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## Medico-Moral Notes

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### PIUS XII TO UROLOGISTS

THE VATICAN CITY NEWSPAPER, *L'Osservatore Romano*, for October 10, 1953, carried a partial report of an address of Pope Pius XII to the 26th Annual Convention of the Italian Society of Urologists. The doctors had evidently asked him to answer two questions. The exact wording of the questions is not given; but from the Pope's answer it seems evident that the first question concerned the morality of castration in the treatment of cancer, and the second concerned the part to be played by physicians when they give their expert testimony in marriage cases.

As regards the second question, the Pope said that physicians are expected to give the judge the medical facts as they find them, as well as medical interpretations, conclusions, and opinions. But they should give this testimony in such a way that the judge can clearly distinguish the facts themselves from the opinions, etc.

Although the first question apparently referred to the particular problem of castration for cancer, the Pope began his answer on a more general plane and enunciated the conditions that are always required for a mutilation—whether by the removal of an organ or the suppression of its function. These conditions, he said, are three: first, the preservation of the organ or its functioning must either be a source of actual harm or constitute a threat to the total well-being of the person; secondly, there must be a well-founded assurance that the proposed mutilation will either remove or notably diminish the harm, and that this effect cannot be obtained without the mutilation; and thirdly, there must be a reasonable estimate that the good to be effected, e.g., by removing the harm, reducing pain, etc., will compensate for the evil effects consequent on the loss of the organ or function.

In making this statement the Pope said nothing new. He simply gave in greater detail what he himself had previously said in his address on "The Moral Limits of Medical Research and Treatment" (LINACRE QUAR-

TERLY, November 1952, pp. 98-107), and what has been the common teaching of theologians. It is worthy of note, however, that the doctors were particularly concerned about the morality of mutilating a *healthy* organ and that the Pope made explicit application to this problem.

"The decisive point here," he said, "is not that the organ that is removed or paralyzed [*paralysé*] is itself diseased, but that its preservation or its functioning entails either directly or indirectly a serious threat to the whole body. It is quite possible that by its normal functioning a healthy organ may exercise on a diseased organ an influence of such a nature as to aggravate the disease and its consequences throughout the whole body. It can also happen that the removal of a healthy organ and the suppression of its normal functioning will remove from a disease, for example cancer, its opportunity to grow [literally: 'its field for growth'] or, in any case, will essentially change the conditions of its existence. If there is no other means at our disposal, surgical intervention on the healthy organ is permitted in both cases.

"The conclusion that we have reached is deduced from the right of disposition that man has received from the Creator in regard to his own body, in accordance with the principle of totality, which is valid here also and in virtue of which each particular organ is subordinated to the whole body and must yield to it in case of conflict. Consequently, he who has received the use of the entire organism has the right to sacrifice a particular organ if its preservation or its functioning causes notable harm to the whole which it is impossible to avoid in some other way.

"Since you give assurance that in the case proposed only the removal of the seminal glands allows for combating the disease, this removal raises no objection from the moral point of view."

Here then we have explicit papal approval of the provision in our *Medico-Moral Code*, which says "Castration, surgical or otherwise, is permitted when required for the removal or diminution of a serious pathological condition, even in other organs." For more complete explanation see these articles in *Medico-Moral Problems, I*: "Suppression of Ovarian Function to Prevent Metastasis" (pp. 21-24), and "Orchidectomy for Carcinoma of the Prostate" (pp. 25-29).

### TRUTH SERUM

A previous number of *L'Osservatore Romano* carried the full French text of the papal address to the Sixth International Congress of Penal Law, a complete English translation of which is in *The Tablet* (Brooklyn) for

October 10, 1953. In this address the Pope urged the adoption of a code of international law for the punishment of war crimes, wherever committed. In the course of the address, speaking of the judicial investigation, he said that it "must exclude physical and psychic torture and narcoanalysis; first of all, because they violate a natural right, even if the accused is really guilty, and secondly, because they too often give erroneous results."

Here again, the Pope's words regarding narcoanalysis simply confirm what theologians have written on the subject. While approving of the use of narcosis, with certain qualifications, as a therapeutic measure, theologians have consistently objected to its use in a criminal trial, for the reasons given by the Pope. In fact, an eminent French psychiatrist-theologian wrote a few years ago that narcoanalysis is a greater menace to civilization than the A-bomb, because it threatens man's liberty, whereas the bomb merely threatens life and property. He was thinking, no doubt, of the trials conducted in the iron-curtain countries.

Theological objection against the use of truth serum in court has been principally concerned with the enforced use of the drug. A somewhat different aspect of this problem is brought out in one of the medicolegal abstracts in *The Journal of the American Medical Association* (August 22, 1953, p. 1653). This concerns a case of a man convicted of murder, who wanted to prove his innocence by submitting to narcoanalysis. The trial court rejected this kind of testimony on the ground that such tests are not reliable or generally approved and accepted by members of the medical profession specializing in psychiatry. In the proceedings before the Supreme Court of New Mexico psychiatric testimony was brought out in favor of both sides. The stronger testimony seemed to be that the subject can control what he says under the influence of narcosis, also that what is said may be fantasy rather than truth. The Supreme Court of New Mexico, therefore, also rejected the testimony. One paragraph in this abstract is of special interest and worth quoting here:

"Until the use of the drug as a means of procuring the truth from persons under its influence is accorded general scientific recognition, concluded the Supreme Court of New Mexico, we are unwilling to enlarge the already immense field in which medical experts, apparently equally qualified, express such diametrically opposite views on the same facts and conditions, to the despair of the court reporter and the bewilderment of the fact finder."

It seems implied here that if the use of narcosis were universally considered reliable, its voluntary use in court would not be objectionable.

Theologians have also discussed this point. Their opinion here is not so clear-cut, but they are inclined to think that any use of narcoanalysis in court might lead to serious abuses and for this reason it should be limited to the purely medical field.

## PRIZE FIGHTING

In my notes in *LINACRE QUARTERLY* for February 1952 (p. 7), I indicated that many theologians consider professional prize fighting, as it exists today, to be morally objectionable. The reasons given there were: (1) the purpose of the fighters is to give blows calculated to deprive the opponent of consciousness; (2) great damage is done to the brain, with progressive impairment of functions and loss of mental power; and (3) the fighting caters to the beast in spectators, i.e., it fosters an attitude of brutality. This is the view of many theologians, though not of all. The subject is now being debated and no doubt the ultimate conclusion will depend largely on certain medical facts.

Since the publication of those notes *The Journal of the American Medical Association* has published several discussions on prize fighting. One of these, "Electroencephalographic Changes in Professional Boxers" by E. W. Busse, M.D. and A. J. Silverman, M.D. (August 23, 1952, pp. 1522-1525), outlines means of protection that have been taken in the State of Colorado. Another article in *The Journal* (October 18, 1952, pp. 651-654) is "Medical Program for the Boxing Industry" by F. R. Ferlaino, M.D. Dr. Ferlaino is Chairman of the new Medical Advisory Board of the State of New York appointed by Governor Dewey. The article begins by citing some of the hazards of the boxing "industry," then outlines some of the precautions taken in New York, and concludes with a number of concrete suggestions of precautions that should be taken everywhere "to remove the stigma of legalized murder from boxing." Two months later (December 13, 1952, pp. 1490-1491) *The Journal* devoted a more than usually lengthy editorial to the subject of "Medical Examinations for Athletes." The editorial refers to the two articles just mentioned and in general sponsors the programs outlined in them, particularly the suggestions of Dr. Ferlaino. A follow-up on this editorial is a communication in the January 24, 1953 issue of *The Journal* (pp. 317-318) from Robert K. Christenberry, Chairman of the State Athletic Commission of New York. He enumerates fourteen different recommendations that have been considered and approved by the commission during his tenure as chairman.

Doctors are very likely familiar with the material in the foregoing

articles. They are not so likely, however, to be familiar with a recent dissertation entitled *The Morality of Prizefighting*, by Father George C. Bernard C.S.C. (The Catholic University of America Press, Washington, D.C. 1952). This dissertation is mainly concerned with professional prize fighting as it exists today. It gives a background of the history of pugilism, considers the "sport" from the point of view of the fighters themselves, the spectators, the promoters and managers, etc. It contains a wealth of medical testimony concerning the harm done in the ring. Father Bernard's opinion is that prize fighting is morally objectionable, and he would very likely consider it such even though all the precautions suggested in *The Journal* articles were taken. He agrees with a host of medical authorities that "the only protective measure which will work is the total abolition of prizefighting as we have it today." He would admit, however, that this extreme measure is a practical impossibility and he would certainly approve of the suggested precautionary measures as at least diminishing the evil. This dissertation is a splendid piece of work, and I recommend it highly.

### THE NEGRO PHYSICIAN

After mentioning the Associated Press dispatch to the effect that five Negro physicians had been admitted to membership in the Charleston, S. C., County Medical Association, *GP* (February 1952, p. 32) continues: "The American Academy of General Practice is glad to hail this forward step in medicine's social progress. The world of the physician is bounded only by humanity itself. If disease knows no boundaries of race, creed, or color, no more should those privileged to alleviate it. Universality is the hallmark of medicine; it becomes, therefore, increasingly anachronistic for men of medicine to perpetuate any form of racial discrimination. Only when it is ended will the profession have come of age."

We could all say "Amen" to these words, and we might well congratulate the editor of *GP* for writing them. Racial prejudice, with its external manifestations of segregation and discrimination, is a violation of both justice and charity. It should have no place in any hospital or medical association, and least of all in a Catholic hospital or among Catholic members of the medical profession. Some recent Catholic papers quote the eminent theologian, Father Yves Congar, O.P., as saying that racial discrimination "strikes at the very heart of Christianity, for it destroys that respect and consideration for 'others' without which charity—the core of Christianity—cannot exist." Father Congar went even further by saying that racial discrimination really denies that God is the Father of all men by

refusing to recognize some of His children as brothers; and he added that it implicitly contains a denial of God, for there really is no God if He is not the Father of *all* men. These may be strong sayings, but they are true, nevertheless.

In this connection I should like to refer to an article entitled "The White Problem," by Father Leo Trese, which was first printed in *The Marianist* and then reprinted in *The Catholic Mind* of October 1953 (pp. 588-592). Father Trese has the knack of writing with remarkable simplicity, clarity, and warmth. He begins this particular article by referring to a number of cases in *Northern cities* in which discrimination had been practiced against Negroes even in Catholic institutions. He then adds these two significant paragraphs:

"These are incidents taken quite at random from one priest's experience—my own. Probably not one Catholic in ten, living in a 'restricted' neighborhood, eating (probably without knowing it) in a 'restricted' restaurant, staying at a 'restricted' hotel or motel, even shopping perhaps in a 'restricted' store (where the busy clerks just can't see a colored person, if one should happen in); not one Catholic in ten, I think, realizes the indignities to which our Negro brothers and sisters are daily subjected—just because of the color of their skin.

"Probably even those of us who do know the facts can never know what it is like, really, to be perpetually insecure; to arrive in a strange city, for example, and not know whether you dare to enter this hotel, or this restaurant, or this store, or even this gas station; never knowing whether you will be insulted, or ignored, or merely treated shabbily. There are laws, of course. But you can't carry a law around in your pocket, you can't buy food or a bed with a law."

Father Trese then goes on to consider the various reasons why there is racial prejudice and suggests ways of overcoming it; and his concluding paragraph is also well worth quoting, I think. It runs as follows:

"For my own part, if I had to swap places, on Judgment Day, with some hardened sinner, I feel that I would stand a much better chance of mercy in the place of the thief, or the harlot, or the drunkard, or the murderer—any of those whose sins were the sins of weakness—rather than in the place of one who had been unable to see Christ in his brother, because of the God-given darkness of the brother's skin."

## BASIC PRINCIPLES

I suppose it is only human to want to reduce things to their least common denominator. I know that in my own case I have for quite some time been trying to formulate what might be termed the basic principles of medical ethics. Within the last year, at one time I thought they might be reduced to six, then it was seven, and now I believe it ought to be eight. I am giving here these eight basic principles or concepts for two reasons: first, because they might be useful to doctors or others for discussion and speeches; and secondly, because some readers may have suggestions as to how the formulation might be improved. The following are the principles or concepts, with brief indications of their meaning and applications:

1). *The patient's consent.* The realization of the need of the patient's consent, at least reasonably presumed, is the key to the recognition of the true dignity of the patient. He is a person, and it is he who has the right and the duty of caring for his health. The doctor, though not the hired man of the patient, does act for the patient and really exercises the right of the patient himself. This is more fully explained in the article, "Consent of the Patient," in *Medico-Moral Problems, IV*.

2). *The inviolability of innocent human life.* This principle recognizes the fact that God is the Author of life and that no one may take it without His permission. By reason of this principle, we exclude direct killing (e.g. by destructive craniotomy), direct abortion, and "mercy" killing.

3). *The principle of "totality."* Pope Pius XII has used this word "totality" several times in enunciating the principle of justifiable mutilation: namely, the principle of the subordination of the part to the whole. This is, of course, a very important principle in medical ethics. Every time a doctor, acting according to the principles of sound medicine and with the consent of his patient, removes an eye, a gall bladder, a hand, etc., he is following this principle of totality. He removes the member, which is a part of the whole, because it has become in some way a threat to the survival or the well-being of the whole. Cf. what is quoted elsewhere in these notes from the address of Pius XII to Urologists; also the address previously cited on "The Moral Limits of Medical Research and Treatment."

4). *The intrinsic finality of the sex faculties.* It is because we acknowledge a divine plan in the use of the sexual faculties that we are absolutely opposed to contraception and to direct sterilization; and for this same reason we allow no unnatural use of the sex processes for sterility tests, and no artificial insemination except as an aid to natural marital intercourse. The

last two topics are explained in the article "The Moral Aspects of Artificial Insemination and Sterility Tests" in *Medico-Moral Problems, II*. Much was said about contraception and direct sterilization in Father Lynch's excellent articles in *LINACRE QUARTERLY*, August 1953, and the present issue.

5). *The end never justifies an evil means.* The first four principles have a very special pertinence to medical ethics. This and the following are more general and apply to all fields of morality. This principle, so simple in itself, can be quite complicated in its explanation. It does not mean that no evil may be done in order to obtain good. It refers primarily to moral evil; and in this respect it is an absolute, for *moral* evil may never be done to obtain any kind of good. But the principle is not an absolute with reference to physical evil because there are some physical evils that we have a right to cause in order to obtain a good effect. An example of this latter is had in the principle of totality just referred to. Mutilation is a physical evil, but a man has the right to mutilate himself for the good of his whole body. The principle that the end does not justify an evil means is not only a truth of reason, but is also stated in revelation. The Scripture text usually cited in this matter is Romans 3:8, which in the Knox Translation runs as follows: "If so, why should we not do evil so that good may come of it? That is what we are accused of preaching by some of our detractors; and their condemnation of it is just." This passage might have been a prophesy concerning the Jesuits!

6). *The basic distinction between "avoiding evil" and "doing good."* To the theologian this distinction is of supreme importance, as was insinuated in the last principle. Moral evil must always be avoided, no matter what the cause. But there is a limit to the duty of doing good. It is by reason of this distinction that we absolutely condemn euthanasia, whereas we admit that there is a reasonable limit to a man's duty of caring for his health and even to the doctor's duty of caring for his patient. (Cf. the articles "The Ordinary Means of Preserving Life" and "Extraordinary Means of Prolonging Life" in *Hospital Progress* for November and December 1952). By reason of the same distinction we absolutely exclude contraception, but allow the practice of rhythm under certain circumstances. (Cf. "Morality of Rhythm" in *Medico-Moral Problems, II*, and "Official Statement on Rhythm" in *Medico-Moral Problems, IV*.)

7). *The principle of the "double effect."* This principle is explained in the article, "Direct and Indirect Abortion," in *Medico-Moral Problems, I*. By reason of this principle we can sometimes allow such things as *indirect* killing and *indirect* sterilization.



8). *The principle of "liberty."* Both theologians and doctors have differences of opinion on many questions, especially when the problems presented are somewhat new. There are pros and cons to many of these problems and it may take a long time before a unanimous opinion is reached or some moral issue is decisively settled by the Church. Sound morality supplies this practical principle that may be followed in such legitimately-debated matters obligations (i.e., precepts and prohibitions) are not to be imposed unless they are certain. This is what I mean by the principle of liberty. For the doctor, this means that, with the consent of the patient, he and his consultants may follow what they sincerely judge to be the proper medical procedure as long as this procedure is not certainly wrong. Cf. "Extent of Prohibitions" in the Introduction of our Medico-Moral Code.

### EXPERIMENTATION

A symposium on "The Problem of Experimentation on Human Beings" was held at The Medical Staff Conference, University of California, School of Medicine, October 10, 1951. *Science* for February 27, 1953 contains a set of four articles based on this symposium. It would be impossible at this time for me to give a detailed evaluation of these articles. However, the first article, by Dr. Michael B. Shimkin, contains the rules for experimentation on human beings as formulated at the Nuremberg medical trial. Dr. Shimkin quotes these rules from *Doctors of Infamy, the Story of the Nazi Medical Crimes*, by A. Mitscherlich and F. Mielke (New York: Schuman, xxii-xxv [1949]). Personally, I had never seen these rules, and I think they are well worth quoting. In its decision rendered on August 19, 1947, the Tribunal made this statement:

"1. The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

"The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

"2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.

"3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment.

"4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

"5. No experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.

"6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.

"7. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

"8. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.

"9. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.

"10. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill, and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject."

Perhaps I have overlooked something, but it seems to me that in general this is a truly splendid statement. The one point on which there might be some room for questioning by Catholic theologians would be n. 5. In his address on medical experimentation (September 14, 1952) Pope Pius XII

said that the patient does not have the right to involve himself in experiments or researches "when these interventions entail, either immediately or subsequently, acts of destruction, or of mutilation and wounds or grave dangers." Since this statement concerns the patient as an individual, and not merely *qua* patient, it seems that it would apply to the experimenting doctors also. Apparently, therefore, the Pope's words are somewhat stricter than what is said by the Tribunal in n. 5; because the Tribunal does not absolutely exclude death-dealing experiments when the physicians themselves are the subjects.

I say "apparently" because I do not think that there is any clear contradiction. It may be that the Tribunal is allowing for the possibility of these serious evils if they would be what theologians would technically call *indirect* results; and it is not clear that the Pope's words would absolutely preclude experiments with such *indirect* results. At any rate, I believe that as long as the question is concerned with only *indirect* death or serious injury, there is room for legitimate discussion among theologians. For example, *Theology Digest* for Autumn 1953 (pp. 176-178) contains a condensed article entitled "Human Experimentation in Medicine," by Eugene Tesson, S.J. Father Tesson, while excluding experimentation when death would almost certainly follow, does believe that very serious risks may be taken.

The same issue of *Theology Digest* has a good list of recent writings on medical experimentation and allied topics (pp. 178-79). *Theology Digest*, by the way, is an excellent magazine for doctors who would like to do some reading not only on the limited field of medical ethics but on the wider field of theology in general. For information, or subscriptions, write to *Theology Digest*, 1015 Central, Kansas City, Missouri. The subscription price is nominal, \$2.00 for the U. S., Canada and the Pan American Union.

### UNNECESSARY SURGERY

An editorial in *GP* (June 1953, pp. 29-30) admits that there has been much unnecessary surgery, yet suggests that there are "honest disagreements between well-trained and conscientious physicians on what constitutes unnecessary surgery." This observation squares with the words of the Supreme Court of New Mexico cited in the item on "Truth Serum." It is not for me to meddle in purely medical disputes, yet I think that serious reflection on these observations might avoid harsh judgments and hard feelings. In my own experience with the medical profession I have encountered many cases in which clearly competent and conscientious physicians have disagreed as

to the necessity of some type of surgery, especially hysterectomy. It may be somewhat easy now to go back over the records and decide that some kind of surgery was unnecessary, but perhaps it was not so easy to make that judgment at the time the surgery was performed.

### RECENT PUBLICATIONS

*Morality in Medicine*, by Msgr. Timothy P. O'Connell, which is mentioned in the bibliography in *Medico-Moral Problems, IV*, is now published by the St. Anthony Guild Press, Paterson, N. J. This is a very handy little catechism of the ethical problems of medicine, and doctors should find it very useful.

Another publication referred to in *Medico-Moral Problems, IV* is *Rhythm-Cal*, by Henry A. Fallon. This includes the calendar and a little booklet explaining the use of the rhythm. There is now a new edition of the booklet. Mr. Fallon also has a booklet entitled *Temp-o-Graf*, which explains the basal temperature method of determining the date of ovulation. Both these publications are also highly recommended. They may be obtained from the R-C Publishing Co., Sunny Slope Station, Kansas City 10, Mo.

I should also like to mention here *Fundamental Psychiatry*, by John R. Cavanagh, B.S., M.D., F.A.C.P., K.S.G. and James B. McGoldrick, S.J., M.A., Ph.D. I just received this book and have not had time to read it, but a cursory glance through the book indicates that it must be very valuable, and this is the judgment of several friends of mine who have already read it.

The Executive Board of the Federation of Catholic Physicians' Guilds will hold the mid-winter meeting at 9:30 a.m., Tuesday, December 1, at Hotel Sheraton, St. Louis, Missouri. The officers of the Federation and one delegate from each active constituent Guild constituting the Board will conduct business.