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Not What Catholic

A Reply to Father McCormick

Vitale H. Paganelli, M.D.

The Catholic physician, whether or not he utilizes a Catholic hospital, has a vital interest in the philosophy and theology which ground the variety of hospital-physician and physician-patient relationships detailed in the, "Ethical and Religious Directives for Catholic Health Facilities" (The Code). This interest derives primarily from the fact that he should and frequently will be guided by that code in whatever type institution he practices. The general guidelines (the preamble) as well as the specific rules become a part of the Catholic physician's personal code.

Because of its interest in The Code, the NCFPG appointed Drs. J. Cavanagh, Washington, D.C., J. Brennan, Milwaukee, and the author to represent its interest in the revision of The Code. Let it be noted that two of the three of us from the NCFPG supported with minimal reservation and in agreement with the overwhelming majority of Bishops, The Code as revised in September of 1971. These reservations are of minor import and I will defer further consideration of them at this time. It is this revision to which Father McCormick has alluded critically in his *America* article. (Reprinted in February, 1972, *Linacre Quarterly*.)

With this brief background, I wish to attempt a reasoned and reasonable reply to Father McCormick whose "Moral Notes" in *Theological Studies* I have read avidly and with increasing respect for a number of years.

Father McCormick's extensive critique of the revised code takes form along three specific lines, viz, that since 1954, (1) scientific changes have resulted in new medical-moral problems, (2) change in theological perspective has resulted in the need to revise some moral conclusions, and, (3) changes in the relation of the Catholic hospital to the community have resulted in the need for the former to develop a new self image.

There is also another entirely separate but general area of Father McCormick's critique which in effect offers the proposition (principle?) that a "responsible theological literature" is in fact a more sufficient teaching authority, respectus, *raison d'être*, or what have you, than the Church's authentic magisterium and/or the National Council of Bishops, or even the Synod of Bishops.

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Let the discussion start with the issue of "scientific breakthrough" since 1954. It is an interesting coincidence that the author was graduated from medical school in 1955. Having been engaged in general practice since that date, I believe therefore that I have a relatively good overview of the medical developments which have occurred in that period.*

Among the truly remarkable advances which have taken place, none impress me as having had a significant effect on the daily medical-moral concerns of practicing Catholic physicians and general hospitals. A few experimental situations such as gene manipulation, development in the test tube of human life, etc., are so esoteric as to be limited to not more than a half-dozen advanced research areas among which, to the best of my knowledge, no Catholic institution is currently concerned.

More realistically, the Catholic hospital and physician are still concerned with elemental definitions and interpretations of the perennially agonizing problems of abortion, sterilization, euthanasia, (negative vs. positive) etc. Practical new

medical advances, e.g., advances in diagnostics, therapeutics, etc., are such that no one has serious moral quibble. Thus I take exception to point one of Father McCormick's thesis in that while I admit many scientific advances, I deny their current, practical medical-moral importance.

Regarding the second point, one must respect fully Father McCormick's opinion that theology has undertaken a change in perspective. Assuming this opinion to be true then a revision of previously established theological conclusions may be required. If so, let it occur according to the methodology proper to the science of theology. I am obliged none the less to make the point that a scientific definition cannot be changed arbitrarily by the theologian to fit his change in theological perspective. Thus, regardless of how theology chooses ultimately to handle the matter of abortion, the definition of the term will remain that of "a procedure whose sole immediate effect is the directly intended termination of a pregnancy before viability." The definition is based on a datum of medical experience and not on a probable theological opinion and/or

*An incomplete list of significant advances which immediately spring to mind include transplant techniques, intrauterine fetal transfusion procedure and cardiac resuscitation procedure, treatment with cytotoxic chemicals, high dose corticosteroid therapy, diagnostic intrauterine genetic techniques, intravascular radiological techniques; chemical management of psychiatric disorder. Many minor diagnostic, therapeutic and surgical improvements also have occurred in the minor specialties, e.g., fenestration surgery.

legitimate theological dissent. It follows that if the theologian visualizes an exception to a traditionally held position, e.g., that abortion is in itself evil and never licit (cfr. *Theological Studies* 30, 1970, attention to essays by Father Millhaven, Drinan and Donceel) then it becomes the theologian's responsibility to state the exception and his reason for it, e.g., he may affirm that it is morally licit to perform an abortion prior to the tenth week of gestation because the greater good of the entire family requires it. However, he may not posit a moral conclusion from an unverified scientific theory, e.g., the fetus is not homonized prior to the tenth week.

The same reasoning holds for sterilization, masturbation, euthanasia, etc. The definitions of these terms are scientific in origin but admit to theological interpretation of their moral value.

Father McCormick's point three is that at least some of the Catholic hospitals are undergoing an identity crisis. He suggests that because among other things the staffs and clientele "are heavily non-Catholic" that the hospital administration can no longer presume a position founded upon a Catholic morality. What of the non-Catholic community hospital with a staff and clientele heavily Catholic? Would a reversal of position hold? If not, then I would maintain this particular argument is open to serious question.

Likewise to suggest that because they are publicly funded they lose their right to be distinctively Catholic is to forfeit the entire argument which Catholic parents have been pressing regarding Catholic education. The Catholic Hospital (or school) serves a public function, meets the standards established by the State and is entitled to its share of tax receipts for its continuing operation on the same basis as any other similar institution.

The following was clipped from the *Family Practice News* (Vol. 2, #1, Jan. 1972):

Sterilization Right Must Be Respected

International Medical News Service

CHICAGO—Any hospital receiving public funds should not restrict in any way the right of an individual over 21 to be sterilized as long as that person has given his informed consent, Dr. Joseph Davis, of New York Medical College, told the first National Congress on Vasectomy.

Dr. Davis warned that hospitals that have restrictive policies will face lawsuits filed by the Association for Voluntary Sterilization, of which he is president, and Zero Population Growth, with the assistance of the American Civil Liberties Union.

Third party insurers that do not allow payment for sterilization must be forced to change their regulations so that all individuals who want sterilization may have insurance compensation, he said.

Family planning and the goal of zero population growth are only two facets of societal efforts that must be made "to correct economic problems, urban blight, poor educational facilities, and many other problems" afflicting this country.

Besides the more than 120 vasectomy clinics operating in the United States, an increasing number of physicians—general practitioners, urologists, general surgeons,

and osteopaths—pediatricians are performing vasectomies both in their offices and in hospitals, Dr. Davis noted.

"Contraceptive failure and the unacceptability of many forms of contraception have greatly increased the number of patients requesting sterilization."

A change in attitude by both males and females toward the permanent separation of sex and reproduction as a personal, individual decision is one cause of the increase in vasectomies.

It is obvious that the problem which Father McCormick raises is both real and immediate!

Material cooperation in any procedure regarded as immoral is avoidable and my position is simplistic. When necessary, sell or give the Catholic hospital to the community and let the nuns, doctors, nurses, etc., give witness to Christ as employees in a secular institution. Karl Rahner has advised us that we shall become diasporic Christians for the next 200 years. Recent legislation in this country as well as in Japan, Europe, etc., suggests strongly that he is correct. But it seems to me that one cannot be Catholic in name, philosophy, Theology, etc., and ever cooperate in any fashion with abortion, euthanasia, sterilization, etc. (Was not an alleged similar disjunction between theory and practice the basis for Rolph Hochhurth's infamous condemnation of Pius XII?)

Finally, one wonders in one's capacity simply as layman how the charisma of the Spirit has exhausted

itself with respect to the Pope (cfr. the theological reaction to *Humanae Vitae*) and the Bishops (cfr. the theological reaction to the Second Synod—especially Greeley, S.J., and *America*) and concentrated itself solely in the wisdom of the theologians. Again, if the words "authentic magisterium of the Church" have a definition, then why am I expected to ignore its teaching and accept the probable opinions referred to in "responsible theological literature", the great bulk of which coincidentally, is unknown to me even though I may be an interested and relatively capable layman?

Father McCormick complains that the bishops lack moral-theological expertise and therefore it is the moral theologian's area of responsibility to make medical-moral-theological decisions. It would be my feeling (quaint?) as a layman that my spiritual leader is my bishop and that the moral theologians' responsibility is a little hard-nosed charisma to charisma confrontation with the bishops. If a bishop or a simple majority of bishops cannot be convinced of a position then the theologian is not promoting the unity of the Church by taking his argument with the bishop to a medically moral-theological unsophisticated laity!

Finally, while I fully accept the right to responsible theological dissent and probable opinions, I hold that The Code is not the place for dealing with this theological issue

anymore than is the daily newspaper the proper place for a scientific discussion of two radically different methods of treatment for a serious but common disease. Imagine two physicians each of a different but equally concerned specialty verbally berating the other over a treatment of a critically ill patient in front of the patient's husband! No, the theologians and bishops must settle in private their dispute as to whose charisma is more important.

I am not a scriptural scholar and I beg the indulgence of those who are when I take a certain liberty in applying to this problem the text from St. Paul, 1 Cor 1, 10-13, which

begins, "I beg you, brothers in the name of our Lord Jesus Christ to agree in what you say. Let there be no factions: rather be united in mind and judgment."

I concur with Father McCormick on the need for competent multidisciplinary committees in hospitals and elsewhere to review the difficult problems of medical morality. I also concur with the need for a continuing review of The Code. An instrument of this nature must be considered to be in a dynamic and not in a static state. I trust that we will be at peace at least in this mutual conclusion.

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theological language, not simply language "of a datum of medical experience."

Secondly, Dr. Paganelli says that "a scientific definition cannot be changed *arbitrarily* by the theologian to fit his change in theological perspective." That is certainly true. But after noting that "direct" and "indirect" are theological terms, I must strongly insist that the contemporary theological re-examination of the terms is anything but arbitrary. It is being undertaken by some of the most balanced and intelligent Catholic theologians in the Church (for example, Jos. Fuchs, B. Schuller, B. Haring, F. Bockle among others). Such nuancing of these

terms has always gone on within the theological community. One need only return to the abortion discussions in the late 19th century (involving men of the stature of Lehmkühl, Ballerini, Cardinal D'Annibale) to see the uncertainties surrounding the terms "direct" and "indirect." Continuing attempts to clarify the meaning and relevance of these terms is anything but an arbitrary shuffling by the theologian "to fit his change in theological perspective." I am sure that Dr. Paganelli's phrasing is much looser than he would desire.

My third comment concerns Dr. Paganelli's representation of what I said about the self-identity of the