not know what I *should* say."

Admittedly these suggestions are conjectural. But it is conjecture forced upon us on the one hand by Paul VI's clear teaching that there exists no magisterial doubt which justifies the practice of contraception, and on the other by the obvious fact that there must be a doubt about *something*, else we would have had his "decisive word" long since.

Probabilism versus the Magisterium

Fundamentally our position on the question we originally proposed is this: The morality of contraception is not in a state of practical doubt because no opinion can be practically probable if it contradicts the authoritative teaching of the magisterium. To use the theory of probabilism in such a way that one concedes practical probability to the opinions of private theologians even when they contradict the teaching of the Church goes counter to the very nature of probabilism and to the very nature of the magisterium.

To our mind, probabilism is no longer probabilism if one holds an opinion to be practically probable at a time when its opposite is practically certain. The authoritative teaching of the Church in moral matters is proposed to the faithful as at least practically certain. It demands religious assent and observance. We are acutely aware of the theological difficulties inherent in the concept of

religious assent as inculcated by Vatican Council II,²⁰ and as authoritatively explained to American Catholics in the collective pastoral of our bishops.²¹ But the speculative difficulties of private theologians (some of whose difficulties we share) regarding a given point of magisterial moral teaching, or the reasons for it, do not deprive that doctrine of its practical certainty as long as the Church continues to propose it as authentically hers. *For the reasons given in this article we believe that up to now (March 1, 1968) the Church has proposed and continues to propose for acceptance and observance her traditional teaching that contraception is intrinsically immoral. Therefore there is as yet no room for probabilism or practical doubt.*²²

For us, the magisterium is no longer the magisterium unless it has the power to decide authoritatively (whether speaking infallibly or not) questions of practical morality, including matters not explicitly "revealed," in such a way as to bind the consciences of the faithful in their individual lives. For us, the magisterium makes its teaching known through the successors of the apostles, not through a "*sensus fidelium*" which is independent of the magisterial teaching of pope and bishops, and still less through public opinion polls.²³ We hear the voice of Christ in humility and faith when the Church speaks authoritatively, either through the voice of the bishops speaking as such and in union with the pope, or through the pope alone when he teaches the whole Church.

Consequently we do not accept as having any theological weight, especially with a view to arriving at practical probability, opinions like the following:

Since the conscience of the Church is so deeply divided on this issue [artificial contraception] and since the solution is in no way contained in divine revelation, the authoritative norms which the Pope himself, as universal teacher, will propose in due time, shall not be a definitive interpretation of divine law, binding under all circumstances, but rather offer an indispensable and precise guide for the Christian conscience.²⁴

Or another:

The function of the magisterium, therefore, does not consist in defining ways of acting ("*comportements*") in moral matters, unless one is speaking of prudential guidance. For its proper role, as for the Gospel, is to provide those broader clarifications which are needed. But it could not publish edicts of such a nature that they would bind consciences to precise ways of acting; that would be to proceed against that respect for life which is an absolute value.²⁵

It seems to us that opinions such as these are opposed to the entire theological history of the Church's exercise of her teaching authority in moral matters, and are not in accordance with the teaching of Vatican II.²⁶ And we quote them here as examples of theological speculations which are of no relevance in applying the principles of probabilism or in arriving at a state of practical probability in a matter on which the Church has spoken and continues to speak authoritatively to the contrary. We believe the same thing should be said of the opinions of the "majority" in the alleged final report of the birth control Commission. Whatever value they may have at the speculative level (and we welcome responsible discussion of them), they remain the opinions of private theologians. Not only do they not represent the

position of the Church's magisterium, but they have been, it seems to us, quite clearly rejected by the magisterium, speaking through Paul VI, as not being representative of it.

We do not, of course, identify the total magisterium with the present Pope, much less with his personal opinions. But we do say that all magisterial teaching on contraception (whether from the past, or from Vatican II, or from the present Pope, or from the hierarchy) condemns it as intrinsically immoral. If there is any magisterial authority for contrary doctrine, we are unaware of it. We do not prefer our own opinions in all this to the opinions of respected theological colleagues. But we prefer the teaching of the magisterium, as we understand it, to all private opinions, including our own.

The acute pastoral and personal difficulties of the present moment do not leave us unmoved. But we do not find any solution of these difficulties — but rather an eventual aggravation of them — if the faithful are led to believe that the private opinions of any number of theologians, or their own opinions in the guise of a "*sensus fidelium*," can be followed in practice while the Church continues to teach the opposite. It is a moment that demands humility and faith, the "generous and faithful observance" called for by Paul VI on October 29, 1966. And in the allocution to the Redemptorist Fathers mentioned above, the Pope reiterated in a striking way this call for humility and fidelity in relation to the Church's magisterium in moral matters. On that occasion (September, 1967), in the context of perfecting moral theology in accordance with the directives of Vatican II, he said:

In this matter there are not wanting those who depart from the right path. In truth, not without great

sorrow have we learned that unacceptable opinions are being spread abroad, opinions of some who, neglecting the magisterium of the Church, and relying on false interpretations of the Council, incautiously accommodate Christian moral doctrines to the inclinations and perverse opinions of this world, as if not the world were to be conformed to the law of Christ, but the law of Christ to the world... Make every effort to show the close and harmonious connection which exists between the doctrine of the Council and the doctrine previously proposed by the ecclesiastical magisterium. Never let it happen that the Christian faithful be led into another opinion, as if certain things were now permissible, as a result of the magisterial teaching of the Council, which the Church previously declared intrinsically evil. Who does not see that from this a pernicious *moral relativism* [emphasis in original] arises, and that the whole and entire patrimony of the doctrine of the Church is put in jeopardy? And so, if there ever was a time, today most of all, one must adhere with complete fidelity and with docile and humble obedience to the living magisterium of the Church.²⁷

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- 1 G. Perico, S.J. ("La 'super-pillola,'" *Civiltà cattolica* 118 [1967] 263-68) attempts to show that the morality of the contraceptive use of the pill is essentially different from that of using contraceptives "properly so called." He arrives at this conclusion by constructing a definition of "contraception properly so called" which includes only direct (i.e., physically direct or immediate) interference with the conjugal act, the germinal cells, or the procreative process. Since the pills, according to Fr. Perico, "act from afar," i.e., directly on the pituitary; and since they "do not directly obstruct the conjugal act, do not mutilate the germinal elements of it, do not neutralize any process or function closely bound up with the procreative act,"

he concludes that "it is certain that [the pills] cannot be classified among contraceptives properly so called." This argumentation is unsatisfactory. First, its description of the physiological action of the pill is highly questionable; but this point we leave to the judgment of our medical colleagues. Second, it adopts a definition of contraception which excludes the pill *a priori*, taking little account of the fact that throughout theological history contraceptive sterilization has always been repudiated by Church and theologians whether achieved through physically direct intervention in the generative process or attempted by the use of drugs which "act from afar."

² "Morale conjugale et progestogènes." *Ephemerides theologicae Lovanienses* 39 (1963) 787-826.

³ "Vruchtbaarheidregeling: poging tot antwoord op een nog open vraag." *Tijdschrift voor theologie* 3 (1963) 378-413. See also the same author's *Love and Fertility: Contemporary Questions about Birth Regulation*, (London: Sheed & Ward, 1965).

⁴ "Eheliche Hingabe und Zeugung." *Tübinger theologische Quartalschrift* 143 (1963) 454-76.

⁵ *Acta Apostolicae Sedis* 56 (1964) 588-89.

⁶ J. J. Lynch, S.J., "The Contraceptive Issue: Moral and Pastoral Reflections," *Theological Studies* 27 (1966) 244-45; R. A. McCormick S.J., "Notes on Moral Theology," *ibid.*, p. 652.

⁷ J. C. Ford, S.J., "More on the Council and Contraception," *America* 114 (1966) 556.

⁸ J. J. Lynch, S. J., "Notes on Moral Theology," *Theological Studies* 26 (1965) 263-64; R. A. McCormick, S.J., "Notes on Moral Theology," *ibid.*, p. 646 and *ibid.* 27 (1966) 652; J. Fuchs, S.J., "The Pill," *Studies* 53 (1964) 370.

⁹ "Notes on Moral Theology," *Theological Studies* 27 (1966) 652.

¹⁰ *The Pope Speaks* 11 (1966) 6.

¹¹ The Dutch Catechism treats contraception (on the merits of the question) rather ambiguously, but clearly approves the pastoral practice of leaving people free in the matter. See *A New Catechism: Catholic Faith for Adults* (St. Louis: Herder and Herder, 1967) 402-03.

Concerning this publication *L'Espresso* *Romano* (Nov. 2-3, 1967, p. 1) carried the following notice: "Bernard Cardinal Alfrink, archbishop of Utrecht, decries the publication in English of the 'new catechism' which has been carried out without his responsibility and before eventual modifications of the text on which the work has not yet been considered, could be approved. Moreover, the English edition, 'A New Catechism - Catholic Faith for Adults,' does not have the approval of the archbishop of Utrecht, and as a result the bishop [Robert F. Joyce] of Burlington [Vt.] has withdrawn his imprimatur before publication. The said English publication, therefore, is to be considered as lacking ecclesiastical authorization." *L'Espresso Romano* repeated this notice on Jan. 31, 1968. We do not know whether the passage on methods of birth regulation is among those undergoing revision. Catechisms, even with an imprimatur, do not necessarily achieve the status of authentic teaching, but they carry great weight, especially when approved by the bishops of a country for instructing the people in faith and morals; all the more so if the Holy See, after special study, approves one for publication. Even tacit approval by Rome of an internationally publicized catechism which permits a pastoral practice of freedom to use contraception would be a very significant factor in our present inquiry.

¹² *Gaudium et spes* n. 51.

¹³ The gist of the first letter and almost the entire text of the second are cited *ad verbum* in their original Latin by V. Heylen, "La note 14 dans la constitution pastorale (*Gaudium et spes* P. II, P.I.N. 51," *Ephemerides theologicae Lovanienses* 42 (1966) 555-66 at p. 561, n. 19, and p. 562, n. 23.

¹⁴ The reasons given by the subcommission editors of the final text (given, that is, to the Theological Commission and then to the Council Fathers) for not accepting the Pope's wording of his amendment are intriguing. After stating that explicit rejection of "contraception" and "onanism," as asked for by some of the Fathers, was unnecessary since they were already in the text "at least substantially," the editors objected to "artes anticonceptionales" as ambiguous. They said: 1) that this phrase would seem to prohibit periodic continence; 2) that it would confuse scientists who distinguish between anticonceptives, contraceptives, and aconceptives; and 3) that it would therefore be misunderstood as condemning anticonceptives without condemning contraceptives. (See *Expensio modorum partis secundae*, p. 9.) It was only after the final text had been delivered to the Fathers

with this explanation from the Theological Commission that they voted for it in its present form. Actually, of course, the phrase "illicitis usibus contra generationem," thus introduced into the final text, is much more ambiguous than "artes anticonceptionales" and on the very day it first appeared in the *Aula* (December 2, 1965) it began to be explained, even to the press, as referring to abortion, or to a hedonistic use of contraception, or to illicit as opposed to licit forms of contraception. The ambiguity was compounded by the dropping of the footnote reference to *Casti connubii's* condemnation of contraception, which the Holy Father had asked to have appended at this point to the phrase "artes anticonceptionales" as well as in n. 51, footnote 14.

¹⁵ *Acta Apostolicae Sedis* 58 (1966) 1169.

¹⁶ See *National Catholic Reporter* 3 (April 19, 1967) 8 ff.; Jean-Marie Paupert, *Contrôle des naissances et théologie. Le dossier de Rome. Traduction et notes* (Paris: Editions de Seuil, 1967); Henri de Riedmatten in the *Courrier* [Swiss Catholic daily] (Sept. 2 and 3, 1967). Fr. de Riedmatten, the executive secretary and organizer of the birth control Commission, condemns in very strong terms the various injustices committed by the unauthorized publication of the documents.

¹⁷ *Acta Apostolicae Sedis* 59 (1967) 960-63 at p. 962.

¹⁸ *Ibid.* 58 (1966) 1168-69.

¹⁹ Cf. *supra* n. 9 and corresponding text.

²⁰ V.g. *Lumen gentium*, n. 25.

²¹ *The Church in Our Day* (Jan. 11, 1968), chap. II, sect. III.

²² There remain, however, these hard facts: that some reputable theologians are permitting the practice of contraception; that they have not been silenced or rebuked by the Holy See as far as we know; that as a result large numbers of the faithful are in a state of gross confusion which makes it increasingly difficult and sometimes impossible for them to find out with certainty what the Church is actually teaching, and what God requires of them. "Silence gives consent." Silence on the part of the Holy See with regard to these theologians, if continued long enough, will, in our opinion, give consent - at least to a

pastoral practice which does not impose on the faithful stricter standards of conjugal morality than those proposed publicly, without rebuke, by theologians in good standing in the Church. We do not believe, however, given the circumstances in which the Church now finds herself, that at the present time (March 1, 1968) the silence of the Holy See has continued long enough to warrant any general presumption of a sort of "invincible ignorance" or "good faith" on the part of the whole Catholic public. Nor are we willing to hazard any prediction or offer any time-table to which we would expect the future course of events to accommodate itself.

²³ See the allocution of Paul VI, Oct. 15, 1967, to the members of the third international convention on the apostolate of the laity, *Acta Apostolicae Sedis* 59 (Dec. 20, 1967) 1040-48 at p. 1044: "Does it follow that the People of God are their own interpreters of God's Word and ministers of His grace? That they can evolve religious teachings and directives, making abstraction of [sic] the Faith which the Church professes with authority? Or that they can boldly turn aside from tradition, and emancipate themselves from the Magisterium? The absurdity of these suppositions suffices to show the lack of foundation for any such objection. The Decree on the Apostolate of the Laity was careful to recall that 'Christ conferred on the apostles and their successors the duty of teaching, sanctifying and ruling in His name and power.'" This allocution was given shortly after many members of this convention had expressed themselves publicly in favor of contraception. See also *The Church in Our Day*, the collective pastoral of the American bishops, Jan. 11, 1968, chap. II, sect. I.

²⁴ Gregory Baum, O.S.A. "Birth Control - What Happened?" *Commonweal* 83 (1965) 371.

²⁵ Quoted in the alleged "minority report" of the birth control commission as published in *National Catholic Reporter* 3 (Apr. 19, 1967) 10, col. 2.

²⁶ V.g. *Lumen gentium*, n. 25, and *Apostolicam actuositatem*, n. 24 *ad fin.* See also J. J. Reed, S.J., "Natural Law, Theology, and the Church," *Theological Studies* 26 (1965) 40-64.

²⁷ *Acta Apostolicae Sedis* 59 (1967) 960-63 at p. 962.