PASTORAL QUESTIONS

IIbis

Questions Concerning Embryology and Sterilization

Proposed for the benefit of the clergy

by Fr. Benedict H. Merkelbach, O.P.

Second series

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Contents

Title Pages and Approvals **4**

Pastoral Questions — Questions on Embryology and Sterilization — By the Same Author — Pastoral Questions ... 4

Summa of Moral Theology 4

Pastoral Questions IIbis — Questions on Embryology and Sterilization 4

To the Benevolent Reader **6**

On Embryology **7**

I. On Operations During Pregnancy or Childbirth **9**

Question One: On Caesarean Section and Other Incisions Which Injure the Mother ... 9

Question Two: On Embryotomy, or on Incisions Which Injure the Fetus 12

Question Three: On the Procuring of Abortion 20

Article I: On Excision of the Diseased Pregnant Uterus 24

Article II: On Puncture of the Amnion 33

Article III: On Cleansing the Pregnant Uterus 37

Question Four: On Operations concerning Ectopic Fetuses 39

Article I: On Removal of the Fetal Sac 43

Article II: On Removal of the Oviduct Containing the Fetus 45

Article III: On Ligation of the Arteries 47

Conclusions **49**

II. On Sterilization **51**

Question One: On the Morality of Private Sterilization 55

Question Two: On the Morality of Sterilization to Be Imposed by Public Authority 59

Question Three: On Cooperation in Sterilization 66

Conclusions **71**

Appendix — On the Marriage of Sterilized Persons **72**

Synoptic Conspectus of the Doctrine Of Both Booklets A and B, Coordinated According to Logical Order ... **78**

Questions Pertaining to Embryology Itself — Question I. Physiological Notions Concerning the Uterine Life of the Fetus, Its Development, and Birth ... 78

Question II. Theological Principles Concerning Actions Harmful to the Life or Integrity of Man ... 78

Question III. Caesarean Section and Other Operations Which Injure the Mother 78

Question IV. Embryotomy, or Operations Which Injure the Fetus 79

Question V. Procurement of Abortion 79

Article I. Excision of the Diseased Pregnant Uterus 79
Article II. Puncture of the Amnion 79
Article III. Cleansing of the Pregnant Uterus 80
Question VI. Artificial Premature Birth 80
Question VII. Operations Concerning Ectopic Fetuses 80
Article I. Removal of the Fetal Sac 80
Article II. Removal of the Oviduct Containing the Fetus 80
Article III. Ligation of the Arteries 80
Questions of Embryology Concerning the Administration of Baptism — Question I. Theological Principles Concerning the Matter of Baptism ... 81
Question II. Theological Principles Concerning the Form of Baptism 81
Question III. The Baptism of Unborn Children in the Mother's Womb 81
Question IV. The Baptism of Immature Fetuses 81
Question V. The Baptism of Monsters 82
Question VI. The Baptism of Persons under Condition [printed as Question V] 82
Questions Concerning Sterilization 82
Question I. The Morality of Private Sterilization 82
Question II. The Morality of Sterilization to Be Imposed by Public Authority 82
Question III. Cooperation in Sterilization 83
Appendix Concerning the Marriage of Sterilized Persons 83

Index (as printed) **84**
I. Questions Concerning Operations during Pregnancy or Birth 84
II. Questions Concerning Sterilization 84

Publisher's Notices **85**
Booklets Published by the Reverend Father Merkelbach, O.P. — In the Collection *Pastoral Questions* ... 85
I. On Chastity and Lust: Third Edition 85
II. On Embryology and the Administration of Baptism: First Section, Second Edition ... 86
III. On Various Categories of Penitents: Second Edition 86
IV. On the Minister of Penance and His Duties: Second Edition 86
V. On the Parts of Penance and the Dispositions of the Penitent 87
C. Salmon, O.P. — VII. On the Sacrament of Marriage 87
B. H. Merkelbach, O.P. — Summa of Moral Theology — According to the Mind of St. Thomas and According to the Norm of the New Law ... 88

Title Pages and Approvals

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IV. *Questions on the Minister of Penance and His Duties*, second edition, 137 pp.

V. *Questions on the Parts of Penance and the Dispositions of the Penitent*, 172 pp.

VI. *Questions on Various Sins to Be Healed in Sacramental Confession*, 155 pp.

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II. *On the Moral Virtues*, second edition, 1 vol. octavo, 1,029 pp.

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which he resolves for the benefit of the clergy

by

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Master and Doctor of Sacred Theology

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Nihil obstat (Nothing stands in the way)

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To the Benevolent Reader

Some years ago we published *Questions on Embryology and the Ministration of Baptism*, the second edition of which appeared in 1928. Since that time certain new questions have arisen; others, however, have been proposed in different ways, illustrated by new considerations, investigated more profoundly, and strengthened by new arguments. Moreover, the question of sterilization, which is a matter connected to some extent, has acquired special importance. Hence it does not seem that it will be unwelcome if, concerning all these matters, we modestly offer a judgment and appropriate admonitions with a view to the practice of pastoral ministry. Therefore we have written this new little work under the title: *Questions on Embryology and Sterilization: Second Series*.

But since it would be useless, at least in many matters, to repeat things already said, in the present little book we presuppose those things which we explained in the preceding little work, but we add many things, so that the former little work is the necessary foundation of the latter, and this latter is held as the necessary complement of the former, such that neither can be understood perfectly without the other.

Wherefore, excellent confrere, may you deign to receive both with equal kindness.

The Author

On Embryology

I. **Embryology is a rather recent science.**[1]

[1] Cf. Miller, *Embryology*, 4th ed., New York, 1921.

In the year 1600 Fabricius ab Aquapendente wrote the book *On the Formed Fetus*, and four years later another, *On the Formation of the Fetus*.

In 1651 Harvey established the principle: Every living thing is from a living thing; but he thought that the egg was formed in the wall of the uterus under the action of the sperm. He wrote the work *Exercises on the Generation of Animals*, in which he describes an embryo of two days' incubation.

In 1672 Regnier de Graaf discovered eggs in mammals, as he says, or rather the vesicles containing them. Hence he sets forth the principle, Every living thing is from an egg, in the book *On the Organs of Women Serving Generation*.

Van Leeuwenhoek (or perhaps his disciple L. Hamm) discovered nemasperms in 1677: the male semen is not a mere fluid, but contains mobile filaments.

Cangiamila published in 1745 in Italian, and in 1758 in Latin and more extensively, the celebrated work *Sacred Embryology*; in 1755 Wolff wrote *On the Theory of Generation*.

In 1827 von Baer discovered the human ovule, and in the work *On the Egg in the Genesis of Animals and Man* he describes the egg, the yolk, and the vitelline membrane. Semen consists, as it were, of little animals, which after the manner of animals consist of a head and tail and move themselves; these he calls zoosperms or spermatozoa.

Prévost and Dumas, in 1824, demonstrated the intervention of nemasperms in fertilization. About the same time the germinal vesicle was discovered by Coste and Purkinje (1834), and the germinal spot by Wagner (1836).

From the year 1840, several men, such as Pander, Kolliker, and Reichert, applied the cellular theory. Kolliker himself and Virchow (in the year 1855) established the principle: Every cell is from a cell, every nucleus from a nucleus. In 1841 Kolliker discovered the origin of zoosperms, namely, from the transformation of the testicular cell, but thought them to be incomplete cells; in 1865 Schweigger and Le Valette asserted them to be complete cells.

In 1843 Barry discovered sperm in the ovule, not acting at a distance, as de Graaf had thought; in 1879 Fol detected its penetration into the ovule; in 1861 Gegenbaur showed the ovule to be a true cell.

Thus all the elements essential to the forming of the fetus are now scientifically known.

Now embryology investigates the formation of the embryo and all the phases which the fetus passes through in its development up to perfect birth.

II. **The moral and pastoral questions concerning embryology pertain *per se* to the matter of justice, and sometimes *per accidens* to the matter of chastity**: *per se*, namely, to the fifth precept of the Decalogue; *per accidens*, for example, when an operation is performed to impede conception or generation, also to the sixth.

But that these questions may be understood, it is necessary to possess sufficient notions of physiological science concerning the manner in which the fetus is formed and developed in the maternal uterus, lives there, and is born from it. These we set forth briefly in the little work *Questions on Embryology and the Ministration of Baptism*, I, q. 1.

For the solution of the questions, however, it is necessary to have recourse to certain theological principles, which we recalled to mind in the said little work, I, q. 2.

Some operations and incisions are performed during pregnancy or childbirth, and properly and immediately regard embryology itself; others are performed at an earlier time to impede pregnancy and childbirth, and these can be called by the one name sterilizations. Hence we shall speak:

I. **On operations during pregnancy or childbirth**, especially:

1. On Caesarean section and other incisions which injure the mother;
2. On embryotomy, or on incisions which injure the fetus;
3. On the procuring of abortion, which acts upon the mother and the fetus at the same time;
4. On operations concerning ectopic fetuses.

II. **On sterilization**, especially:

1. On the morality of private sterilization;
2. On the morality of sterilization to be imposed by public authority;
3. On cooperation in sterilization.

To these will be added an appendix on the marriage of sterilized persons.

I. On Operations During Pregnancy or Childbirth

Question One: On Caesarean Section and Other Incisions Which Injure the Mother

I. There are several operations which injure the mother for this end, that the fetus may be brought forth, live, and be baptized. We indicated these in the preceding little work A, *On Embryology*, I, q. 3, n. I; and the best known of them is **Caesarean section**.[1] It can be performed while the mother is living or when the mother is dead, and concerning it the question is asked whether it is licit, or even obligatory.

[1] In what follows, we cite the first little book which we wrote *On Embryology and the Ministration of Baptism* under the name "little work A," while the present little book *On Embryology and Sterilization* comes under the name "little work B."

II. **When the mother is living, Caesarean section**:

1. Is *per se licit*, if the fetus is viable and birth cannot be obtained in any other way, unless, because of the weakness of the mother or other circumstances, for example because of infection or the inexperience of the operator, it would be lethal to the mother, as we explained in the said little work A, q. 3, n. II. This also holds for similar operations.

2. It is also *obligatory*, so that the mother is bound to undergo it, if the safety of the mother and infant can prudently be hoped for by means of the section; and indeed:

a. not for saving the life of the fetus, because no one is bound to expose his own life for the life of another;

b. perhaps, however, for saving her own life, because today, on account of the progress of surgical art, such an operation generally cannot be considered a very extraordinary means;

c. but certainly for conferring Baptism upon the infant, who could not otherwise be baptized; for everyone is bound to prefer the eternal salvation of his neighbor to his own temporal life, and to expose his own life for the eternal salvation of his neighbor.

Nevertheless, in practice the mother is rarely bound, because more often the infant can be baptized in another way, or at least there is a serious hope of baptizing him in another way. We explained these matters at length in little work A, q. 3, n. III.

The principles are clear, but nevertheless they have suffered a certain obscuring.

Some have written that in practice there is never an obligation for the living mother: not indeed for the temporal life of the fetus; nor even for Baptism and eternal salvation, because otherwise it would have to be certain that he could not be saved in another way, and thus that he would certainly be saved. Thus some theologians spoke more laxly: Genicot, *Th. M.*, II, n. 144; Noldin, *Th. M.*, II, n. 344; Cappello, *De Sacramentis*, I, n. 165; and certain others. Hence they deny the obligation, or at least doubt it in practice.

But a. absolute certainty is not required in this matter; rather, it suffices that it be morally certain; b. neither is it required that the infant certainly be saved by the operation, but that there be a serious probability, a probable hope, of saving him. This is according to the rules customarily handed down in the treatise on charity, where it treats of aid to be rendered in extreme spiritual necessity. Hence Fr. Schmitt corrected this in the recent twentieth edition of Noldin's work; and Fr. Salsmans, in the twelfth edition of Genicot's work, places a restriction, adding that in some extraordinary case the opinion of the many who hold that there is an obligation for the mother must be urged, namely where there would be no other probability of conferring Baptism.

Even in some little books or treatises of a practical character, written in the vernacular, which circulate also in our regions, a more lax opinion is sometimes proposed to physicians and midwives, and is spread among the people, namely that in practice the Caesarean operation is not obligatory, or is almost never obligatory; and this indeed by insisting on this one point and remaining silent about the others, as if in fact there were no obligation. Thus errors easily arise. In truth, one must not be silent, because there are cases in which a true obligation is present; and now physicians, midwives, and others would be told that no care is to be taken concerning it and that in practice it does not exist! Certainly obligations are not to be extended, nor uncertain ones imposed; but neither are obligations to be diminished or denied. It is a matter of the gravest importance, namely the eternal salvation of one's neighbor. It is certainly a great evil to be deprived of the beatific vision of God for eternity.

Therefore, they say, is the section to be imposed upon mothers? It is certainly to be counseled; but prudence generally advises that we not impose it, unless, however, the mothers ask doubtfully about their obligation: then we must acknowledge the truth. But it is one thing to say to the mother, "There is an obligation," which we prudently leave unspoken; it is another to say to physicians, midwives, and others, "There is no obligation," which is contrary to the truth.

III. **When the mother is dead, Caesarean section is to be performed as soon as possible**, according to the prescription of the Ritual, which for centuries has proclaimed, tit. II, c. 1: "If a pregnant mother has died, let the fetus be carefully extracted as soon as possible, and if he is living, let him be baptized." Canon 746, §4, is consonant with this.

A. **The obligation urges provided that three conditions are present**:

1. the mother is morally certainly dead;

2. it is probable that the fetus is living, as is generally the case from the beginning of the fourth month, especially if the mother died suddenly or quickly, unless there are grave reasons for judging that the fetus died before the mother or at the same time as she;

3. there is someone suitable who has sufficient skill to perform the section without danger to the fetus.

B. The obligation a. **begins** from the morally certain moment of the mother's death, and b. **continues** until the morally certain death of the infant. But since it is most difficult to have absolute certainty of death, mere possibilities of life or slight probabilities are not to be regarded; rather, one must act according to a prudent and likely estimation from common signs. It is certain, however, that the fetus

can survive the mother not only for half an hour, but even for an hour, indeed for several hours, though rarely for days, on account of the circulation of blood being independent of the mother's circulation.

C. The obligation *per se* **urges everyone**, by the precept of charity whereby we are all bound to care for the eternal salvation of the infant even with the greatest inconvenience; and if the fetus is viable, we are also bound to care for his temporal life. It urges first of all the physician, then the midwife or another skilled person; the husband, relatives, and priest, however, must request the section and induce others to perform it.

Per accidens, the obligation does not urge:

1. If someone does not have sufficient skill. For that matter, no one is bound beforehand to acquire it or to learn the art or manner of performing the section, because no one is bound to employ means remotely in order to satisfy a precept, namely when the precept does not yet urge.

2. If there is no probability that the fetus is living. Hence the obligation does not urge during the first three months of pregnancy, because then the fetus is almost always dead, or at least it is very uncertain whether he remains alive.

3. If the greatest evils are to be feared, such as grave scandal, disparaging talk, hatred and calumnies from enemies of religion, indeed persecutions; for the grave scandal of many is to be avoided more than the salvation of one infant is to be procured. For reasons of this kind, and moreover on account of indecency and frequent lack of skill, ordinarily the priest is not bound; and in this sense the decrees of the Holy Office of 15 February 1780 and 13 December 1899 are to be understood. Nevertheless, as a rule he must admonish others about the obligation and induce them to perform it, unless graver inconveniences are to be feared.

The prohibition of the law made for persons other than physicians, even under penalty of imprisonment, does not excuse, because charity in extreme spiritual necessity obliges even with such an inconvenience; but it can be a reason for remaining silent, for not commanding, or for not inviting. In such a case, let the priest tell the relatives of the deceased mother to request or even demand the section from a physician.

This general obligation of all has also suffered obscuring among some; indeed:

1. Some even invoke the Code of Canon Law, which seems to deny that the obligation rests upon everyone, since canon 746, §4, says: "If a pregnant mother has died, let the fetus, having been extracted by those whom it concerns, be baptized absolutely if he certainly lives; if doubtfully, under condition."

Response. It is a general, indeterminate manner of speaking which the Code chooses because it does not wish to descend into particulars and define who in fact are bound. *Per se*, namely, all are bound; but *per accidens* it can happen that someone is not bound.

They say: the language of the Code indicates that not all are bound *per se*.

Response. The Code cannot change the natural law or the law of charity, which of itself binds all; nor is this evidently its intention. Indeed, even if its intention were not to urge this law in the external forum, the law itself would nevertheless remain in the forum of conscience. But that is not its intention; the sense of the Code can equally well be that not all are in fact bound, or that the matter does not in fact concern everyone. But the manner of speaking is somewhat equivocal and can give occasion to some hesitation or to the posing of a question.

2. Likewise, in the little books which circulate and in practical treatises, the obligation is diminished by reducing it to about half an hour after the mother's death and by counseling relatives and midwives generally to abstain from the operation. These things have been said to the detriment of truth.

Question Two: On Embryotomy, or on Incisions Which Injure the Fetus

I. **Embryotomy**, by a general name, designates all surgical operations which cut up the infant in the uterus and divide him into parts so that he can be extracted.

These operations can be performed in various ways and by different procedures, which we indicated in the earlier little work A, *On Embryology*, I, q. 4, n. I.

We inquire here concerning their liceity.

II. **History of the question of feticide.** Formerly, when it was generally thought that the fetus was not animated from the beginning, it could more easily be doubtful to some whether it was licit to injure or expel a fetus not yet animated by a rational soul. Now, however, the difficulty is greater, because many hold that he is animated in this way from the beginning. This indeed is not certain;[1] but even probable homicide is to be avoided. Thus, for example, one who doubts whether that which moves in the forest is a man or a wild beast cannot injure or kill it, because he cannot expose himself to the danger of killing a man. But even if the fetus certainly were not yet animated by a rational soul, it would be illicit, because the fetus is then a man in proximate potency,[2] and the unanimated fetus is ordered to the formation of a man; hence his expulsion or killing is equivalent homicide, for it tends to the deprivation of human life and is contrary to the nature of generation.

[1] Cf. little work A, *On Embryology*, II, q. 4, n. I.

[2] Thus according to the manner of speaking of St. Thomas, *Q. D. de Malo*, 15, a. 2.

Nevertheless, not only physicians but even some theologians thought that feticide was licit in certain cases, when it was not possible otherwise to save the mother, and especially when otherwise both mother and fetus would perish. To defend this, they adduced various arguments:

a. The necessity of acting in such a way in order to avoid a greater evil.

b. For in the case in which danger of death follows in the mother from pregnancy itself, the infant is an aggressor against her life, and indeed materially unjust; therefore, just as it is licit to kill a drunk or insane aggressor, so also the fetus who is the cause of death to the mother.

c. All the more because in a conflict of rights the stronger right ought to prevail; but the mother's right to life is of greater force than the infant's right, because the mother is more necessary. Hence

the infant also, if he had knowledge, would yield his right, since he would reasonably be bound to do so.

d. Besides, it is not a killing but an acceleration of death, if the infant would nevertheless die with the mother. He is not killed; rather, the mother merely ceases to preserve the offspring, and the mother is not bound to preserve the fetus with danger to her own life.

e. In the case, therefore, the killing is not direct, because it is not intended, but indirect, since it is done from necessity only beyond the intention, for the defense of the mother's life.

Some theologians taught this, at least as probable: some concerning abortion, and even a few concerning embryotomy, for example Ballerini,[3] Avanzini, Constantini, and certain others, especially in Italy. But by far the greater number held the contrary.

[3] See *Annotations on Gury*, I, nn. 402–403, where he notes various things; and *Work of Moral Theology*, II, n. 910 ff.

The Holy Office, having been questioned concerning this matter, responded on 28–31 May 1884 that the liceity of craniotomy could not safely be taught; and on 14–19 August 1889 it extended that response to any operation directly lethal to the fetus or to the gestating mother. But since it had said only "cannot safely be taught," responding to the question proposed to it, "whether it can safely be taught," this was restrictively interpreted by some concerning the safety of the doctrine, not concerning the liceity of the operation, because it had not said "cannot safely be done."[4] Hence, to the question, "whether an operation of this kind can safely be undertaken," the response was: "In the negative," 24 July 1895, and indeed according to the other decrees cited above.

[4] Safely, that is, without danger of error; but that which exposes one to error, they say, could be probable and perhaps true.

Nevertheless, physicians continue to think this licit in the sufficiently rare case in which the mother could not otherwise be saved, or if otherwise both mother and infant would die. Indeed, in practice, some physicians do it even if the mother could be saved in another way, but because it is easier. They say that it is not feticide but a medical or therapeutic indication.

Pius XI, in the encyclical *Casti connubii* of 31 December 1930, attacks this and refutes the arguments usually brought forward:

> "As for the medical and therapeutic indication—to use their words—we have already said, Venerable Brethren, how greatly we pity the mother for whom grave dangers to health, indeed to life itself, threaten from the office of nature. But what cause can ever avail in any way to excuse the direct killing of an innocent person? For this is what is in question here. Whether it is inflicted upon the mother or upon the offspring, it is against the precept of God and the voice of nature: Thou shalt not kill![5] For the life of each is an equally sacred thing, and no one, not even public authority, can ever have the power to destroy it. Most ineptly is this power invoked against the innocent from the right of the sword, which avails only against the guilty; nor does any right of bloody defense against an unjust aggressor have force here (for who would call an innocent little child an unjust aggressor?); nor is there present any so-called right of extreme necessity which could extend as far as the direct killing of an innocent person. Therefore, upright and skilled physicians laudably strive to guard and preserve the life of each, both mother and offspring; on the contrary, all those would prove themselves most unworthy

of the noble name and praise of physicians who, under the appearance of providing medical care, or moved by false pity, would lie in wait for the death of either."

[5] Exod. XX, 13; cf. Decrees of the Holy Office, 4 May 1898, 24 July 1895, 31 May 1884.

And yet the encyclical—who could have conjectured it?—gave occasion for a contrary interpretation. Thus Dr. Riss in the *Münchener medizinische Wochenschrift*, 1931: if both must perish and all other means have been employed, then it is not an intended killing, not a direct killing in the sense of the encyclical, or a killing from malevolence, because they do not lie in wait for death. Similarly Dr. Pestalozza, a celebrated professor, wrote an article in *L'Osservatore Romano* of 22 January 1931, *Dopo l'enciclica sul matrimonio cristiano: la parole de la scienza* [*After the Encyclical on Christian Marriage: The Word of Science*], in which certain responses of the more celebrated gynecologists of Italy to certain questions are set forth. Among them Pestalozza himself says: from the progress of medical science, soon there will no longer be a question of medical abortion; today, however, there are still most rare cases in which it is necessary, if the pregnancy necessarily and after a short time tends toward the death of the mother and fetus. In this case abortion does not fall under the Italian penal code, because malice is not present, and therefore neither is a crime. I would presume it to be so also for the Christian conscience, because in the case there is not a direct killing of the innocent, but only the liberation of the woman from a disease which would also bring death to the infant. One who acted thus would not be moved, as the Pontiff says, by false pity, but by a profound scientific conviction and the certainty of saving at least the mother.

Fr. Dr. Gemelli, rector of the University of Milan, responded to him in *L'Osservatore Romano* of 28 January 1931: *Dopo l'enciclica sul matrimonio cristiano. Necessarie precisazioni* [*After the Encyclical on Christian Marriage: Necessary Clarifications*]. Nevertheless, at the congress of the Italian Society *di Ostetricia a Ginecologia* [of Obstetrics and Gynecology], held in Milan on 18–20 October 1931, Pestalozza again defended the liceity of the operation in this case, because it does not tend to the direct killing of an innocent person, as the encyclical presumes, but has the end of saving the mother from the gravest danger, which would also draw with it the death of the infant. Gemelli again contradicted him, and in this indeed rightly.

III. **Embryotomy and every operation directly lethal to the infant is intrinsically evil and unjust, so that in no case, even one of medical indication or necessity, can it be licit. This is certain.** It is established:

1. **From the decrees of the Church cited above**, which concern precisely the case in which, if the operation is omitted, the mother and fetus will perish, and if it is admitted, the mother is to be saved while the infant perishes; and from the encyclical of Pius XI *Casti connubii*, which speaks explicitly about a case of indication. For a. it excludes this case altogether when it says, "What cause can ever avail in any way to excuse the direct killing of an innocent person?"; b. it affirms that the matter concerns the direct killing of an innocent person; c. it rests upon the decrees of the Holy Office which establish the same; d. it refutes the arguments of the adversaries drawn from the right of the sword, defense against an unjust aggressor, and extreme necessity. Therefore, it cannot be said that the Pontiff adds a restriction and does not condemn the operation in a case of necessity, since he is speaking precisely about it. Those who dare to affirm this insist upon one expression and neglect everything preceding it and the

whole context. And although they judge themselves not to be moved by false pity nor to lie in wait for death, nevertheless that pity which is not conformable to right reason and the precepts of the natural law is in truth false; and although they do not explicitly intend to lie in wait for death, nevertheless in reality they do so.

2. **Also from manifest reason.** Such an operation directly injures the fetus and, through this, effects the good of the mother; hence he who performs it necessarily wills the evil of the fetus as a means of saving the mother. But this is contrary to the principle: Evils are not to be done that goods may come about; or, the intention of a good end cannot make an evil action good. An action is intrinsically evil, namely, when it intends an evil, or its danger, as an end or means; an action which immediately tends to no end except evil. If an action either is evil in itself or has only an immediate evil effect, it is evil even if it is further ordered to a still greater good. On the contrary, it can be good if it also immediately procures a proportionate good effect. This can be presented graphically as follows:

An action is evil which causes	**An action is good which causes**
an evil effect, and through it a good or better effect	an evil effect and a proportionate good effect, namely, one better or greater

The utilitarians do not understand this. They are wholly occupied with considering the effect: if the same effect is obtained, for them the action will be the same morally. Others are wholly occupied with considering the intention: if the intended end is right, no care is to be taken about the means necessary for obtaining it. Thus many physicians. Now, to estimate the morality of an action, one must consider not so much what the agent intends or what he effects, but what is immediately done and by what means the effect is obtained. But if safety is obtained by an evil action or through an evil effect, the action will always remain illicit.

They say: Therefore, let men perish for the sake of principles.[6]

[6] In German it would be said: *Das ist Prinzipenreiterei* [That is pedantic adherence to principles], which in French can be rendered: *être à cheval sur les principes* [to be rigid about principles].

Response. A moral principle is of greater worth than the physical life of man, just as the moral good of uprightness and virtue is of greater worth than a physical good. Indeed, if a principle is abandoned in some case, logically it will be abandoned in many others, and then many and greater evils will follow for human life, even physical life.

IV. **They object: It is not a direct but an indirect killing.** For:

1. The death of the infant is beyond the intention.

Response. I distinguish: it is beyond the intention or extrinsic end of the agent, let that pass; beyond the intention or intrinsic end of the work, I deny it, for the operation of itself and necessarily terminates in the death of the infant.

2. The agent does not will this end of the work, but wills it as a mere means to another end.

Response. For a direct killing it is not required that the one operating actually will death as an end; it suffices that he will it as a means for obtaining another end.

3. When someone kills an aggressor, the killing is not direct because the death is beyond the intention, and nevertheless the death of the aggressor is the means of saving life. Therefore, by parity, so also in the case at hand.

Response. According to St. Thomas, II-II, q. 64, a. 7, the killing of an aggressor is not direct when it is not chosen as a means of saving life; rather, there is the action of repelling the aggressor, with a twofold effect: to save the life of the person attacked, but with danger to the aggressor. Moreover, the right of defending oneself in this way is limited to aggression; but in the case of feticide there is no aggression by the fetus.

4. An action which is a *per se* cause of death is a direct killing; one which is a *per accidens* cause of death is indirect. But one who intends only to save the mother is a *per accidens* cause of the infant's death. Therefore, the infant's death is caused by indirect killing.

Response. This is an equivocation. A cause, and an effect, are called *per se* and *per accidens* in two ways: either with respect to the intention of the will, or on the part of the work. Hence, although the effect—in this case death—can be called *per accidens* according to the intention of the will, nevertheless it is *per se* as regards the nature of the work, if the work is of such a nature as first and *per se* to produce that one effect, namely death. But this is necessary and sufficient for the killing to be direct.

You will find the other objections indicated above in n. II refuted in our preceding little work A, I, q. 4, n. II.

V. **The occasion of the error** was both the lax opinion of certain theologians and a somewhat inaccurate and equivocal manner of speaking about direct and indirect killing, as also about direct and *per se* causality and indirect and *per accidens* causality, which gives occasion to error.[7]

[7] Thus, for example, Busembaum, in St. Alphonsus, *Th. M.*, bk. III, n. 366: "It is not lawful to kill oneself directly and intentionally," as if two elements were necessary, including the intention itself. Likewise n. 393: "By direct intention and knowingly, it is never lawful to kill an innocent person...; indirectly and *per accidens* it is lawful,... by applying oneself to a licit and necessary matter of such great importance that it is equivalent to life." Explanations sufficiently correct follow, but the definitions and propositions can be understood incorrectly; thus n. 394: "He who maliciously procures abortion in himself or another sins gravely."

According to Fr. Vermeersch, there are three acceptations of a *per se* and *per accidens* cause and effect:

1. **On the part of the intention of the one acting alone**, as in Ballerini and certain others: *per se*, that is, what is intended; *per accidens*, what is beyond the intention. But this sense, after the decrees of the Holy Office, has already been abandoned and is to be abandoned. Certainly, a good intention alone cannot make an evil action good, or make a direct action indirect. This acceptation is presupposed in the statements of Dr. Pestalozza.

2. **From those things which necessarily issue from the cause and follow *per se***, or from the certainty and frequency of the effect, in which sense Dr. Gemelli sometimes spoke. But the objective certainty is not so much to be considered as the direction of the action: the certainty or frequency, or the probability of the event, does not affect the direction. Wherefore this manner of speaking gives occasion for confusion: an effect is not *per se* because it is certainly

foreseen, but because it is contained in the causality *per se*, or because the cause is first ordered *per se* to it.

3. **On the part of the intention or end of the one acting together with the nature and end of the work.** Hence, for an effect to be indirect and *per accidens*, it is required that neither the intention of the one acting nor the work of itself tend toward that effect. An effect, for example death, is direct not only if it is sought for its own sake, but also if it is sought in itself although not for its own sake; it is indirect if it is sought neither as an end nor as a means, so that neither the intention of the one acting nor the work itself has one immediate evil effect. Thus Vermeersch.[8]

[8] *On Causality Per Se and Per Accidens, or Direct and Indirect*, in *Periodica*, 1932. Cf. *N. R. Th.*, 1933.

It can be said in this way. Nevertheless, it is preferable to consider only the nature and end of the work. The intention of the one acting cannot change the nature of external operations and things, nor make indirect causality direct, just as it cannot make direct causality indirect. The intention can make the work be done from a good or evil affection; but if the work of itself tends immediately toward one evil effect, the effect will be *per se* and direct, nor can any intention change this. On the contrary, if the action has two immediate effects, the evil one will be indirect or even *per accidens*,[9] provided that the good effect is preponderant or proportionate; nor can this be changed by intention alone. A bad intention, namely, cannot make an action which is not lethal become lethal, or make an indirect killing direct, or make an effect *per accidens* follow *per se*. Therefore, one must not consider what the agent intends, but that to which the action is of itself ordered, or that in which it immediately terminates.

[9] Strictly speaking, an indirect effect and an effect *per accidens* are not the same. An effect *per se*, namely one which is of such a nature as to follow from the very nature of the cause, necessarily and always, can be indirect if at the same time the cause is of such a nature as to produce another effect equally immediately from its nature, or in fact produces it. An effect *per accidens* is one which the cause does not produce from its nature, but which can arise from it when another cause or circumstance concurs.

VI. **Observations.**

1. The craniotomy which was expressly condemned by a decree of the Holy Office is that which inflicts death. In recent times they already speak of a similar operation by which the cranium is somewhat diminished, but life is preserved. Such an operation is not necessarily illicit, if there is hope of completing it and there is no other means of bringing the fetus to perfect birth.

2. Embryotomy remains illicit even if it is only probable that the fetus is still living, because neither is it licit to expose oneself to a merely probable danger of killing an innocent person.

3. Neither is feticide to be performed in order to avoid the Caesarean operation, which, for that matter, is not much more dangerous. From comparative statistics it is evident that almost as many mothers have died from feticide; for this is not without danger to the mother. In the Caesarean operation, the fetuses saved are computed at 66, 72, and 87 percent, and mothers at 80 percent, so that out of 200 human individuals, 150–170, or 81 percent, are saved; by feticide, 80–90 percent are saved, namely of the mothers, for all the fetuses are killed.

More recent statistical computations for Caesarean section are found to be still more favorable. Antonelli says that 90 percent of mothers are saved; Dr. Frank, 87 percent of infants and 94 percent of mothers; Schmitt and Marc speak of 98 percent of mothers; Dr. Bergmann says that the danger of death for the mother is one-half per 100 if infection is not present, and otherwise no more than 5 percent, while 90–99 percent of infants are saved.

Hence Antonelli acknowledges:[10] "From analogous statistics it follows that almost as many mothers have died in the operation of embryotomy as in the Caesarean operation; the infants, however, as is evident, all died."

[10] *Medicina Pastoralis*, 5th ed., II, p. 65.

Therefore embryotomy has now been abandoned, but abortion has not yet been abandoned.

To this St. Alphonsus says: There is a twofold opinion. Each is probable, but the second (which holds that direct abortion is illicit) is safer and to be embraced in practice. And he observes: "For why take a drug directly to expel the fetus, when he can and may sufficiently be expelled indirectly?" The doctrine is correct, but the manner of speaking suggests that the matter depends upon intention.

Billuart also, *On Justice*, diss. 10, a. 3: "It is a sin to kill oneself directly and intentionally...; indirectly, by doing or omitting something whence death follows, although not intended," it can be done licitly if "there is a just and reasonable cause for doing or omitting it." Similarly, a. 4: "No one... is permitted to kill an innocent person directly and intentionally; indirectly and beyond the intention it is sometimes permitted...." He indeed explains correctly, according to the principle of two equally immediate effects, but the definitions taken in themselves can be understood badly. Likewise, a. 7: "To procure abortion directly and intentionally is a sin which can be rendered honorable by no good end.... It is also illicit to cause abortion indirectly, namely by doing that from which it is foreseen to follow, although it is not formally intended, unless in a rare case there is a just and grave reason for doing such a thing," as "if it were certain that, the remedy not being employed, the fetus would perish with the mother, and on the contrary it were certain or probable that, the remedy being employed, the mother would be saved..., because in these circumstances the safety of the offspring, who will certainly perish, scarcely enters into consideration, and consequently the mother has the right to take counsel for herself."

Gury, *Th. M.*, I, n. 389: "No one is permitted to kill himself directly, that is, intentionally.... It is never permitted to place an act tending *per se* and immediately toward one's own destruction, unless the act has another immediate good effect.... It is permitted to concur indirectly in one's own killing, or to place an act from which, beyond the intention, one's own death will certainly follow, provided that some good follows equally immediately from the action." Here there is no formal definition of direct and indirect killing, but the author speaks sufficiently correctly.

Lehmkuhl, *Th. M.*, 6th ed., n. 841, has no definition, but places certain propositions:

"II. To cause abortion only indirectly is not illicit if the condition of the mother requires it.

"III. Deliberately to induce abortion seems to be permitted even in the present danger to the mother's life which can be averted only by the expulsion of the immature fetus. In this case there will scarcely be a direct procuring of abortion in the theological sense, any more than yielding a plank to a friend in shipwreck is a direct killing of oneself. In the same way, if the expulsion of the fetus were

necessary for the infant's Baptism, this would seem to be an indirect killing, or rather an indirect acceleration of death; but this will scarcely ever occur." (But in the new edition, namely the tenth, after the decree of the Holy Office, he retracted this, saying: it must be held to be a direct killing and therefore intrinsically evil.)

And n. 842: "To others this does not appear to be a direct killing, but a very different means, since the mother merely no longer preserves the infant, but, the fibers having been relaxed, allows him to slip from the uterus and even permits him to perish. That she can cease from preserving the fetus, if she can no longer preserve him without the loss of her own life, ought to be certain to everyone."

But since this is not done by omission alone, but the amniotic fluid is released by puncture, or the natural condition is violently disturbed for the fetus, or he is compelled to leave the uterus and to break the vital bond with the maternal uterus, he adds: "But even then. *Per se* the fetus has a right to that vital element. But can a right be overcome by a prior right, or can the fetus renounce his right? Existence in the maternal uterus is an extrinsic good necessary to the fetus. He can renounce it. And if it is a good intrinsically joined to him, nevertheless, is that which is first touched not the fetus, but something which by equal right pertains to the mother?"

And n. 846: "There is no direct procuring of abortion in the theological sense. This is understood of an expulsion which in the moral sense is a killing of the fetus; but someone would wrongly call that operation a killing of the fetus, which rather ought to be called a permission of death."

But how can the action by which a living infant is attacked be called a mere permission, in the same way as if someone afflicts another with a lethal wound? For the rupture of the membranes is a lethal wound to the infant.

Ballerini, *Opus Theologicum Morale*, II, n. 912:

Abortion is "indirect... when, in order to guard against the disease of the mother, those remedies are to be employed from which it follows beyond the intention." On the contrary, it is "direct when means are employed which *per se* are directed not toward healing the mother's disease but merely toward freeing her... from the fetus.... Moreover, when the remedy *per se* does not tend toward curing the mother's disease, but only toward obtaining birth sooner (note well, the fetus is not viable), abortion can nevertheless in another sense be held to be sought directly or indirectly, regarding, namely, not the material character of accelerating birth, but the will or intention of the one acting"! Behold the perverse notion of direct and indirect abortion, by which the matter is determined solely by subjective intention.

Berardi, *Th. M.*, II, n. 628: "Direct suicide is in inflicting death upon oneself from direct intention"; and n. 661: "Killing is direct or indirect according as the death of one's neighbor is intended or not intended"; and n. 668: "Abortion is direct by intention; indirect beyond the intention."

Noldin, *Th. M.*, II, n. 337: "Homicide is one thing direct and another indirect, according as it is intended in itself or only in the cause from which it is foreseen at least probably to follow"; and n. 342: "The procuring of abortion is direct... if means are employed for this end, that the fetus be expelled; it is called indirect if means are employed for another end, for example, for procuring the health of the mother, from which it is then foreseen that abortion also will follow beyond the intention."

Marc, *Th. M.*, I, n. 741: "Abortion is procured directly if, by design, from any operation whatever the immature fetus is expelled; indirectly, however, if a cause acting of itself upon the mother is placed, but from which harm to the fetus can arise."

The last three authors expound good doctrine and apply the principles correctly; but the definitions could be understood badly. Others do not hand down a definition of direct or indirect homicide.

Question Three: On the Procuring of Abortion

I. **Abortion** (*ab-oriri*, to be prevented from arising), according to its etymology, indicates that which is prevented from arising or being born. Hence it is the premature expulsion from the maternal uterus of an immature, nonviable fetus, from a natural or artificial cause. In the present place, the discussion concerns the artificial procuring of abortion, whose definition is explained in little work A, I, q. 5, n. I.

It was known to Hippocrates, but was discouraged because of the dangers to the mother; it was prohibited by law, but in fact was commonly practiced among the Romans. Today this crime is widely propagated; it is an immense evil, notwithstanding the multiplication of contraceptive means. At Moscow, in the Russian empire, there is an official institute of abortion, in which recently 30,000 women in a year were subjected to abortion. In France, according to the statistical computation of the year 1923, there are 500,000 abortions per year, of which 425,000 are criminal; in Germany, according to the statistics of 1929, 1,000,000 abortions were procured in one year, and these brought death to 44,000 women.[1] Hence Dr. Burkhard said that there were more abortions than births.

[1] Thus Professor Liepmann in *Schönere Zukunft*, 1929, p. 405.

And although the procuring of abortion is punished by civil law, not every abortion is always punished; and if it is performed with the intervention of a physician, even a criminal abortion easily escapes punishment.

II. **The causes of abortion can be reduced to these heads:**

1. A tearing of the membranes in which the fetus is enclosed, or a rupture effected by means of an instrument, whereby, once the amniotic fluid in which the fetus floats has been withdrawn, the fetus cannot live there for long but is necessarily expelled and, if he is not viable, although living, necessarily dies.

2. Force externally applied by blows or compressions, which would strike even an infant already born and deprive him of life, such as electrical force.

3. Violent concussions, which can have either an extrinsic or an intrinsic cause, for example, convulsions.

4. A relaxation of the fibers, whereby the fetus, pressed by his own weight, is prematurely expelled; this relaxation can indeed have natural causes or can be obtained artificially, for example, by baths, medicated potions, and so forth.

III. **There have been diverse opinions concerning the liceity of abortion.** We read in St. Alphonsus, *Theologia Moralis*, bk. III, n. 394:

1. Many said that it is licit directly to procure abortion if the fetus is not animated. Thus Laymann, Sanchez, Henriquez, and others, because, since that fetus is a part of the mother's viscera, the mother is not bound to preserve him with danger to her own life.

2. Others deny this, such as Lessius, Lugo, Pontius, and very many others, because such a fetus is not a part of the mother, nor does he pertain to the integrity of the maternal body, but he is an incipiently distinct human individual.

But in practice, says St. Alphonsus, this second opinion, as the safer one, is altogether to be held. And the same holds if there is doubt whether or not the fetus is animated, because then it is intrinsically evil directly to expose an innocent person to the danger of death.

3. After St. Alphonsus, some said that the direct procuring of abortion is sometimes licit even if the fetus is animated, namely, if otherwise he could not be baptized, or the mother could not be saved. Thus Ballerini, *Opus Theologicum Morale*, II, n. 910 ff.; D'Annibale, *Summula Theologiae Moralis*, II, n. 284; Lehmkuhl, *Theologia Moralis*, 7th ed., I, n. 848, and so forth. This is also found in Gury, *Casus conscientiae*, 1878 ed., in one case, n. 402; but it was added by the editor, for Gury died in the year 1866.

IV. **The Catholic doctrine is that directly procured abortion is always illicit and unjust, even if the fetus could not otherwise be baptized; although indirectly procured abortion can be licit for a proportionately grave cause. This is certain.**

That directly procured abortion is always illicit is established:

1. **From the responses of the Holy See** related above, which explicitly concern the direct procuring of abortion or the expulsion of an immature fetus (Holy Office, 19 August 1889, 24 July 1895, 4 May 1898), and indeed concern a case in which there is no other means of saving the mother and both mother and fetus would otherwise perish. Previously, Sixtus V, in the Constitution *Effrenatam* of 25 October 1588, inflicted excommunication upon those procuring the abortion even of a fetus not yet, as the common opinion then held, animated by a rational soul; this penalty supposes that the action is gravely sinful. And although Gregory XIV removed this penalty, he nevertheless did not wish, nor was he even able, to remove the intrinsic malice of the act; but now, from the Constitution *Apostolicae Sedis*, that censure has again been restored (cf. canon 2350).

2. **From reason:** The direct procuring of abortion, in distinction from the indirect, is an action which immediately produces nothing except the separation of the fetus from the mother, and thus directly brings death to the fetus, who is a man, or at least on the way to being a man. Hence it is the direct killing of a man, or is equivalent to it, as tending directly toward the deprivation of human life; and therefore the same is to be said of it as of the killing of an innocent person, namely, that it is always illicit, intrinsically evil, and unjust. For it directly deprives the fetus of the function of the placenta, by which he adheres to the mother and

receives nourishment and the purification of his blood; therefore, to deprive him of these is truly to kill him, just as to kill a man by starvation, lethally to wound him, or to deprive him of blood.

It is one argument, but fundamental and the best: it is illicit to place a cause which immediately produces only an evil effect, and through the evil effect a good effect; for evils are not to be done that goods may come about.

They say: It is only a cessation from preserving the fetus, whereby the mother allows him to slip from her womb and permits him to perish; consequently, it is not to kill him, but to remove him from a place in which he can no longer live and to place him in another in which neither can he live. But the mother is not bound to preserve the fetus with danger to her own life.

Response. It is in no way a cessation or omission, by which it is indirectly permitted, that is, not prevented, that the fetus not be preserved (as in natural abortion, nature ceases from preserving the fetus); rather, it is a positive, death-dealing action: to break off the preservation of the fetus by the mother, violently to disturb the natural condition of the fetus, and positively to act so that he is separated from the mother and placed in a state of necessary death. Therefore death is not permitted, but is directly procured, and for this reason the action is directly lethal: to introduce the proximate cause of death, as by inflicting a lethal wound.

The other arguments they bring forward are the same as those they brought forward for embryotomy (q. 2, nn. II and IV): that it is not a direct killing if it is not intended but done from necessity; that the lesser of two evils is to be chosen; that it is only an acceleration of death; that in a conflict of rights the right of the mother prevails; and that in the case the fetus is an unjust aggressor. But, as Cangiamila already said, the infant is not an unjust invader, but one compelled by nature, whose author is God; indeed, compelled by the mother herself, as Dr. Hubert says.[2]

[2] Thus in Eschbach, *Disputationes physiologico-theologicae*, disp. 3, prop. 6, who treats excellently of the unjust aggressor. See also Creusen, *Le foetus, injuste agresseur?*, in *Miscellanea Vermeersch*, I, p. 49; and A. Janssen, *Leergang van bijzondere Moraalphilosophie*, 3rd booklet, a. 3.

That **indirect abortion can be performed licitly in some cases**, we sufficiently demonstrated in little work A, I, q. 5, n. IV, where various corollaries of the present doctrine are also handed down in n. V.

V. **The occasion of the error**, which even now endures among some, is an obscuring of doctrine, whose cause is both the laxer opinion of certain theologians before the Roman responses and the defective, ambiguous, and diverse terminology which physicians and theologians use, indeed theologians among themselves, so that often not even the definition of direct abortion is correct or clearly stated, as we noted above, q. 2, n. V, note 1.

Hence physicians say: the distinction between direct and indirect abortion is a mere subtlety to which we cannot attend.

VI. **Is abortion homicide?** The solution of this point depends upon the question: Is the fetus animated by a rational soul from the beginning of conception? Formerly this was commonly denied, but now it is generally affirmed, although not on account of certain arguments; concerning this see little work A, II, q. 4, n. I.

While the doubt remains, abortion has the malice of homicide, because it exposes one to a probable danger of killing; for neither can anyone licitly expose himself to the danger of directly killing a man. But even if the fetus certainly were not animated by a rational soul, and therefore direct abortion were not homicide, it would nevertheless be illicit and intrinsically evil. For: 1. the fetus cannot be regarded as the viscera of the mother, but is an individual distinct from the mother, having his own vital principle; 2. man does not have direct dominion over the life and body of a man, nor therefore over the principle of life; consequently, neither over human seed, which is "man in potency,"[3] and much less over the fertilized ovum, which is man in the most proximate potency.

[3] St. Thomas, *Q. D. de Malo*, 15, a. 2.

Hence Billuart, *De iure et iustitia*, diss. 10, a. 7:

> "To procure the abortion of a fetus, whether animated or unanimated, directly and from intention, is a most grave sin which can be rendered honorable by no good end.... It is proved:
>
> "1. Because if the fetus is animated, his abortion is corporal and spiritual homicide; if he is not yet animated, although it is not properly homicide, it is nevertheless reduced to homicide. For just as, says Estius, one who prevents another from acquiring something, although it is not properly theft, nevertheless sins against the seventh precept and his sin is reduced to theft; so one who prevents a future man, although he does not properly kill, nevertheless sins in the same genus, namely by that sin which is reduced to homicide; hence it is called by Tertullian a hastening of homicide.
>
> "2. Directly and intentionally to procure pollution is never licit..., because it is contrary to the end of seed intended *per se* by nature, namely, the generation of offspring.... But the procuring of abortion carries this malice..., for it is contrary to the end of generation not only as intended by nature, as is pollution, but as already actually attempted and proximately to be attained."

VII. **Observations.**

1. The distinction between direct and indirect abortion is not a mere subtlety, but is founded in reality, so that the action is very different according as two effects, one good and the other evil, are obtained equally immediately from it, or only one evil effect is immediately obtained.

2. **In the signs by which direct abortion is distinguished from indirect, the following are to be considered:**

a. not so much the end of the agent, but rather the nature of the operation;

b. not the outcome of the operation itself, but the operation itself and its immediate terminus: it is to be asked whether the operation immediately reaches the fetus or the placenta, or, on the contrary, the mother or the uterus; whether it is performed only given the pregnancy, or would also be performed otherwise;

c. not the certainty of the harmful effect; not whether it is *per se* or *per accidens*; not the chronological order between the effects, or which one precedes in time, but the order of causality, so that the evil effect either is, or is not, the cause of the good effect.

3. **Premature or accelerated birth is carefully to be distinguished from abortion properly so called**; it is the expulsion of a fetus who is already viable but not fully mature.[4] It can occur naturally or be artificially induced before the pregnancy is complete. Hence acceleration of birth is the artificial expulsion from the mother's uterus of a fetus who is not fully mature but is already viable, so that he can live outside the mother's womb. From this it is evident that it is not illicit, provided it is performed for a grave reason. We have spoken sufficiently of this in little work A, I, q. 6.

[4] Vermeersch nevertheless notes, *Theologia Moralis*, II, n. 662, that for physicians abortion is rather the expulsion of a fetus not yet formed; hence they understand acceleration of birth more broadly, even of the expulsion of an immature and nonviable fetus.

4. Abortion, whether direct or indirect, would have to be regarded as illicit for a special reason if by this cause the infant were prevented from Baptism or deprived of a reasonable hope of receiving this sacrament. In this case, it would include not only the malice of corporal homicide, but also of spiritual homicide.

5. There is a grave obligation to avoid the causes of abortion, as we noted in little work A, I, q. 5, n. VI, 2.

6. Likewise, there is an obligation to avoid cooperation in abortion, whether it is effected by a positive attempt and endeavor, by counsel given, or by means furnished for it; positive cooperators also incur excommunication.

7. In confession, women made pregnant by a sinful act are discreetly to be questioned, as are men who have fornicated, whether they have attempted abortion.

VIII. **There still remain several disputed cases**, as to whether they constitute direct abortion or, on the contrary, can be considered indirect abortion. Besides the cases concerning ectopic fetuses, of which the following question will treat, three in particular are numbered:

1. excision of the diseased pregnant uterus;

2. puncture of the amnion;

3. cleansing of the entire pregnant uterus to prevent hemorrhage.

These must be treated individually.

Article I: On Excision of the Diseased Pregnant Uterus

I. **The occasion of the dispute** was a declaration made by Doctor Pestalozza at the congress of Obstetrics and Gynecology held at Milan, concerning which above: I consulted a theologian of good name, enjoying great authority, concerning a case of removal of a pregnant uterus infected with cancer in the third month of pregnancy. After mature consideration he responded: It is licit to complete the removal of a pregnant uterus infected with cancer, even if the fetus cannot live outside the uterus, because the abortion is only indirect. Therefore, Pestalozza concluded, by parity it is licit to separate the placenta (and consequently the fetus) from the uterus if it is the cause of infection

and death for the mother, or even for the fetus, and there is no other means of saving the mother, because the abortion will only be indirect.

Fr. Gemelli responded that he had never considered the excision of an infected pregnant uterus to be an indirect abortion, nor had he ever been able to admit that opinion, but that the excision of the uterus is an altogether direct abortion, as being most certainly to bring death to the fetus.

Now the theologian of good name who had been consulted was Fr. Vermeersch. Hence the occasion for a new and fuller dispute.

II. **State of the question.** To understand the case well, it is necessary to know that tumors and operations are of two kinds. Namely, one must distinguish benign and malignant tumors. The former can bring danger, but solely through expansion or excessive outgrowth; hence they can be removed without removing the organ which they affect. The latter, malignant tumors, bring danger through infiltration and ramification in the organ and the neighboring region; hence they cannot be removed unless the organ itself, or also the neighboring lymphatic ganglia, is removed.

Of the first kind are myoma, fibroma, and fibromyoma, which are in the myometrium, and rarely also in the endometrium and perimetrium. Hence, for example, there is the operation of fibromyotomy, which removes or extirpates only the tumor. Formerly it sometimes appeared necessary also to remove a pregnant uterus affected by myoma; but today this is no longer true, for the myoma can now be removed without removing either the uterus or the pregnancy.[1] If abortion should occasionally follow because of the handling of the uterus, this is altogether rare and *per accidens*.[2]

[1] We spoke according to the former manner of proceeding in little work A, I, q. 5, n. V, 6; and therefore this must be reformed.

[2] Gemelli, in *Nouvelle Revue Théologique*, 1933, *De l'avortement indirect*, pp. 506, 508, and 580.

Of the other kind are epithelioma or carcinoma, adenocarcinoma, and chorioepithelioma; because of their infiltration and ramification, they can be designated by the common term cancer. They cannot be removed unless the organ itself, or also the neighboring lymphatic ganglia, is extirpated. In this case that is done by hysterectomy, that is, extirpation of the uterus.

Now Dr. Gemelli holds that it is illicit to remove a pregnant uterus infected with cancer, and that this is direct abortion; indeed physicians, he says, can scarcely conceive an abortion more direct than the removal of the pregnant uterus, by which death is most certainly and most directly induced in the fetus. But if this were licit, the thesis of Dr. Pestalozza would be justified, and abortion according to a medical or therapeutic indication would also be indirect abortion, which is contrary to the decrees of the Church and the encyclical *Casti connubii*.[3]

[3] Thus, with respect to the argument of Dr. Pestalozza positing a parity, Gemelli concedes the parity but therefore says that both are prohibited; hence he denies the antecedent. On the contrary, Vermeersch denies the parity and therefore the consequence.

III. **Arguments and responses.** The principal arguments of Dr. Gemelli can be reduced to the following:[4]

[4] Cf. *Nouvelle Revue Théologique*, 1933, *De l'avortement indirect* and *Encore de l'avortement indirect*.

A. For abortion to be indirect, the good effect ought to follow from the operation just as certainly and just as immediately as the evil effect. But this principle cannot be applied in the case. For: 1. the

abortion and death of the infant are certain, while the safety of the mother is not certain, because perhaps it will be impossible to remove all the ramifications; 2. the causing of abortion and the removal of the tumor are immediate, but by no means the safety of the mother.

B. Therefore it is difficult to conceive a more direct abortion. For first the recirculation of blood between mother and fetus is interrupted, because the arteries are first tied and cut. Hence the fetus is violently deprived of the sole natural means of life, and therefore he does not die but is killed.

C. It cannot be said that the abortion is caused *per accidens*: for that which necessarily and always follows from the operation cannot arise *per accidens*.

D. But if it is said that the uterus is pregnant *per accidens*, this must be denied, since the uterus is ordered by its very nature to contain the fetus. Hence, if it is pregnant, this is altogether *per se*. Consequently, removal of the uterus and removal of a pregnant uterus are altogether different operations, not because of an accidental effect, but by reason of the matter. A nonpregnant and a pregnant uterus differ intrinsically.

E. Therefore, the death of the fetus is not only permitted, but is voluntary in its cause, since the physician cannot deny that he wills to perform an operation which by its nature and necessarily causes the certain death of the fetus. But if this operation were licit, in the case of grave hyperemesis from intoxication it would also be licit to expel the fetus in order to induce detoxification.

To these Fr. Vermeersch responded:[5]

[5] In *Nouvelle Revue Théologique*, 1933, *Avortement direct ou indirect?*

To A. It is not required that the good effect be equally certain. Theologians do not customarily require this in the traditional explanation of the axiom concerning a cause with a twofold effect. Whether an abortion is direct or indirect does not depend upon the certainty of the effect, but upon the order or direction of the action. Nor is it required that the good effect follow equally immediately according to duration or chronological order; it suffices that it not be procured through the evil effect, or that it be immediate according to the direction of the action and the order of causality. Accordingly, neither certainty nor duration is to be considered, but an immediate order to the good effect, or a mediate order, namely, through the evil effect.

To B. The circulation of the blood, whether in the fetus or in the mother, is proper to each, independent, and closed. There is no relation of circulation between mother and infant. And in the case, the arteries of the mother are tied, not the arteries of the fetus. Hence the fetus is deprived of oxygen and nourishment; but he is not directly reached in himself and in his own elements. Nor ordinarily does he die at once, but he is often expelled alive, although soon to die: if he were viable, he would not be said to be killed, and nevertheless the operation would be the same. Therefore this operation does not wound the fetus, nor does it directly influence him, but it causes the mother not to minister nourishment; and that is licit for the mother if she herself is in danger.

To C. The abortion is *per accidens*, for the operation would be performed in the same way if the mother were not pregnant. Hence it does not follow *per se* from the operation, but from the concurrence of another cause, when account is taken of a circumstance independent of the will of the operator, namely, the fact of pregnancy. The *per se* cause of the excision of the uterus is the *per accidens* cause of the abortion.

To D. Although the uterus is by its nature destined to contain the fetus, it does not of itself and by its nature contain him, because the uterus does not contain a fetus essentially, universally in every case, or always.

To E. The death of the fetus is not willed, nor is it chosen as an end or a means, but is actively permitted, because it arises from the concurrence of another cause, on account of which there is present an evil effect which the will cannot and is not bound to prevent in acting.

Nor does it follow that, in a case of grave hyperemesis, it is licit to exercise an action upon the placenta to prevent intoxication. The placenta is a part of the fetus; or, although the maternal placenta and the fetal placenta are distinguished, they are nevertheless so intimately joined that it is impossible to reach one without the other, and therefore the fetus is immediately injured. Nor is detoxification produced by that action; rather, the fetus is expelled and detoxification is hoped for through the expulsion. On the contrary, in hysterectomy the uterus is removed, not the fetus; here, however, the fetus is removed.

IV. **What is to be judged concerning the controversy?** It seems that from the exposition of the arguments it is sufficiently established that the opinion of Fr. Vermeersch is well founded; and before the controversy arose, nearly all the moralists who wrote on this matter held it at least as probable.[6]

[6] Thus Lehmkuhl, Prümmer, Génicot-Salsmans, Capellmann-Bergmann, Aertnijs-Damen, Ubach, Schilling, Ferreres, Antonelli, Payen in *Nouvelle Revue Théologique*, 1899 and 1913, Finney in *Ecclesiastical Review*, 1928, Hürth in *Stimmen der Zeit*, 1928–29, and likewise in *Scholastik*, 1932.

Let us return to the principle. A hysterectomy performed upon a pregnant woman before the fetus is viable is an action having two effects: one good, the safety of the mother; the other evil, the death of the fetus. Therefore it can be licit if the four conditions required for it to be licit to place a cause having two contrary effects are present.[7] Hence:

[7] A. Janssen wrote well on this matter in *Ephemerides Theologicae Lovanienses*, 1934: *L'hystérectomie pendant la grossesse*.

1. There must be a proportionately grave reason, which is ordinarily present if the action is necessary for the life of the mother. Therefore it is illicit if it is not necessary, or if there is no probability of saving the mother or notably prolonging her life (for example, if the cancer is inoperable), and *a fortiori* if the Baptism of the infant would be prevented by the operation.

2. The intention of the operator must be right; therefore, he must not intend the injury or death of the fetus, but these must occur against his will from circumstances independent of his will, or he must act under compulsion of necessity.

3. The action in itself, abstracting from the circumstance of the fetus, appears not to be evil. For to remove a diseased member in order to save the life of the body is of itself good. And although there is a difference between a hysterectomy performed outside pregnancy and one performed during pregnancy, this difference is merely accidental, not on the part of the operation itself, but from the accidental circumstance of the presence of the fetus. The operation is performed in the same way whether the fetus is present or not. Therefore it is substantially the same. The intrinsic end of the work, namely, is to amputate a diseased organ of the mother, not to injure the fetus; this occurs *per accidens* because of the fortuitous presence of the fetus.

4. There can be a difficulty concerning the fourth condition: whether the good effect is immediate and not obtained through injury to the fetus. But this also appears to be so, and therefore the abortion is not direct but indirect.

a. For the danger to the mother does not arise from the presence of the fetus, but from the infection of the cancer or from the malignant tumor, which tumor is altogether distinct from the pregnancy and from the fetus; the danger in a pregnant woman from a diseased uterus is altogether the same as that which arises from the same cause in a woman who is not pregnant.

b. The safety of the mother is not obtained from the expulsion of the fetus, but from the excision of the uterus and the extirpation of the diseased member; moreover, safety is obtained in the same way in a nonpregnant woman and in a pregnant woman.

c. To interrupt the pregnancy and expel the fetus cannot save the mother; if this were done and the infected uterus remained, the danger of death would continue.

Therefore, the good effect is not obtained through the evil effect, namely, through the separation, expulsion, or death of the fetus, but proceeds directly and immediately from the very action of excising the uterus. Nor is the expulsion of the fetus considered as the means of saving the mother.

It is no objection, a., that the injury to the fetus chronologically precedes, from the tying of the arteries, whereby the relation of circulation with the mother and the necessary means of life are taken away from him. For this manner of speaking is improper, since the circulation of the fetus is his own and closed, and a relation which never existed cannot be interrupted. Nor is the chronological order to be attended to, but the order of causality: the excision of the uterus and the safety of the mother obtained from it are not effects of the expulsion and death of the fetus; the safety of the mother is obtained directly and immediately from the excision of the uterus, and not through the death of the fetus. The tying of the arteries is not an action complete and total in itself, but an introductory phase of the whole operation. Nor does it affect the fetus, but the mother, although from it there comes about the fact that she does not nourish the fetus; but she is not bound to nourish him with danger to her own life. But if she is saved, this comes solely from the excision of the uterus.

The evil effect is indeed foreseen at the same time; but certainty of the effect does not make it direct: it remains indirect so long as it is not the means of obtaining the good effect, but the good effect is obtained directly and immediately.

You will say: If the uterus were not diseased and the arteries were tied, would not all say that this was direct abortion?

Response. Certainly, but because then there is only one evil effect.

Let the schema, then, be:

	The action whereby	
the mother's arteries are tied and it is made possible to save her		nourishment is not brought to the fetus
↓		↓
excision of the uterus		expulsion of the fetus

The action whereby

↓ ↓

the safety and life of the mother, in first act, from the fact that the cause of death has been removed — the death of the fetus

It is no objection, b., that there is a difference between a nonpregnant uterus and a pregnant uterus in which the fetus is contained, for certainly the fetus is not present there *per accidens*.

Response. That the uterus contains the fetus is a natural phenomenon, conformable, namely, to the law of nature, insofar as the uterus is the ordinary and natural seat of the fetus. But the presence of the fetus is not essential to the uterus. What is conformable to the law of nature can be accidental. The essence of the uterus does not require the presence of the fetus. The uterus is not accidental to the fetus, but the fetus is accidental to the uterus. In the same way, that a man be joined in marriage is a natural fact and nevertheless accidental, in no way essential, to man. It is natural under one respect and nevertheless accidental under another.

It is no objection, c., that the evil effect follows *per se*, directly and immediately, and consequently not mediately and *per accidens*.

Response. Even if it follows both *per se* and immediately, the action is nevertheless licit, provided that an equally immediate, proportionate good effect is produced. But if it is said that one action has only one immediate effect and one proximate end of the work, I respond: let it pass; although the assertion does not appear true, nevertheless, granting it, the end of the work and the immediate effect in the case would be the extraction of the uterus; all the others are therefore mediate or accidental.[8]

[8] These things have not been said from the necessity of the case, since we have already written in the same sense in *Summa Theologiae Moralis*, I, n. 173. It is no objection that one act has only one immediate effect, which is the end of the work; but the end of the work is one, not two. Even granting this, the principle could be understood of the physical order, so that the act has one immediate physical effect; but we consider only the effects which regard the moral order. Thus it can be said that there is one physical action of dilating, contracting, constricting, repressing, exciting, or greatly agitating, which can nevertheless have a different effect in the different organ which it affects, as in the head or stomach, in the heart, lung, or uterus, and thus equally immediately produce two contrary effects at the same time, one good and the other evil, for example, healing and drunkenness, removal of danger to the mother and expulsion of the fetus. These nevertheless are independent of one another, since one does not proceed through the other.

V. **What followed after the controversy?** Cerani, in *Scuola cattolica*,[9] speaks rather doubtfully: if the operation does not affect the vital elements of the fetus, then it will be licit; perhaps this will become clearer. On the contrary, many stood for Fr. Vermeersch, such as the Austrian physician consulted by him, who approved his opinion; Dr. Van de Loo in *R. K. Artsenblad*, 1933; *Ecclesiastical Review*, 1934; Professor Janssen in *Ephemerides Theologicae Lovanienses*, 1934; Fr. De Boeck in *Saint-Luc médical*, 1934; and Payen, *Déontologie médicale d'après le droit naturel*.

[9] *Aborto diretto o indiretto? Ai margini d'una polemica fra P. Gemelli e P. Vermeersch*, 1934.

Mancini, however, subtly attacked the liceity of the operation with new arguments, in *Palestra del Clero*, 20 April 1934, *In questione de isterectomia*, and 1 January 1935, *De Hysterectomia therapeutica utero pleno*, and indeed with the following considerations:

A. The fetus in the uterus is distinguished from the mother not only by his own personal life, but also corporally (somatically). Just as a son is something of his father, so *a fortiori* he must be said to be something of his mother. Therefore, the organs in which he lives are not only the mother's but also the fetus's: they are the mother's insofar as they are parts of her body; they are the fetus's insofar as nature destines them for the life of the fetus. Therefore no action upon the organs of the mother, which directly influence the fetus, can be conceived without itself also having a direct influence upon the fetus. Hence there can be no question of indirect abortion.[10]

[10] Likewise, "It does not at all repent me to have said that the uterus is a common good of the gestating woman and the fetus; indeed, I would say that the uterus is the good of the fetus rather than of the gestating woman, because the organs of generation are by their nature ordered to new lives," January 1935. Hence, he adds, at least in the order of execution, direct malice against the life of the fetus is present.

B. In the case, it must not be said that there is one action with two effects, but that the operation has one effect under a twofold respect: insofar as it regards the mother, it can be legitimated; insofar as it regards the fetus, it cannot be legitimated. Therefore this latter respect vitiates the action itself and renders it evil in itself and simply.

C. But if it is said that hysterectomy is performed in the same way in a pregnant woman as in a nonpregnant woman, this is true in the line of surgical art, but not in the ethical and juridical line: in an empty uterus, namely, there is no subject of rights; in a pregnant uterus there is such a subject, whose particular rights cannot be neglected. For the uterus, with all the things which surround it, was given by nature for the life of the infant, for which it is a necessary means.[11]

[11] The fetus does not lack the right to live, even given the extreme necessity of the mother, and therefore neither the right to remain in the uterus. Hence an abortion which is direct as regards execution also becomes direct in the ethical order. The right to live remains, because the right from nature itself is equal for the mother and the fetus. Thus January 1935.

D. Indirect abortion is indeed permitted when the operation does not terminate in organs essential for the uterine life of the fetus, but in other organs which, by a certain reflex action, can determine abortion; in this case it does not carry *per se* a violation of the rights of the fetus to life and to the means necessary for it. But this cannot be said of an operation which terminates in an organ which nature has destined for the life of the fetus: to render that organ unfit for this purpose cannot be indirect abortion.

From the progress of surgical art, therefore, the notion of direct and indirect abortion must be subjected to revision.

E. A distinction is made in vain between an action which affects the placenta and an action which does not affect it. This distinction could have force if mother and fetus were considered in the abstract as two distinct beings; it does not have force if the coordination of their lives as nature has instituted it is considered in the concrete.

F. Hence, when a theologian asks a physician whether, from such an operation, the possibility of life remains for the fetus, and the physician responds in the negative, it is necessary to conclude to its illiceity, since the imprescriptible right to human life is injured. The fetus has a right to the normal functions of the uterus, so that it is licit for no one to render those functions and the conditions of life impossible.

Fr. Vermeersch responded in *Periodica*, October 1934, and especially Professor Janssen in *Ephemerides Theologicae Lovanienses*, July 1934 and April 1935.

To A. It is affirmed only improperly that the organs of the mother are also the fetus's. Mother and son are two distinct beings, not only by reason of person, but also anatomically and physiologically: each has his own life, his own members, and his own vital functions. They have two perfectly distinct bodies, not one body. There is a relation of dependence and necessity on the part of the fetus; but this is a merely extrinsic union, that of the contained to the container. The uterus remains the mother's, but is destined for the fetus, and therefore can be said to pertain to the fetus as food or a house belongs to a man; but it is not an organ of the fetus. It is his external good, while it is an internal good of the mother. The fetus has a certain right to use the uterus for certain and determinate uses, but the right of the mother prevails, since it regards her intrinsic good. And therefore the mother has greater rights over the uterus than the fetus, namely, the right to dispose of the uterus if this is necessary to save her own body, because the uterus is subordinated first and more essentially to the good of the maternal body, of which it is an intrinsic part, just as every part is ordered to the good of the whole.[12]

[12] Similarly, a spouse has a right to the use of marriage, but with the integrity of the person preserved, as St. Thomas has it, *Supplement*, q. 64, a. 1 and ad 2; and the removal of the genital organ in the man is licit if it is necessary for the safety of the whole body, and nevertheless the seed is destined for the species.

But if no action can be performed upon the uterus without that action also having an influence upon the fetus, from this it is established that there is an action with a twofold effect; but it does not therefore follow that hysterectomy is direct abortion. For it directly and *per se* reaches the diseased organ of the mother, and only *per accidens* the fetus, by reason of the special circumstance that he is contained there. Nor does the safety of the mother ever arise from the expulsion of the fetus, but directly from the very nature of the action, as was explained above. Therefore all the conditions of an action with two equally immediate effects, and of indirect abortion, are verified. For this reason, not only in the order of intention but also in the order of execution, there is no direct malice against the life of the fetus, because the good effect is obtained immediately.

To B. It matters little whether they are called two effects or one effect under a twofold respect, for those respects are essentially distinct and thus are two distinct effects. If one effect is posited, it can only be the end of the work, that is, removal of the uterus; but that is rather the action itself or its material object. But there are two further effects obtained equally directly and immediately; hence one can be intended in itself without the other. The action is legitimated and is good because the excision of the uterus is formally intended insofar as it is the sole means of saving the mother. Under the respect of the fetus it is not legitimated; hence if it had only this effect, it could not be licit. But such is not in fact the case, for it has a proportionately grave good effect.

On account of the evil effect it is evil in itself and simply in the physical order; but not in the moral order, if at the same time a proportionate good effect is obtained equally immediately and not through the evil effect.

To C. The action does not differ in the pregnant woman on the part of surgical art; therefore there is no *per se* difference from its proper object or as regards its substance, and consequently removal of the uterus is not an action evil of itself. From the circumstance of the presence of the fetus, there is an ethical and juridical difference; hence the right of the fetus cannot be neglected. Therefore an action

by which he is directly injured is illicit; and for the removal of a pregnant uterus a graver reason is required than for an empty uterus. This is not to be done unless it is impossible to act otherwise, and the rights of the fetus must be preserved insofar as possible. But the right of the fetus does not take away the right of the mother to licit means necessary for life and to the removal of the causes of danger,[13] and to dispose of her own uterus if this is necessary for preserving the whole body, although indirectly or *per accidens* this also at the same time injures the fetus. In equal necessity, the right of the mother to her own intrinsic good prevails over the right of the fetus to the same good which is extrinsic to him. The fetus has a right to the uterus, with the fundamental right of the mother to dispose of her own organ for preserving her own life always supposed unimpaired: a right not to be deprived by an unjust action.

[13] It is supposed that the danger does not arise from the sole presence of the fetus; for then it could not be removed.

To D. The definition of indirect abortion which the author proposes is contrary to the commonly admitted opinion.[14] For it to be direct, it does not suffice that it terminate in organs necessary to the fetus and that the evil effect certainly follow; it is required in addition that there be only one immediate effect, namely, the evil effect, or that the good effect, if there is one, be procured through the evil effect. It is otherwise if there are two immediate effects: one good effect can be intended, and the evil effect not be intended in itself.

[14] Again there is found, says Vermeersch, the same misuse or confusion between an organ of the mother by which the fetus is nourished and an organ which pertains to the fetus as something proper to him.

To E. If there is a real distinction between mother and fetus, one can reach one without directly reaching the other. Hence if one reaches the placenta, he directly reaches the fetus, and there is one immediate effect; if one reaches the uterus, he directly reaches the mother, not the fetus. The placenta is an organ of the fetus or a common organ; the uterus is an organ of the mother. If the mother disposes of the placenta, she does not dispose of her own organ; on the contrary, she does if she disposes of the uterus. And although there is an intimate and indeed necessary coordination between the life of the mother and the life of the fetus, this coordination nevertheless is only accidental, since it pertains neither to the substance of the mother nor to the substance of the fetus. And if it is removed, this can be done indirectly or *per accidens*, while a proportionate good effect is produced directly and immediately.

To F. Certainty or uncertainty of abortion does not make it direct or indirect. And although it is licit for no one directly, or by an unjust action, to impede the normal functions of the uterus and the possible conditions of the life of the fetus, this is nevertheless licit indirectly and by a just action, which the mother has a right to place.

With the difficulties resolved, our conclusion remains: the extirpation of a pregnant uterus infected with cancer is probably licit.

VI. **Corollary.** Therefore it is also licit to excise a pregnant uterus if this were necessary for removing a benign tumor, in a determinate case in which, because of special circumstances, the danger to the mother could not otherwise be averted.

Article II: On Puncture of the Amnion

I. **Puncture of the amnion** is the perforation, tearing, breaking, or even laceration of the covering or membranes of the fetus, including that which immediately surrounds the infant, namely, the amnion; hence of itself it brings about the flow and evacuation of the amniotic fluid, and thus the expulsion of the fetus, and death if he is not yet viable. We say: *of itself*, because some authors, such as Salsmans, say that the puncture, by means of a little siphon, an injection instrument, or a darning or knitting needle (*stopnaald of breinaald*), can sometimes be made altogether slight, so that it would not necessarily entail the total emission of the fluid, the rupture of the amnion, and the expulsion of the fetus. According to the testimony of Fr. Salsmans, certain eminent gynecological physicians think this possible; in which case some would think that there is a danger of indirect abortion, but not direct abortion.

II. **State of the question.** It is evident that such puncture of the amnion is of itself and generally illicit, as being direct abortion (indeed, it is the easiest and most usual manner of procuring abortion), because it is a direct action upon something of the infant, namely, the membrane which is his, not the mother's; and immediately it does nothing except injure the infant alone. Hence the good effect, if any is hoped for, is obtained only through the evil effect. But it is asked whether it is always and in every case the direct procuring of abortion and therefore illicit. The question is posed for three cases:

The **first case** is a descent, prolapse, retroflexion, or incarceration of a retroverted pregnant uterus which otherwise, that is, without diminution of its volume, cannot be restored within an abdomen that is too narrow. In this case many admitted this one exception and said that the puncture is licit and is not then direct abortion. The reason is that the danger is not in the pregnancy, but in the distention of the uterus; this is removed by the rupture of the amnion, so that the uterus can be restored to its place and the danger to the mother averted. But this is done before the abortion. Therefore the expulsion of the fetus itself is not chosen as the necessary means of averting the danger to the mother. And therefore, in the case, puncture of the amnion is not a direct killing, although proximately connected with it, because before the expulsion of the fetus the good effect is procured, namely, diminution of the volume of the uterus.

Thus Dr. Capellmann, who had vigorously defended the illiceity of embryotomy and direct abortion[1] (even against certain Catholic theologians), teaches in his well-known work *Medicina Pastoralis*;[2] hence many easily followed him in this matter, or themselves favor him: thus Waffelaert, *De Iustitia*, bk. I, pt. 2, latter section, a. 2, §2, n. 88; Antonelli, Berardi, Cornelisse, *Theologisch-praktische Quartalschrift*, 1905, and Génicot.

[1] *De occisione foetus*, 1875.

[2] "If, then, all the other remedies known to the physician for effecting the restoration or liberation of the uterus have been employed in vain, I judge the indirect procuring (namely, permission) of abortion, effected by puncture of the membranes and evacuation of the amniotic fluid, to be licit. For: 1. the mother is in immediate danger of life and, without restoration of the uterus, will perish together with the ovum (namely, with the fetus); 2. there is now no other remedy for saving the mother (according to the hypothesis); 3. evacuation of the fluid is immediately capable of averting the danger to the mother's life. Here, therefore, the danger to the mother does not arise from pregnancy physiologically considered, but merely mechanically from the enlargement of the uterus. Evacuation of the fluid removes this mechanical impediment and diminishes the uterus, from which diminution there immediately follows the possibility of restoration and the repelling of danger from the mother, before the abortion, which indeed will certainly occur afterward, occurs; all of which things

happen in such a way that abortion, or expulsion of the embryo from the uterus, is not necessary for removing the danger." *On the Fifth Precept*, I.

The case, however, occurs very rarely; ordinarily other means are available: "Restoration of the uterus is now obtained in another way," says Vermeersch.[3]

[3] *Theologia Moralis*, 2nd ed., II, n. 627.

The **second case** is similar, namely, acute hydramnios, when the volume of the fluid is excessive; in this case puncture of the amnion is also judged licit by many.

The **third case** is when the puncture would be necessary for conferring Baptism upon an infant who otherwise would perish in the mother's uterus, while he could not otherwise be reached and baptized there. The case rarely comes to be considered.

Now it is fitting to consider separately, first, the two prior cases, and then the third, because of the diversity of the object and end: the danger to the mother is to be averted, and Baptism is to be procured for the infant.

III. **Puncture of the amnion employed to avert danger from the mother appears illicit, as being direct abortion, except in a case in which there is no probable danger of expelling the fetus, if such a case exists.**

For the action directly and immediately injures the fetus, and only mediately and subsequently is capable of procuring the good of the mother. For:

1. It is exercised upon elements which belong to the fetus: the amniotic fluid is contained by a membrane which pertains to the fetus and therefore belongs to the fetus; hence incision of the amnion has the character of a lethal wound inflicted upon the fetus. Thus Vermeersch, *Theologia Moralis*, II, n. 627.

2. The act of cutting or puncturing is assumed as a means precisely insofar as it is lethal, that is, insofar as it expels the fluid without which the fetus cannot live, and indeed expels the fetus himself. Thus Wouters, *Theologia Moralis*, I, p. 511.

3. The distention of the uterus is removed and diminution of its volume is brought about through removal of the fluid necessary to the life of the fetus; therefore the evil effect itself seems causally to precede the good effect, and the latter is procured only through the evil effect.

Hence theologians began to speak more doubtfully on this matter, and many even to deny the liceity of the operation, such as De Smet, *De Sacramentis*, n. 316; Vermeersch, loc. cit.; *Nouvelle Revue Théologique*, 1913; Prümmer, *Theologia Moralis*, II, n. 141; Wouters, loc. cit. Indeed, in the more recent edition of Capellmann's work, prepared by the physician Bergmann under the supervision of Fr. Hürth, S.J., everything that had been said concerning the liceity of this operation was removed. Salsmans also speaks more cautiously on this matter, for the reason presented in *Casus Conscientiae*, c. 157, and Génicot, *Theologia Moralis*, I, n. 377, IV, namely, "the diminution of the uterus is obtained immediately, and therefore the physician is given the ability to restore the uterus to its natural seat; but the abortion occurs only after this good effect," was abandoned in the most recent, twelfth

edition of Génicot's work. Nevertheless, "a slight puncture of the membrane necessary for the life of the mother, which does not induce morally certain further tearing of the membrane and abortion," is admitted; but from this it can rather be concluded that the abortion is direct, since indirect abortion can be licit even if morally certain.

We said, however, **except in a case in which there is no probable danger of expelling the fetus**, because if abortion then follows, it will be *per accidens*. But we add, **if such a case exists**, a possibility which some affirm. It can indeed be admitted that this exists theoretically; but in practice we doubt it, for in practice is there not always a grave danger of enlarging the puncture and inducing rupture? In that case the operation would be illicit, because it is illicit to expose oneself even to a probable danger of injuring or killing one's neighbor. Nor is it required for illiceity that abortion follow with moral certainty, as Salsmans says, loc. cit.; it suffices that it probably follow, in order that one must abstain from the operation. Nevertheless, others assert that, even in practice, it is sometimes possible to perform the puncture without danger, especially in a case of acute hydramnios. Concerning this we are unable to judge, but the judgment belongs to those skilled in obstetrical art.

They object:

1. The danger to the mother does not arise from pregnancy considered physiologically, but from the enlargement of the uterus; hence this can be removed directly without the pregnancy first being removed.

Response. The distention of the uterus arises from the pregnancy and is removed only through the removal of an element necessary to the life of the fetus.

2. From the diminution of the uterus there immediately follows the possibility of restoring it, but not the abortion or expulsion of the fetus, which is subsequent.

Response. The danger of death to the fetus arises from the very tearing of the membrane and the effusion of the fluid, from which the diminution of the uterus and the possibility of restoration then further follow.

3. The danger is repelled from the mother before the abortion, and therefore the expulsion of the fetus itself is not chosen as the necessary means of averting the danger to the mother.

Response. The necessary means chosen is the perforation of the membrane and the effusion of the fluid, from which the death of the fetus necessarily follows. Hence, although this death does not precede chronologically in the order of time, it nevertheless necessarily precedes virtually according to the order of causality. It is caused immediately, namely, according to the order of causality, and not through the good effect.

4. It is not established that the amniotic fluid is a vital element of the fetus and therefore that the puncture as such is to be regarded as a lethal wound.

Response. It is not established that it is a nutritive element of the fetus; but it is established that the fetus cannot live except within a closed membrane retaining the fluid, so that, when it has been

poured out, he necessarily dies. Hence violently and directly to take this sole means of life away from the fetus is the same as to wound him lethally.

5. The effusion of the fluid is not intended as causing the fetus to abort, as in direct abortion, but solely as a means of reducing the volume of the uterus. Once this has been done, the mother is saved, even if the fetus were to remain.

Response. Reduction of the uterus cannot be obtained except through an injurious cutting of those things which pertain to the fetus, namely, by perforation and effusion which induce abortion; this therefore is necessarily intended as such, at least implicitly. It can be shown schematically:

	Perforation of the amnion
Evil of the fetus	Tearing of the membrane and effusion of the fluid, lethal to the fetus
	↓
Good of the mother	Diminution of the uterus
	Restoration of the uterus
	↓
Evil of the infant	Expulsion and death of the fetus

IV. **Puncture of the amnion in order to baptize the infant.** For a case in which the infant cannot otherwise be baptized, at first sight it seems that the same must be said as in the preceding case, because if puncture of the amnion is direct abortion and direct killing, neither will it be licit for ministering Baptism, since evils are not to be done that goods may come about. Even in order to baptize, it is illicit to kill. The extrinsic end of ministering Baptism does not change the nature of the work, nor convert direct abortion into indirect, nor render a lethal action nonlethal.

Certainly; but the question is whether, in the case, only an evil effect is immediately produced, or whether, on the contrary, a good effect is already produced immediately and the abortion becomes indirect.

Now it appears to us that this can probably be maintained. And indeed in this way: the very perforation of the membranes, in this case, is an action which removes an element necessary for temporal life, namely, the amniotic fluid whose effusion it causes, but equally immediately furnishes an element necessary for spiritual life, namely, the possibility of reaching the infant and conferring Baptism. In other words, it removes the extreme spiritual necessity, namely, by perforating the membrane which is an obstacle to Baptism, but it carries with it and at the same time places the infant in extreme temporal necessity from the consequent loss of the fluid. Hence in the case, the good effect, the possibility of conferring Baptism, is not obtained through the evil effect, the effusion of the fluid, but would equally be obtained if the fluid were not poured out.

There is no parity with procuring the safety of the mother, because the possibility of this safety is obtained only through injury to the infant, namely, the very effusion of the fluid. This may be presented schematically as follows:

1. Perforation of the amnion	**2. Perforation of the amnion**
Tearing of the membrane and effusion of the fluid, lethal to the fetus	Possibility of reaching the fetus; danger of rupture and effusion of the fluid

1. Perforation of the amnion	2. Perforation of the amnion
↓	↓; ↓
Diminution and restoration of the uterus	Baptism; effusion of the fluid
↓	↓
Abortion, that is, expulsion of the fetus	Abortion, that is, expulsion of the fetus

In the first case, the action is of itself injurious to the infant and afterward beneficial to the mother; in the other case, the action is at once injurious to the infant and beneficial to the infant.[4]

[4] Cf. little work A, II, q. 3, n. IV, p. 63, note 1.

Thus Capellmann, op. cit., *De Baptismo*; Antonelli, op. cit., III, n. 386; *Theologisch-praktische Quartalschrift*, 1905; Cornelisse, *Theologia Moralis*, II, 491; Génicot-Salsmans, *Theologia Moralis*, II, n. 148, note.

V. **Observations.** It must nevertheless be noted:

1. The tearing of the membranes by means of an instrument can easily be performed in the last periods of gestation, when the fetus is at least probably viable and danger of death is imminent before complete birth; in the earlier periods, however, it can be performed only very rarely, because of the great danger which, from the destruction of the membranes, is brought upon the birth, the infant, and the mother. Hence it is not to be attempted unless it is certainly established both that the fetus is living and that his life is failing; for then the soul appears to be saved before all else and Baptism is to be conferred.[5]

[5] Thus Capellmann, loc. cit.: "Premature destruction of the afterbirth, and the premature effusion of the fluid which follows from it, cannot occur without bringing a great impediment upon the birth itself, increasing the danger to the infant, and perhaps bringing the mother into the greatest danger.... Before the completion of the fifth month of pregnancy, we can only very rarely know with certainty whether or not the fetus lives. If abortion were imminent before this time, I would certainly abstain from every attempt to baptize by a siphon. Only then would I undertake that course..., when I was certainly persuaded both that the fetus was living and that his life was failing; and I would do this although I foresaw that, by the premature effusion of the fluid, some impediment to the birth itself would be removed. The injury to the mother to be feared from this and the accelerated death of the infant are not to be reckoned when his eternal salvation must necessarily be procured." Antonelli, op. cit., III, n. 385, adds: "Since at this time it can only very rarely be known whether the fetus certainly lives..., the tearing of the membranes and the flow of the amniotic fluid would increase the difficulty of birth and expose the fetus and the mother to grave dangers to health; and since, in this case, it cannot be known whether some part has been washed with the water, it does not appear expedient, for a doubtful spiritual effect, that bodily dangers be accelerated. Finally, if, even before the aforesaid time, it can be certainly established both that the fetus is living and that his life is failing, the membranes would have to be cut in order to confer Baptism...."

2. Baptism on the umbilical cord would not suffice, since the infant himself could be reached.

3. Let the physician judge concerning the puncture and laceration to be performed.

Article III: On Cleansing the Pregnant Uterus

I. **State of the question.** Cleansing of the uterus is the removal of all things contained in it in order to avert an imminent danger to the woman; hence, together with the others, the fetus also is removed if he is present.

It is asked whether, in a case in which a fetus is present, especially one not yet viable, an operation of this kind is licit in order to save the mother. Now there can be several diverse cases.

II. **Cleansing in the case of a dead fetus.** If the fetus is already dead, then there is no abortion, but a legitimate cleansing. Death, however, is not to be presumed, but must be proved; hence:

a. the embryo is supposed to be living unless the contrary is established with moral certainty, and he cannot be expelled so long as he probably lives;

b. it is illicit directly to expel a probably living but corrupted fetus, because that would be directly to accelerate his death, and therefore the good effect would follow through the evil effect. Nor can the fetus, in this case, be regarded as an unjust aggressor, since he wills nothing and does nothing, but is merely passive. That case, however, is rather hypothetical, because a corrupted fetus is ordinarily dead or soon to die; hence one can easily wait until he is dead.

III. **Cleansing in the case of a fetus already separated from the uterus.** If the fetus has already certainly been separated from his connection with the uterus, as can occur from a certain morbid cause, for example, through rupture of the uterus or through blood discharged into the uterus, then cleansing of the uterus does not cause abortion, because the abortion has already occurred by the separation, and the expulsion is naturally to follow. Nevertheless, it would not be licit to act directly and immediately upon the living fetus, and directly to injure or kill him.

If the living fetus has not yet been separated from the uterus, but the mother suffers from hemorrhage or hydrorrhea of the uterus, concerning this twofold case we read in Capellmann-Bergmann, op. cit., 19th ed.:[1]

[1] Thus according to the German and French text.

A. "Not rarely, during pregnancy, hemorrhage occurs. In a smaller quantity it can be harmless. In that case the physician will wait and prescribe rest in bed. But if it increases, hemorrhage can notably weaken the mother; yet even then pregnancy can rather often be brought to a good end. Formerly the vagina was occluded (*par tampon de ouate à pansement*), but this procedure had abortion as its direct effect: the flow of blood ceased, but the occlusion secondarily brought on pains and expulsion of the fetus. Today they have renounced that method because of the danger of infection from the occlusion. But now the uterus is dilated so that it may be cleansed. Is this morally licit?

"We think so. Cleansing of the uterus is nothing except the merely local removal of the fetus, who physiologically has already been essentially separated from the maternal organs."

This can be maintained, provided that: 1. the abortion cannot be avoided; and 2. the physiological separation from the uterus has been accomplished not merely virtually but already actually.

B. "Hydrorrhea of the pregnant uterus can be judged in the same way. It is a state in which the amniotic fluid or waters continually flow. Physicians distinguish decidual and amnial hydrorrhea. In the former, the flow proceeds from the space between the two membranes of the ovum; in the latter, it proceeds from the membrane itself which properly and immediately encloses the fetus. The difference can be discerned by a microscope.... This latter case alone is dangerous, since there is an opening in the covering of the fetus himself. If the flow of the amniotic waters occurs in the third or fourth month, or even later, the pregnancy is rarely brought to term: abortion or accelerated birth occurs.

"Since the outflow of the fluid, in a certain true sense, already constitutes an incipient abortion and the fetus is by that very fact lost, cleansing of the uterus can be performed, provided that: 1. it is established that the fetus has already been physiologically separated from the maternal organs; and 2. the continuation of the pregnancy until the time when the fetus is viable or can live outside the maternal womb can in no way be hoped for; otherwise the physician is bound to await that time."

Thus, provided that these two conditions are truly established.

IV. **Cleansing in the case of an irreparably disturbed pregnancy.** This is a case in which the pregnancy appears irreparably disturbed, the mouth of the uterus is widely opened, abortion is shortly to follow, and danger of hemorrhage and infection together with high fever is imminent for the mother. This danger can be forestalled only by cleansing the uterus at once and at the same time expelling the fetus, who otherwise also will certainly perish.

Concerning this case Salsmans says:[2] The good effect does not arise directly and immediately from the expulsion of the fetus, but from the very cleansing of the uterus just as immediately as does the expulsion itself. Moreover, that operation would also be performed in the same way outside pregnancy, and it does not tend directly toward abortion, but *per se* tends solely to cleansing of the uterus by removing whatever it contains, such as a mole (that is, a fleshy mass) or a mucous covering, and *per accidens*, if he is present, also the fetus.

[2] *Geneeskundige Plichtenleer: Deontologia medica,* n. 179 bis.

This appears to us more doubtful than the case of a uterus infected with cancer; nevertheless, until the Church pronounces, we would not dare to condemn this, but, subject to a better judgment, we think that it can be held as probable, provided that:

1. the danger of abortion is not only future, but is already present here and now;

2. the danger does not arise solely from the pregnancy itself or the condition of the fetus;

3. there is no probable hope of bringing the pregnancy to the time when the fetus is viable.

Question Four: On Operations concerning Ectopic Fetuses

I. **Ectopic or extrauterine pregnancy can occur**, whose nature and causes we indicated in little work A, I, q. 1, n. VI.

It exists under various forms, of which the principal are:[1]

[1] Concerning extrauterine pregnancy, cf. Antonelli, *Medicina Pastoralis*, I, nn. 244–248; Dr. Aussems, *Buitenbaarmoederlijke zwangerschap*; Dr. Pestalozza, *Trattato di Ostetricia*, II; Bouscaren, *Ethics of Ectopic Operations*, pt. III, c. V.

1. **Tubal**, when the fertilized ovum remains and develops in the tube or oviduct. This is called: a. truly tubal, which is more frequent, if it develops in the middle of the duct; b. tubo-abdominal, if it is near the mouth of the duct which faces the ovary and abdomen; c. tubo-uterine, if it is near the mouth of the duct which faces the uterus. In this case, after some time the fertilized ovum can pass into the uterus, and then the pregnancy which began as extrauterine becomes uterine in its second phase.

2. **Ovarian**, which is rare, when the fertilized ovum remains and develops in the ovary itself.

3. **Abdominal**, when the fertilized ovum remains in the abdominal cavity and develops there. Some doubt whether this is possible as primary, insofar as the pregnancy begins in the abdomen; for it certainly can be a secondary phase of a tubal, ovarian, or even uterine pregnancy, insofar as the fertilized ovum at a later time, for example because of some rupture, is received into the abdomen and continues to develop there.

Extrauterine pregnancy generally does not attain maturity and comes to an end before term; sometimes, however, the fetus continues to perfect development, either in the tube, which in that case does not rupture but is greatly distended, or in the abdomen, but he cannot be born. He can then be extracted by laparotomy and Caesarean section.

Ectopic pregnancies are found relatively rarely, in a proportion of 1.2–1.5 percent; absolutely, however, their number is rather great, and many cases have already been observed.

II. **The false opinions of certain physicians are to be noted**, who equate ectopic pregnancy with a diseased organ and a lethal tumor, or with harmful cells; several theologians also formerly taught this. Hence, just as it is always licit for the mother to remove a diseased organ or a lethal tumor, so it would always be licit to remove an ectopic fetus, who always constitutes a mortal danger to the mother.

But this is certainly false:

1. because a diseased organ is a part of the mother and is subordinated to the good of the maternal body, and likewise a lethal tumor which directly affects an organ of the mother; while an ectopic fetus is not a part of the mother, but a distinct individual who is not subordinated to the good of the mother;

2. because the fetus, from the moment of conception, is probably a man, having rights to life and integrity equally with the mother. Hence, just as it is not licit directly to injure or kill the mother in order to save the fetus, so neither is it licit directly to injure or kill the fetus in order to save the mother;

3. which is evident from the response of the Holy Office, 4 May 1898, to III: "Is laparotomy licit when there is question of an extrauterine pregnancy, or of ectopic conceptions?" Response: "In compelling necessity, laparotomy is licit for extracting ectopic fetuses from the mother's womb, provided that the life of both fetus and mother, insofar as possible, is seriously and opportunely provided for."

From this it follows at least with certainty that ectopic fetuses cannot indiscriminately be considered as a diseased organ of the mother and a lethal tumor; otherwise extraction would always be licit, no limitation would have been placed in the response of the Holy Office, and indeed it could be neglected and would have no value in practice.

But extraction cannot be performed unless:

1. there is necessity, not just any necessity but a compelling one, so that no other means is available and time is altogether urgent;

2. the life of both fetus and mother is provided for, where the fetus is placed first; and

3. this is done, insofar as possible, seriously and opportunely: opportunely according to the circumstances indicated by the very nature of the matter, namely, the time, manner, and place; insofar as possible seriously, so that there is a true probability, and the greatest that can be had in the case, of preserving the life of each.

The Holy Office itself explained this on 5 March 1902: "Whether it is ever licit to extract from the mother's womb ectopic (extrauterine) fetuses still immature, before the completion of the sixth month after conception?" Response: "In the negative, according to the decree of 4 May 1898, by force of which the life of fetus and mother is to be provided for seriously and opportunely insofar as possible; but as regards the time, according to the same decree, let the petitioner remember that no acceleration of birth is licit unless it is completed at a time and by means whereby, according to ordinary occurrences, the life of mother and fetus is provided for." This explanation is taken from the same decree of 4 May 1898, response I. But if acceleration of birth were performed at a time when the ectopic fetus is not viable, it would not be completed at a time and in a manner whereby, according to ordinary occurrences, the life of the fetus is provided for; thus if it were performed before the sixth month was completed, unless someone possessed a means of artificial incubation.

This response of the year 1902 does not appear to have been specially approved or promulgated; hence some deny its authority or call it into doubt. Yet not safely. For it concerns a declaration of the natural law, which does not require promulgation; moreover, canon 17 of the Code, which requires promulgation of an explanatory interpretation of a doubtful law, had not yet been issued; finally, as Gemelli notes, it did not require new approval or promulgation, because it was a merely literal interpretation of the text of the decree of 1898, taken from the words of that decree itself.[2]

[2] Cf. *Nouvelle Revue Théologique*, 1933. Note that the decree of 5 March 1902 was not denied by Fr. Vermeersch; and that he admits direct abortion to be illicit also for an ectopic fetus. Cf. *Nouvelle Revue Théologique*, 1933, p. 610.

Therefore, according to the decree, it is certainly illicit at least to act directly toward the expulsion of a nonviable ectopic fetus, for example, to open the fetal sac and expel its contents, to dilate the tube and press the ovum out of the tube, to open the tube and cut the ovum out of it, or in any other way whatever to procure his direct abortion. This follows already from the responses of 19 August 1889 and 24 July 1895, which by the responses of 4 May 1898 and 5 May 1902 [printed here as May; above, 5 March 1902] are explicitly applied to ectopic fetuses.

The decrees do not expressly speak of indirect abortion; but the common mind of theologians is that it does not fall under the decrees.

III. **The following conclusions can be deduced from this:**

1. Therefore the same principles hold concerning an ectopic fetus as concerning a uterine fetus, and thus it must altogether be held that every action directly lethal to an ectopic fetus is illicit. Such would be to act upon the cyst by electrical force or morphine injection, because by these means "the fetus would be exposed directly and *per se* to certain death, and no relief would be

afforded to the mother if it were a mere tumor; but if it were a fetus in the cyst, the safety of the mother would proceed from the direct killing of the fetus."[3]

[3] Antonelli, op. cit., II, n. 111.

There is also the fact that the fetus could not then be baptized.

2. **The ectopic fetus is not an unjust aggressor.** He is not an aggressor, not even a material one, after the manner of a man who in madness attacks another; for the latter places an act which nevertheless cannot be imputed to him because of the defect of liberty, while the fetus properly does not act, but rather is acted upon by the mother and by natural forces. Hence the mother could rather be said to aggress against him, since because of a defect of the mother and the natural concurrence of circumstances he is prevented from being in the normal and natural place. Through his coverings he indeed produces villi which strive to insert themselves into the maternal body and to take nourishment from it, but this is because the natural place, namely, the uterus, is not offered to him and is necessary for him to develop and preserve life; but this is a merely instinctive striving of vegetative life. Adherence to the mother, namely, belongs to natural development; therefore it is not a materially unjust action. And the intrinsic exercise of his own life and its preservation is itself a right, and cannot be called aggression, since it is not an action which has the mother alone as its immediate terminus. He is not unjust, because he does not pass beyond the paths of right, nor is he bound to renounce the things necessary for life.[4]

[4] Cf. Creusen, *Le foetus injuste agresseur?,* in *Miscellanea Vermeersch*, I, where he expressly poses the question of aggression concerning an ectopic fetus and resolves it negatively.

Hence he is no more an aggressor than a uterine fetus who cannot be brought forth into the light.

3. Excision of an immature ectopic fetus is prohibited not only apart from a present necessity of the mother, as some would wish to insinuate, or when his direct killing is manifestly sought; but always, even in compelling necessity, unless the life of fetus and mother is provided for seriously and opportunely, as the Holy Office says. Otherwise it would be precisely equivalent to direct killing.

4. Neither is it to be called licit for saving the mother provided that there is the slightest hope of saving the fetus, as Antonelli has it.[5] For this cannot be reconciled with the decree affirming that no extraction is licit "unless it is completed at that time and by those means whereby, according to ordinary occurrences, the life of mother and fetus is provided for." For when the life of the fetus is ordinarily provided for, the life of the fetus itself is likely; and therefore there is already a hope which is not the slightest, but well founded and truly probable.

[5] Op. cit., II, n. 112.

5. **The same rules which hold for a fetus certainly living are equally to be applied to a fetus probably living.**[6] Some have said: if there is no means of resolving the doubt, the principle can be held that the certain right of the mother prevails over the probable right of the infant. Thus Génicot in the first editions of *Theologia Moralis*, I, n. 376; Antonelli, loc. cit.; and to some

extent Noldin, *Theologia Moralis*, II, n. 341. But this is false, for it is illicit to expose oneself even to a probable danger of killing, as Vermeersch rightly notes, *Theologia Moralis*, II, n. 628; just as a hunter who doubts whether an animal is a wild beast or a man, and wounds or kills it, is guilty of homicide.

[6] The decree of the Holy Office, however, does not speak expressly of a fetus doubtfully living, but supposes conception.

Hence this was deleted in the new edition of Noldin's work; similarly, Fr. Salsmans amended it in the latest editions of Génicot's work, adding: "The question is not of a merely probable right of the fetus, but of the certain right of a probable fetus." Certainly, one who, while doubting the presence of a living fetus, performs extraction or excision, directly wills to extract or excise and kill him if he is present. In the case, namely, there is a doubt of fact, in which the principle of probabilism cannot be applied, but in which that which is safer must be done.

As we already wrote in little work A, I, q. 7, n. II, note 1, the invoked principle, that the certain right of the mother prevails over the probable right of the infant, is rightly applied when the certain preservation of life in the mother and a probable danger to the life of the infant arise equally immediately, as a twofold effect, from the same action or the placing of the same cause. It does not hold in the present case, because the danger introduced to the life of the probable infant would be the means of preserving the life of the mother, that through which provision would be made for the mother.

IV. **Disputes still remain concerning certain operations**, namely, whether they are direct expulsion and killing, or, on the contrary, indirect, whereby the good effect is immediately produced and not through the evil effect. Three in particular are subjected to dispute:

1. removal of the fetal sac;

2. removal of the tube or oviduct in which the fetus is contained or to which he adheres;

3. ligation or severing of the arteries, whereby the flow of blood is prevented from being brought to the fetus.

These must now be discussed.

Article I: On Removal of the Fetal Sac

I. **State of the question.** Some say that it is illicit to open the fetal sac and immediately extract or expel the fetus, for that is a directly lethal action and is condemned by the Holy Office; but, they say, because of its abnormal position injurious to the mother, the fetal sac can be equated with a diseased organ or lethal tumor which can be removed in urgent danger, even though it contains the fetus, in the same way as we said concerning a diseased uterus. Hence the fetus is killed not directly, but only indirectly.

Thus Lehmkuhl taught;[1] but he is suspect in this matter, because he wishes to deny the force of the decree of the Holy Office of 5 March 1902, and because he taught the liceity of direct abortion, which was called indirect solely because the physician intended the effect of Baptism. And in this matter, as regards the case of an ectopic fetus, Schmitt in Noldin, *Theologia Moralis*, II, n. 341; Salsmans in

Génicot, *Theologia Moralis*, I, n. 377; recently Davis, *Moral and Pastoral Theology*, II, c. VI, sect. 10, n. 8; and likewise Antonelli in the first edition of *Medicina Pastoralis*, agree; but in the second and following editions Antonelli changed his opinion and persevered in the changed opinion.

[1] "I do not think that decree, understood in this sense, must be received as a binding law, especially since, as I have said, every approval of the Apostolic See is lacking, and much less as a universally binding law; rather, it must be restricted to those cases in which that excision is equivalent to the direct procuring of abortion. But in the proposed case I judge that there is only indirect abortion." *Theologia Moralis*, 12th ed., I, n. 1011.

II. **Judgment. This opinion is false.** For:

1. It is one and the same thing, Gemelli observes, to extract the fetus from the sac or to extract the sac containing the fetus, because the sac is formed by the fetus and is his natural covering.

2. Hence the fetal sac cannot be regarded as a tumor affecting the mother, or as a diseased organ of the mother, but is something of the fetus. Therefore, just as a direct action upon the placenta is illicit and directly lethal, so also is a direct action upon the fetal sac.

3. But if this were licit, it would almost always be licit to excise ectopic conceptions, which does not accord with the Roman responses. Moreover, they say that laparotomy is not licit for extracting them from the mother's womb unless the life of the fetus is seriously and opportunely provided for, and consequently not for extracting immature fetuses except at a time and by means whereby, according to ordinary occurrences, the life of the fetus is provided for. Whether that extraction is performed from the sac or together with the sac, it is equally harmful to the fetus and equally condemned.

4. The danger in the case arises immediately from the pregnancy; the remedy sought for the mother is removal of the pregnancy. Hence it is an abortive action, not indirect but direct, and likewise a direct killing.[2]

[2] Thus Finney in *Ecclesiastical Review*, 1928; Gemelli, *Nouvelle Revue Théologique*, 1933; and Bouscaren, *Ethics of Ectopic Operations*.

Therefore there is no parity between ectopic pregnancy and an infected pregnant uterus. In the latter case the danger arises from the mother's uterus, not from the fetus; in the former, from the fetus, not from an organ of the mother. In the one case the danger is removed by excision of a maternal organ; in the other, by taking away the pregnancy and the fetus.

III. **Corollary.** Therefore it could be licit only if other lethal tumors affecting organs of the mother were joined with the fetus and could not be removed without him. In that case it would be licit directly to remove, not indeed the fetus or his covering, but those connected tumors, from which removal of the fetus would follow indirectly.

The same is to be said if there were a lethal tumor which did not arise from the fetus, but in which the fetus was found with his coverings.

Others, namely, speak more correctly in this way;[3] but it can be doubted whether the last case occurs.

[3] Thus Capellmann-Bergmann, op. cit., on the Fifth Precept, n. 4; and Finney, *Ecclesiastical Review*, 1928.

Article II: On Removal of the Oviduct Containing the Fetus

I. **State of the question.** The case is proposed by Fr. Vermeersch in the second edition, 1928, *Theologia Moralis*, II, n. 629: "In compelling necessity, it is permissible to remove the oviduct, or the part of the oviduct, which is judged to be about to rupture with great danger. This is licit even if it contains a fetus who will be removed at the same time. The reason is that the death of the fetus is then merely permitted; directly, nothing is chosen except the mutilation of the mother, which is licit in order to save the whole body."

L. Bouscaren wrote expressly on this matter in the well-known work *Ethics of Ectopic Operations*, Chicago, 1933. He says that it is indeed illicit directly to extract the fetus or directly to interrupt the pregnancy, but that this is licit indirectly for a proportionately grave reason; he limits this, however, to one case, excision of a dangerously diseased tube. He attempts to show that such an operation is indirectly lethal, not directly, and therefore licit for a proportionately grave reason. For since tubal pregnancy is a pathological case in which the tube is diseased, it is licit, given necessity, to excise it. The danger which threatens the tube does not arise proximately from the fertilized ovum or from the fetal sac, but from the tube itself, already diseased. And therefore, just as it is licit to extirpate an infected uterus in compelling necessity, so also the tube. Thus in the praised work,[1] part 4, c. 6.

[1] Cf. also *Ecclesiastical Review*, 1935; and Werner Moore, *Principles of Ethics*, 1935.

II. **Judgment.** This appears true: there is a parity between excision of a tube which causes danger and excision of a pregnant uterus infected with cancer. Hence it is probable in the same manner that each operation is licit, because the tube, like the uterus, is a part of the mother which is subordinated to the good of the mother. Nevertheless, it is licit only in necessity, and indeed compelling necessity, as the Holy Office says, 4 May 1898, so that:

1. there is no other means of saving the mother;

2. the danger proceeds from the present state or condition of the oviduct, for example, because it is already diseased; and

3. the danger is not only foreseen as probably to occur, but is morally certain and imminent.

In the case, expulsion of the fetus is not the means of saving the mother, but the excision of the tube itself. To expel the fetus would not suffice while the tube remained, because the tube itself is diseased and brings danger to the mother.

They object: The danger arises from the pregnancy and is removed by removal of the pregnancy; therefore the action directly injures the fetus and is lethal to him.

Response. Pregnancy is indeed the mediate and remote cause of the danger, but the very state of the diseased tube is the proximate and immediate cause of the danger. This arises mediately from pregnancy, but immediately affects an organ of the mother. Hence the pregnancy is not to be removed directly and immediately, but is removed mediately and merely consequently from the direct and immediate removal of the diseased organ.

III. **Applications.** The author of the aforementioned work applies his opinion in practice much more broadly than we have stated. He says that, outside a case of urgent necessity, excision of the tube is

not indeed always to be performed immediately, but neither must one always wait. There must be a proportionately grave reason; this is a proportionate necessity of the mother. For since the probability of saving the fetus is almost nothing and very small by comparison with obtaining the safety of the mother, it is sufficient for performing the operation immediately that there be a notably greater probability of saving the mother more securely in this way. Therefore:

1. if the woman can be placed under medical observation, one must wait before operating;

2. if she cannot be subjected to observation, ordinarily the operation is to be performed immediately, because there is a notably greater probability of saving the mother in this way;

3. if, on the occasion of another operation, a tubal pregnancy is accidentally discovered, the operation is also licitly performed immediately when another later operation would be very dangerous for the woman, as often happens; in this case there is also that sufficiently greater probability;

4. in a case in which excision of the tube is licit, it is also licit to attempt the transfer of the ectopic conception from the tube into the uterus, into which it is to be inserted;

5. if, however, the fetus has already reached the fourth or fifth month of gestation and approaches more nearly the time when he is viable, it will be necessary to wait before operating, unless the probability now approaches moral certainty, or it is almost morally certain that the mother cannot otherwise be saved;

6. if the fetus is already viable, ordinarily he is to be extracted by a Caesarean operation, which of itself is also obligatory, and it cannot regularly be permitted that the fetus die in the mother's abdomen.

We think that the principle invoked does not provide a secure way, but one full of dangers and widely open to laxer solutions. First, it does not provide a firm and definitive judgment, since the lesser probability for the life of the fetus could be increased by the progress of surgical art and by the greater ability of the surgeon; and that notably greater probability for the mother could be understood more strictly or more broadly, and by almost everyone as he wishes.[2] Moreover, in estimating the proportionate reason:

[2] In the terminology of St. Alphonsus, a much or notably greater probability is equivalent, in ordinary circumstances, to moral certainty. But this is not the terminology of the author, since he distinguishes a notably greater probability from moral certainty, and indeed from a probability which approaches this certainty. Therefore this notion of a notably greater probability, according to the mind of the author, appears sufficiently extensible.

a. not only are the probability of the mother's death and the probability of the infant's life to be weighed comparatively, and the condition more favorable to the mother considered;

b. attention must also be given to whether an operation performed immediately does not render the conditions of the infant much worse, as in fact occurs, since in place of a possibility and a certain probability of life there is now a complete and radical impossibility;

c. likewise, whether the operation is strictly necessary here and now, for otherwise the safety of the mother could perhaps be obtained in another way. For we have never heard that it is licit to cause the

death of another *per se*, although indirectly, except in urgent necessity for preserving one's own life, or a morally equivalent good. But excision of the tube *per se*, necessarily and always, causes the death of a nonviable infant. Therefore urgent necessity is required for performing it. Hence:

1. For the operation to be performed immediately, there seems regularly to be required that condition which the author requires only for a fetus of the fourth or fifth month, namely, that it be morally certain that the mother cannot otherwise be saved. This condition will not be present unless the necessity is proximate.

2. That the ectopic pregnancy is discovered on the occasion of another operation is an extrinsic circumstance which ordinarily does not change the case essentially. A greater opportunity to perform the operation is not yet a compelling necessity or a morally certain danger of death to be avoided, unless at the same time there were present a grave hemorrhage affecting the pregnancy.

3. We approve, however, what the author said concerning the attempt to insert the ectopic conception into the uterus. It is licit to attempt this in place of another operation, provided that there is a serious and more probable hope of saving the fetus in this way. But this probability can scarcely be present unless the operation is performed in the first weeks of conception.[3]

[3] Cf. Ferreres, *Casus conscientiae*, I, on the Fifth Precept, case 10; Dr. Clément, *Le Droit de l'enfant à naître*, p. 71; and Bouscaren, op. cit., pt. 4, c. 6.

4. Likewise, we altogether approve what is said concerning a Caesarean section to be performed in order to extract a viable fetus. Nor can the contrary custom which prevails in a certain region be legitimated, at least insofar as it deprives the infant of Baptism. In a case of ectopic pregnancy, Caesarean section is not so dangerous and deadly: according to rather recent statistics, the danger of death for the mother is not more than 22 percent, and there are still more favorable statistics; moreover, even if the operation is not performed, not every danger is absent for the mother. The more opportune time for performing the section for the life of the fetus appears to be at eight and one-half months of gestation.

IV. **Observations.** In every case of excision, Baptism is to be conferred upon the infant. Nevertheless, it is not licit to excise the tube or extract the fetus so that he can be baptized, because he is not to be subjected to a directly lethal action so that he may receive Baptism and attain eternal salvation, since evils are not to be done that goods may come about, nor can an evil be chosen as the means to a good end.

Article III: On Ligation of the Arteries

I. **Ligation of the arteries, or of the tube**, happens to be performed in order to prevent hemorrhage in the mother. In a case in which dangerous hemorrhage has arisen, such as one which indicates a rupture, this operation appears licit if it would also be performed in the absence of pregnancy and is necessary for preserving the life of the mother. For then the fetus is killed only indirectly, because he

is deprived of oxygen and nourishment and thus perishes by asphyxia; but the mother is not bound to minister oxygen or nourishment to the fetus with danger to her own life.[1]

[1] Cf. Bouscaren, *Ethics of Ectopic Operations*; Werner Moore, *Principles of Ethics*; and *Ecclesiastical Review*, 1935.

This is so provided that the hemorrhage is: a. grave, because there are also slight hemorrhages;[2] and b. the operation is necessary, so that otherwise the mother would perish. Consequently, for the life of the infant, one must wait before performing it as long as possible.

[2] Thus Antonelli, op. cit., I, n. 247: "Often, in the second or third month, the membranes of the fetus are torn and hemorrhage occurs, which can bring the mother's death by anemia; or, if the flow of blood occurs in small cavities of the abdomen, the mother's death ordinarily by no means follows, because the small cavities, when they are filled with blood, exercise pressure upon the lacerated blood vessels, which prevents further hemorrhage; nevertheless tumors arise from the coagulated blood.... When the membranes have ruptured, the fetus dies and is gradually resorbed. If the membranes are torn outside the place where the placenta is inserted, the mother's death generally does not follow, and the fetus passes into the abdomen, where he can attain perfect development, or he dies. But if the membranes are not torn, the fetus likewise dies, and then is resorbed, or undergoes several particular changes, or induces suppuration...."

II. **Corollary.** Therefore, in two cases that ligation can be performed licitly:

1. as an operation preparatory to the immediately following excision of a diseased organ of the mother, so that the ligation itself does not yet *per se* and actually bring immediate death to the fetus, but his death follows from the removal of the maternal organ, as we said in q. 3, a. 1, n. IV;

2. as an operation necessary of itself and sought for saving the life of the mother from hemorrhage.

Conclusions

I. **Therefore, in practice:**

1. If a woman exhibits an internal tumor whose nature cannot be known, first of all the physician must do nothing and await the time when it can more easily be diagnosed. But if it is a fetus, the time when he is viable must be awaited in order to perform the laparotomy; otherwise, without any cause of necessity, the operation would tend toward injury to the fetus.

2. If the presence of a living fetus is certain and rupture of the cyst is near, perhaps bringing the death of mother and fetus, excision of the cyst is licit if there is hope of saving the fetus who is certainly or probably viable; otherwise it is illicit. In the first case a good effect immediately follows, namely, to repel the danger to the mother, and indeed probably to the offspring also, although the infant could perish indirectly. In the other case the infant is immediately and directly killed, and the danger to the mother is mediately averted. Thus it would be if excision were performed before the completion of the sixth month after conception.

3. If, however, some organ of the mother were diseased or infected, or a tumor independent of the fetus and not formed from him brought danger to the mother, these could be directly removed even if *per accidens* or indirectly they brought with them the expulsion of the fetus. In that case Baptism would immediately have to be conferred upon the fetus, since he might soon die.

4. On the contrary, if the existence of the fetus is even only truly and solidly probable, it is illicit to act upon the cyst, for example, by removal, electrical current, or morphine injection, because from these operations the certain death of the infant follows directly and *per se*, and only through it the safety of the mother. Moreover, the Baptism of the infant is rendered impossible.

5. If, by waiting until the fetus is viable, danger to the life of the mother is greatly feared, and the presence of the fetus is not yet known by ordinary indications, nor are there any positive or probable signs of his presence, nor are there means for resolving this doubt, laparotomy could perhaps appear probably licit, because the presence of the fetus is in no way probable but only negatively doubtful, while the danger to the mother is certain. For even in these grave circumstances we are not bound to attend to altogether slight probabilities, or mere possibilities or hypotheses, but a negative doubt, as founded upon nothing, is to be disregarded.[1] Hence the cyst then appears capable of being considered as a mere tumor which proceeds from another cause; and thus it is not directly intended to injure the fetus, of whose presence no sign is or can be had, but directly to remove the tumor, from which the cessation of danger to the mother follows immediately, although the death of the infant could follow indirectly and afterward, if he nevertheless exists.

[1] In this sense are to be understood those things which we proposed less clearly in little work A, I, q. 7, n. I, 2.

II. **How the physician is to proceed.**[2] The procedure is watchful waiting. So long as the cyst, by growing normally and regularly, affords signs of life, or so long as this is probable, one must wait until the normal term of nine months, or until the term when the fetus is certainly viable, in order to extract him. But let the waiting be accompanied by vigilance, so that, in a case of premature rupture, the physician is prepared to intervene. For this purpose the mother can be instructed concerning the indications of this rupture, or, better, she can be placed under observation in a hospital or clinic. Thus an unnecessary operation would not be performed in a case in which the fetus dies or is resorbed; at the same time the viable fetus is preserved and there is a possibility of bringing him to maturity; finally, the danger is reduced to a minimum because the mother remains under the vigilance of the physician or is even placed under observation. For in a case of rupture, hemorrhage rarely brings death to the mother if it is diagnosed in time; hence there is no compelling necessity to forestall or prevent hemorrhage.

[2] Cf. Capellmann-Bergmann, op. cit., 19th French ed., p. 54; Dr. Vincent, in Dr. Clément, *Le droit de l'enfant à naître*, pp. 69–71.

III. **Observations.**

1. Judgment concerning the opportuneness or necessity of the operation in the concrete pertains to the physician, given the liceity of the operation; but judgment concerning the liceity of the operation, even in the concrete, and concerning the necessity of this operation in order that it can be licit, pertains to the theologian.

2. In the question of the ectopic fetus, as in the matter of abortion, the principles have suffered a certain obscuring, both because of a less clear and less firm manner of proposing doctrine, and because of the laxer manner of thinking of certain theologians. From a desire to reduce obligations to a minimum, to excuse, or to permit many things and leave as much liberty as possible to physicians, so that their conscience may remain in tranquillity, they remain silent about the doctrine, or do not urge it, or propose it as somewhat doubtful, or even attempt to treat it as a matter of opinion. But this occurs to the detriment of truth and morality. Moreover, judgment concerning liceity and morality is not to be left to physicians; indeed, it pertains to the good of physicians that the matter not depend upon their own judgment, but, so that they may be able to resist depraved solicitations, they must be able to oppose to them the conscience of an honorable man and the immutable prohibition of the moral law.

3. Let physicians remember that their office is to preserve life and to heal, not to destroy, and indeed the life of the infant as well as of the mother; each has an equal right, equally to be preserved.

4. In the preceding pages we rejected several solutions without formally saying that they are unsafe in practice. Do not conclude from this that they are not certainly false or improbable, and therefore can be put into practice, as someone has thought.[3] On the contrary, by the fact that we opposed sound reasons and sufficiently responded to the contrary arguments, the probability of the impugned solution of itself thereby vanishes, and it follows that it is not secure and is not to be employed in practice, unless the contrary is expressly noted.

[3] Payen, op. cit., ch. XVIII, §3, n. 4.

II. On Sterilization

I. **Sterilization pertains to eugenic science.**

Genetic science is the experimental science of hereditary transmission and variation among living things, namely, plants and animals, and of the laws which govern it; these laws have hitherto been uncertain.

Eugenics is the same science applied to human beings; this latter science is therefore less developed than the former.

The foundation of this science is investigation of the cell.

Eugenism etymologically means good birth. Eugenics intends a good race, a strong and robust people. It proposes to itself the end of rendering the human stock and species better and more robust, since at present there are several causes infecting it, especially certain diseases which continually increase to the great detriment of the family and civil society, such as tuberculosis, syphilis, mental diseases including dementia, alcoholism, morphinism, cocainism, and so forth, and many others. Several of these are transmitted by heredity, arise from a disturbed organic alteration, and are exceedingly frequent. Tuberculosis and syphilis bring the greater injuries upon society.

It is certainly licit to employ means for diminishing and extirpating them, provided that the means themselves are licit, not evil.

But several means which have been employed are illicit and evil. Some are indirect, which positive eugenics uses, such as the legal prohibition of every marriage with any such person, and the obligation of producing a medical certificate establishing health as an indispensable condition of marriage. Others are direct, which negative eugenics uses, such as sterilization, neo-Malthusianism, the procuring of abortion, and so forth.[1]

[1] Hence Payen, *Déontologie médicale*, ch. XII, art. 4, §2, establishes the following concerning false eugenism: False eugenism prevents marriage by the obligatory prenuptial certificate, upon which legal authorization is made dependent; it prevents conception by neo-Malthusianism and sterilization; it prevents birth by abortion; it prevents life by infanticide, before which certain persons do not draw back after birth; it prevents survival in society by the rejection of laws protecting the weak, which, however, it regards as inhuman and cruel.

In what follows we shall speak of sterilization.

II. **Sterilization** (*onvruchtbaarmaking*) signifies an action or operation which renders something sterile, so that it produces no fruit, for example, the action of preventing fermentation. Thus they speak of sterilization of a liquid, such as milk.

In biology, it is an action by which a living being is rendered infertile or incapable of reproduction. In physiology, it is an action which deprives a human being, male or female, of the possibility of procreation, or renders that person incapable of generation.

Sterility is distinguished as twofold: one is mere sterility or solely the incapacity to generate; the other arises from incapacity to perform carnal intercourse apt for generation. The former is called by theologians and canonists simply sterility or impossibility of generating; the latter is not customarily called sterility, but impotence, because it includes impotence to have intercourse, which, if perpetual, is a diriment impediment to marriage.

Theologians understand this of intercourse considered physiologically, or of an action of itself apt for generation, whereby the seed of the man is deposited in the due vessel or in the vagina of the woman. But physicians often consider the matter merely physically, namely, the mere physical possibility of copulation, whether seed is deposited or not. Hence a man who can perform intercourse, although he does not emit seed and cannot emit it, is not impotent for physicians. For theologians, however, he is truly impotent, indeed by natural law, so that if this condition is perpetual, he cannot enter marriage.[2]

[2] Physicians do not thereby deny the doctrine of theologians, but use a different terminology.

III. **There are various manners of effecting sterilization.**

1. **Biological means** can produce temporary sterilization in the woman. Thus:

a. by injection of a certain element of semen, for example, hormones especially of a ram, which acts after the manner of a vaccination rendering her immune for a period of six to eight and one-half months; but perhaps the time could be increased by repeated injections;

b. likewise by injection of an extract from the ovaries, placenta, or fetus.

Similarly, by injection of an anaphrodisiac substance, sterility or impotence can perhaps be obtained in the man, but only for a time.

2. **Physical means** likewise. By the so-called X-rays or Roentgen rays, or by rays produced from radium and directed upon the testicles of the man or ovaries of the woman, temporary or perpetual sterility can arise according to the dose. Thus genital activity is destroyed or atrophy of the testicles and ovaries is procured. But the means is not always infallibly certain. With a weak dose, there is rather a stimulation to ovulation.

Other physical means are painful and uncertain.

3. **Surgical means especially:**[3]

[3] Cf. Muret, *De la stérilisation sexuelle*.

A. **In the man** there are:

a. castration, or removal or extirpation of the two testicles; but its effect is injurious to the organism, namely, it injures health and the virile character because of the absence of the internal secretion of hormones;

b. vasectomy, or the ligation or resection of the two vasa deferentia, that is, the canals which carry sperm or seed from the testicles into the penis, so that the seed cannot be ejaculated. The operation is very simple, not painful, dangerous, or injurious; it lasts five to ten minutes, so that the man can

return to ordinary work almost immediately or already on the following day. Nor does it modify the virile character or sexual appetite, for the man retains perfect seed, but cannot ejaculate it.

It is disputed whether a remedy can be applied to the cutting or resection and communication through the vasa deferentia restored, at least in certain circumstances. Nevertheless, no example is known in which the possibility of generation has been restored to a man.

B. **In the woman:**

a. ovariotomy or hysterectomy, that is, removal of the two ovaries or the uterus, which is performed by the natural way through the vagina (colpotomy), or through the abdomen (laparotomy), in which latter case it brings some danger. Its effects are injurious and it changes the character of the woman; but it injures less than castration does in the man;

b. fallectomy or salpingectomy, that is, ligation or resection of the oviducts, or the two tubes which provide communication between the ovaries and the uterus; by this the ovum is prevented from descending into the uterus and the male seed from reaching and fertilizing it. It includes some danger and can be performed in eight different ways. Nevertheless, it is not always an infallibly certain means; the more efficacious manner is cutting between two ligatures;

c. inclusion of the uterus or its isolation; but this does not provide an always certain means.

Can sterilization be removed and the power of generating restored to the woman, in a case in which the ovaries have not been removed? **Response.** Communication between the ovaries and the uterus can sometimes be restored if there was a simple resection of the tubes or inclusion of the uterus; four cases, namely, are reported.

In modern times castration has come little into use; but ovariotomy for women was often in use toward the end of the nineteenth century. In our days only vasectomy and fallectomy are customarily performed.

Sterilization, therefore, is an action by which a genital organ is removed or substantially injured, or by which the passage of an essential element, namely, the seed or the ovum, into the due place in which conception is possible is impeded.

IV. **The importance of the question is evident** from the fact that not only do certain individuals employ sterilization by private counsel, but in certain States the civil power has introduced it by law or even rendered it obligatory.[4]

[4] The following can be consulted: Davis, *State Sterilisation of the Unfit*; Landmann, *Human Sterilisation*; Nisot, *La question eugénique dans les divers pays*.

This did not originate in Germany; it has already existed for forty years. In the year 1897, a law was proposed in the American State of Michigan, but was not admitted. In 1905, Pennsylvania adopted a law, but it was not sanctioned by the authority of the State. In 1907, a law was enacted in Indiana, and thereafter in many federated States of America. Today, of forty-eight, twenty-seven have a law concerning sterilization.[5] In the Dominion of Canada also, two provinces, namely, Alberta (1928) and British Columbia (1933), have a law.

[5] They are: Indiana, Washington, California, Connecticut, Nevada, Iowa, New Jersey, New York, North Dakota, Kansas, Michigan, Wisconsin, Nebraska, Oregon, South Dakota, New Hampshire, North Carolina, Alabama, Montana, Delaware,

Virginia, Idaho, Utah, Minnesota, Maine, Mississippi, West Virginia, Arizona, Vermont, and Oklahoma. Namely, thirty States; but in two, namely, Nevada and New Jersey, the law is not applied, and in New York it was abrogated in 1920.

In Europe, besides Germany, the Swiss canton of Vaud (*Waadt*) and Denmark introduced a law in 1929; recently Sweden and Norway also did so in 1934, and finally Finland in 1936. A law was proposed in Great Britain; and a certain tendency toward proposing one can be observed in Czechoslovakia and Spain.

Not all the laws are alike, for they are more or less rigorous and extend to some or several categories; some require many more conditions; some permit sterilization only with the consent of the person, if the person is capable of consenting, or with the consent of relatives; others also impose an obligation.

In the federated States of America, according to a statistical computation of 1 January 1933, the persons sterilized in application of the law were 16,066, namely, 6,999 men and 9,067 women, of whom one-half are from California, namely, 8,504 persons. Recently the number has increased to 8,644 men and 11,419 women.[6] Therefore it is not true, as many assert, that the law is not applied in America. Sterilization is almost always procured by vasectomy and fallectomy, namely, in nineteen out of twenty cases.

[6] Before 1921, there were 3,238 persons sterilized, namely, 1,858 men and 1,380 women: 403 because of mental deficiency, 2,700 psychopathic persons, and 135 criminals. By 1 January 1925: 6,244, namely, 3,307 men and 2,937 women.

The American law was enacted principally for eugenic reasons and secondarily for pecuniary reasons, so that the State would have to pay less for the care of the infirm and insane.[7]

[7] Thus Ada Jukes (d. 1740) is adduced, of whom, before the year 1877, 709 descendants were known: 312 were beggars, 76 criminals, among whom were 12 murderers, 174 prostitutes, and 196 illegitimate. But after new investigations made after the year 1877, 2,094 persons of the Jukes family are now known, of whom 1,258 were still living in 1915. Among these, more than half suffered from mental deficiency or epilepsy; 41 had been condemned for a crime; only 65 were normal. For their support in public institutions, the State of New York paid two million dollars. Similarly, Dr. Malley relates that two prostitutes in New York had, through five generations, 709 delinquent descendants, of whom 152 women were prostitutes; for them the State paid 5,500,000 dollars. Likewise a certain man known by the name Zero had 303 descendants, of whom 81 were abnormal, 74 died at a young age, 62 were illegitimate, 36 morally ruined, 84 vagrants, 24 criminals, and 22 doubtful; only 39 were upright. A certain vagrant woman (d. 1740), according to Plate, had as descendants 106 illegitimate persons, 142 beggars, 181 prostitutes, and 76 criminals. The annual expenses for asylums alone in the federated States are 85,000 dollars, and increase each year.

The **German law** was enacted for eugenic reasons, for the improvement of the stock. The State must especially watch over the preservation and perfection of the stock, and indeed the biological and physical perfection of the race, which is a condition of intellectual perfection. Therefore the hereditary transmission of defects is to be prevented. Article 1 of the law reads: "Every person afflicted with a hereditary condition can be rendered infertile by surgical intervention if, from medical experience, it is likely foreseen that his posterity will contract by heredity grave physical and moral abnormalities." The following are regarded as grave: congenital mental deficiency, schizophrenia, manic-depressive insanity, hereditary choreomania (*Erbsveitstanz, danse de St Guy héréditaire*), hereditary epilepsy, hereditary blindness, hereditary deafness, grave hereditary physical deformity, and also grave alcoholism.

Pecuniary reasons were also invoked. The daily expenses for a criminal are 3.50 marks, and for a deaf-mute five to six marks, while workers have a wage of 2.51 marks. In one year, the expenses made for

criminals and persons infirm from heredity are estimated at 350 million marks; others say that they reach one billion marks. Since the German Reich today is among the poorest, it intends to diminish those expenses.

That law does not please many, both in Germany and in international newspapers, which consider rendering such a law obligatory to be contrary to the dignity of the human person.

On 15 January 1935, the *Völkische Beobachter* wrote that 410,600 persons were to be sterilized in Germany, namely, 200,000 because of mental deficiency, 80,000 because of schizophrenia, 20,000 because of manic-depressive insanity, 600 because of choreomania, 60,000 because of hereditary epilepsy, 4,000 because of hereditary blindness, 16,000 because of hereditary deafness, 20,000 because of grave physical defects, and 10,000 because of grave alcoholism.

Many were disturbed by these numbers. Hence the ministerial counselor Gutt declared that he would take every precaution lest there be abuses in the application, and said that the aforesaid computations were exaggerated.

Certain concessions were also made to Catholics: persons sentenced to sterilization need not undergo it if they are willing to remain confined in an institution where every sexual relation is carefully prevented. And Catholic physicians are not obliged to designate the infirm who ought to be sterilized under the law.

But these declarations and concessions regard certain circumstances in the execution of the law, not the principles upon which it rests.

V. **The questions to be treated concern the morality of sterilization:**

1. the morality of private sterilization;

2. the morality of sterilization to be imposed by public authority;

3. cooperation in sterilization.

To these is to be joined an appendix concerning the marriage of sterilized persons.

We shall speak briefly concerning these matters.

Question One: On the Morality of Private Sterilization

I. **Sterilization belongs to the genus of mutilation.** For it is an action which renders a person sterile or infertile. Hence it is mutilation under both the moral aspect and the medical and surgical aspect: an operation by which a bodily member or organ is removed or rendered unfit for its natural function, or which suppresses a member or organ, or its use or organic function,[1] in the case, the function of generating.

[1] Etymologically, mutilation is the amputation or removal of a member; but theologically, a grave injury is also called mutilation, as when an organ remains but is deprived of its natural function.

Direct mutilation, which is intended in itself as an end or means, is distinguished from indirect mutilation, which is not intended in itself either as an end or as a means. The former is an action

which immediately tends toward nothing other than mutilating; the latter is an action which immediately tends toward something else, although mutilation also arises from it. Direct and indirect killing are distinguished in the same way.

Now it is evident that an action which mutilates indirectly is licit for a proportionately grave reason, or because of a greater good which follows immediately from the action itself and not through the mutilation. Hence we inquire concerning the liceity and morality of direct mutilation and sterilization.

II. **Direct sterilization is not licit except for the good of the whole body.** No private person can mutilate himself or mutilate another, because man is not the master of the human body, over which he does not have full and perfect dominion, but only its use or a certain useful dominion. It is nevertheless licit if it is necessary for the health of the whole body, because it is right to remove a part in order to preserve the whole. As St. Thomas says, II-II, q. 65, a. 1:

> "Since a member is a part of the whole human body, it exists for the sake of the whole, as the imperfect for the perfect. Hence the members of the human body are to be disposed of according as it is expedient for the whole. Now a member of the human body is indeed *per se* useful for the good of the whole body; nevertheless, *per accidens* it can happen that it is harmful, for example, when a putrid member is corruptive of the whole body. Therefore, if a member is healthy and remains in its natural disposition, it cannot be cut off without detriment to the whole body.... But if a member, because of putrefaction, is corruptive of the whole body, then it is licit, with the will of the person whose member it is, to cut off the putrid member for the health of the whole body, because to each person is entrusted the care of his own health. And the same reason holds if it is done by the will of him to whom it pertains to care for the health of the person who has the diseased member. But otherwise, to mutilate someone in a member is altogether illicit."

Hence, apart from a case in which the operation is necessary for the health of the body so that it cannot otherwise be obtained, direct sterilization is intrinsically evil,[2] because it is contrary to natural law. It is also a notable or grave mutilation, as depriving a person of the function of generating, which is of the greatest importance. And therefore it is a grave sin.

[2] Some say that sterilization is not evil of itself, a manner of speaking which could be understood badly. Certainly it is not evil of itself in the sense that it is not essentially and always evil, as are idolatry, blasphemy, lust contrary to nature, lying, and so forth, since it can sometimes be good. Nevertheless, sterilization not necessary for the health of the body is naturally and intrinsically evil, because it is contrary to natural law; but everything which contradicts natural law is intrinsically evil and evil according to itself, from its proper object and independently of circumstances, as contrary to the order of nature. The private homicide of an innocent person is also naturally and intrinsically evil; not essentially, because it would be performed licitly at God's command. Cf. *Summa Theologiae Moralis*, I, n. 258.

It cannot be considered slight:

a. From the fact that, as someone has said,[3] some sterilization, such as vasectomy, is performed without pain and danger; that it is not injurious to health or character; and that it is performed in a short time because the amputation is minimal. These circumstances do not aggravate the operation; but the operation is not to be judged grave or slight according to circumstances, for example, from danger or pain, duration, extent, or the size of the member. Before all else, the object is to be attended to, which is the deprivation of the very function of generating. But this is grave, in the same

way as the cutting of the optic nerve, which deprives the eye of the faculty of seeing, is a grave mutilation by reason of the function of which it deprives.

[3] Donovan, in *Ecclesiastical Review*, 1910.

b. Nor from the fact that sterilization does not always remove every organic function, since in vasectomy and fallectomy the usefulness for the well-being of the whole body remains from internal secretion, and only the ejaculation of seed or the descent of the ovum into the uterus is impeded; therefore, it is said, there is no destruction of the genital function.[4] For it suffices for grave mutilation to deprive one of a faculty of great importance, or of one principal function. In the case, although one function is not impeded, another of the greatest importance is impeded. And certainly, if a physician cut the nerve which governs the reflex movement of the arm, the mutilation would not be slight because another function of the arm remained and one could still extend the arm.

[4] Thus Mayer, *Gesetzliche Unfruchtbarmachung Geisteskranker*, 1927.

c. Nor from the fact that someone can renounce the right of procreation. He can indeed renounce the use of the right, but cannot take away from himself the radical right and faculty of generating, or the natural function thereof, because he does not have dominion over it.

The aforesaid doctrine is now found altogether confirmed in the encyclical *Casti connubii*:

> "That private persons themselves have no other dominion over the members of their own body than that which pertains to their natural ends, and that they cannot destroy or mutilate them, or by another way render themselves unfit for their natural functions, except when the good of the whole body cannot otherwise be provided for, Christian doctrine establishes and it is altogether evident from the light of human reason itself."

Here three things are to be noted: 1. it is Christian doctrine, not mere opinion; 2. this doctrine belongs to natural law, for it is evident by the light of reason; 3. an action by which one renders oneself unfit for a function is affirmed to be equivalent to mutilation.

III. **Corollary.** From this it follows that mutilation:

1. is not licit unless the immediate end of the work is the health of the body;

2. is in no way licit for prophylactic, eugenic, economic-social, or social-hygienic reasons, for the hygiene of the stock, or in order to avoid conception;

3. neither is it licit for a spiritual good, both because a member is immediately ordered only to the good of the body, and because the spiritual good can be obtained in another way, and therefore the operation is not necessary. Hence St. Thomas, loc. cit., ad 3:

> "A member is not to be cut off for the health of the whole except when aid cannot be given otherwise. But aid can always be given to spiritual health otherwise than through the cutting off of a member, because sin is subject to the will.... And therefore in no case is it licit to cut off a member in order to avoid any sin whatever."

In these cases the principle must be applied: Evils are not to be done that goods may come about.

IV. **Observation.** Some regard mutilation licit for the health of the whole body as indirect. The indirect is licit for a proportionately grave reason, because its effect is twofold: the good, which is intended, namely, the health of the body; and the evil, which is permitted, namely, deprivation of the member; but the good prevails in the case. The only difference is in the manner of speaking, although that manner is not correct. For although sterility follows as a mediate effect, the sterilization itself, at least generally, is immediate and direct. The direct removal of a genital organ, namely, or the direct impediment of generation, is the means for procuring the good effect, the health of the body, or for averting danger.

V. **Question: Whether sterilization is licit for a man abnormally and pathologically erotic, in order that he may be cured?** Some affirm that vasectomy is a remedy for erethism, satyriasis, nymphomania, or an abnormal inclination toward masturbation. Hence many have said that it is probably licit in the case,[5] because it is immediately for the good of the whole body or of the nervous system, if a good effect can truly be obtained from it and cannot be obtained otherwise.[6] But this becomes more doubtful from day to day, since the aforesaid defects are not indeed of the physical order but of the psychic order. Even granting that the effect is obtained, the operation is directed rather to a spiritual good than to the health of the body. Moreover, the effect does not appear to be immediate, but rather to be obtained through the evil effect.

[5] Thus they wrote especially before the encyclical *Casti connubii*.

[6] Some say the same concerning castration, because they regard it as more efficacious for this end. But the greater efficacy appears to be attributed in part to the subjective influence of imagination or suggestion.

Wherefore, according to Antonelli,[7] it would not be licit unless two conditions were verified: 1. that all therapeutic means had been employed without any successful outcome; 2. that it be certain that, unless the erethism is calmed, death or some grave illness will follow from it. These two conditions will never, or at least very rarely, be present.

[7] *Medicina Pastoralis*, III, n. 678, F, p. 434.

They indeed say that the good effect is immediate, since health proceeds from a modification of the organism. But it should rather be said that it proceeds from a modification of the organism as impeding generation.

In practice, so long as it is not established that sterilization is a means of cure, and that in a determinate case it is the sole means, it is illicit to employ it for the sake of cure.

Dr. Pöllmann describes 800 descendants of an alcoholic woman, of whom 107 were illegitimate, 102 beggars, 181 prostitutes, 75 delinquents, and 7 murderers; for all of them the government paid 6,030,000 marks. Dr. Vervaeck relates concerning a criminal born in 1720 that he left 2,000 descendants, of whom 1,500 were subjected to examination: of these 197 are criminals, 300 beggars and vagrants, 440 feeble, drunkards, and abnormal, 50 given to prostitution, 213 upright, and 300 dead in infancy, and so forth.

Question Two: On the Morality of Sterilization to Be Imposed by Public Authority

I. **State of the question.** After what has been said concerning the morality of private sterilization, it must now be asked whether public authority can decree it, or even impose it, for the common good. Not only do many physicians and politicians affirm this; but a few theologians have also been found who doubt concerning this, or who, by way of suspicion or opinion, incline toward admitting it, at least in certain cases.[1] They allege especially two reasons:

[1] Thus Donovan, although hesitantly, asserted in *Ecclesiastical Review*, 1910-1911; likewise Labouré, *ibid.*, 1910-1911; Neoscholasticus, *ibid.*, 1910; later, in principle but with a restriction, J. Mayer, *Gesetzliche Unfruchtbarmachung Geisteskranker*, 1927; likewise Tillmann, in *Bonner Zeitschrift für Theologie und Seelsorge*, 1928.

1. Sterilization is licit for the good of the whole body; therefore it is also licit because of a danger threatening the common good. For just as a member is subordinated to the whole body, so the individual is subordinated to the good of the whole society. But in certain cases a certain utility results from sterilization.

2. The State has the right to deprive individuals of life, liberty, and rights when they abuse them with danger to society; therefore, by parity of reasoning, it can deprive them of the right to enter marriage and of the faculty of generating, in order to forestall abuses and prevent offenses against the common good.

II. **Sterilization to be imposed by public authority is illicit and unjust, unless it is done to punish malefactors.**

The right to life and to the integrity of the members, the right to enter marriage and to procreate offspring, belong to each individual from nature itself as primary and primordial rights antecedent to society; therefore, they do not depend upon society, but man enjoys them logically before he is a member of society, and enters society with them. Public authority, therefore, does not have a direct right and dominion over life and the integrity of members or organs, or over the right and faculty of generating offspring; consequently, it cannot exercise direct power over them, remove them directly, or impede those rights directly, unless it is to punish malefactors or delinquents, upon whom it can justly inflict the penalty of death itself, and *a fortiori* the penalty of mutilation. Hence the aforesaid rights are inviolable and lie outside the competence of the State. Rather, from its own proper mission, the State ought positively to protect the rights of citizens, and has the duty of preserving the security of citizens, defending their rights, and not permitting them to suffer harm in those rights.

The body and the integrity of its members and organs are ordered to the good of the individual, not to the good of society. And although the State can prescribe to citizens that they expose themselves to danger of life for the common good, because natural right dictates this, it nevertheless cannot directly dispose of the life of innocent persons. Hence:

a. Even upon those for whom sterilization is licit for the sake of bodily health, public authority cannot impose it by law or force, because provision for one's own life and health does not pertain to the State and is not necessary for the common good; unless perhaps, exceptionally, in a very rare case, the sterilization of a certain private person could contribute to the common good.

b. It cannot declare sterilization licit for innocent persons of sound mind, apart from the case in which it is necessary for them for the sake of bodily health.

c. It could perhaps impose sterilization as punishment for a proportionate offense: castration, for example, for rape or adultery. But this is almost no longer admitted in modern law and accords less with our customs. Vasectomy and fallectomy, however, are not suitable punishments, because they are not painful and do not deter from crime, since, on the contrary, persons thus sterilized can give themselves to sexual life with impunity. Wherefore, in that case sterilization would rather be an incitement to fornication.

d. As a preventive means of impeding the procreation of offspring infected by heredity from the infirm and insane, it is altogether illicit, because the right of procreation is individual and personal. Moreover, there are other means, such as prohibition by law under penal sanction, separation and confinement, abstinence from marriage, and so forth; therefore sterilization is not necessary.

Such is the morally unanimous consensus of the theologians who have written concerning this matter.[2] And now Pius XI, in the encyclical *Casti connubii*, has explicitly condemned sterilization imposed by public authority:

[2] The following can be cited: Rigby; De Becker; Vermeersch, de Villers, and Salsmans; Ferreres; Wernz-Vidal; Schmitt; Lehmkuhl; De Smet; Schilling; Cathrein; Hürth; Mausbach; Gerrard; Grosam; Stucchi; Tanquerey; Gasparri; Pighi; Wouters; Eschbach; Antonelli; Cappello; Aertnijs-Damen; Marc-Geistermann; Prümmer; Michel, in *Dictionnaire de Théologie*, art. *Mutilation*; Michaud, in *Nouvelle Revue Théologique*, 1914; A. Janssen.

> "Public magistrates have no direct power over the bodily members of their subjects; therefore, where no fault has intervened and no cause for a bloody punishment is present, they can never directly injure or touch the integrity of the body, whether for eugenic or for any other reasons. St. Thomas Aquinas teaches the same when, asking whether human judges can afflict a man with some evil in order to prevent future evils, he indeed concedes this with regard to certain other evils, but rightly and deservedly denies it with regard to bodily injury: According to human judgment, no one ought ever to be punished, without fault, with a corporal punishment, such as being killed, mutilated, or beaten."[3]

[3] *Summa Theologiae*, II-II, q. 108, a. 4, ad 2.

Therefore sterilization is not licit for the advantage of the State, but is unjust, because it is not necessary, because it is superfluous, because it is excessive, and because it is an unjust invasion of the integrity of the person, except in the case of malefactors.[4]

[4] Davis, *Moral and Pastoral Theology*, II, ch. VI, on the Fifth Precept, sect. 8.

III. **Corollary.** Likewise, public authority cannot prohibit even infirm and insane persons from marriage for, say, eugenic reasons. For by the very fact that nature makes a man capable of generation, he has the natural right of procreating. As the encyclical *Casti connubii* says:

> "No law of men can take away from man the natural and primordial right of marriage, or in any way circumscribe the principal cause of marriage established in the beginning by the authority of God: *Increase and multiply*." Hence "those who act thus wrongly consign to oblivion that the family is more sacred (that is, higher and more inviolable) than the State, and that men are begotten primarily not for earth and time, but for heaven and eternity. And it is assuredly not right to burden with grave fault, if they contract marriage, persons otherwise capable of

marriage who, even after every care and diligence has been employed, are conjectured to beget only defective offspring for that reason, although marriage is often to be dissuaded for them."

Moreover, the saying of St. Thomas is to be noted, *Supplement* to the Third Part, q. 64, a. 1, ad 4: "Although infirm offspring is begotten, nevertheless it is better for that offspring to exist thus (especially because of the possibility of the beatific vision) than not to exist at all."

IV. **They object.** A. Just as the members of the body are subordinated to the whole body, so individuals are subordinated to the good of the whole society. For St. Thomas says, II-II, q. 64, a. 2:

"Every part is ordered to the whole as the imperfect to the perfect, and therefore every part is naturally for the sake of the whole. And for this reason we see that, if the cutting off of some member is expedient for the health of the whole human body, as when it is putrid or corruptive of the other members, it is laudably and wholesomely cut off. Now each individual person is related to the whole community as a part to the whole. And therefore, if any man is dangerous to the community and corruptive of it because of some sin, he is laudably and wholesomely killed, that the common good may be preserved."

And q. 65, a. 1:

"Because the whole man himself is ordered, as to an end, to the whole community of which he is a part, ... it can happen that the cutting off of a member, although it tends to the detriment of the whole body, is nevertheless ordered to the good of the community, insofar as it is inflicted upon someone as a punishment, for the restraint of sins. And therefore, just as by public authority someone is licitly deprived of life altogether because of certain greater faults, so also is he deprived of a member because of certain lesser faults."

But this also holds of those citizens who, because of a hereditary taint, are harmful to society.[5]

[5] Thus Mayer holds in principle, *op. cit*. For, he says, in practice the State has no right: 1. because the necessary conditions are lacking, namely, that the hereditary origin and a certain consequence in a determinate case be established; 2. because the utility to be expected is not proved; 3. because other means are not lacking.

Response. The comparison limps. It is true that, just as all the members of a body procure the good of the whole body, so in society all individuals ought to concur toward the good of the whole society. But there are many differences. Members exist for the good of the body alone; individuals do not exist for society alone, nor are they subject to society in all things, for "man is not ordered to the political community according to his whole self and according to all that belongs to him."[6] The members of the body are not persons with rights; individuals are persons having rights which the State ought to preserve.

[6] St. Thomas, I-II, q. 21, a. 4, ad 3.

The whole body is one intrinsic whole *per se*, in which all the parts exist only for the good of the whole; the whole alone is independent and has individuality. Society is an extrinsic whole, one *per accidens*: it is not one being, but consists of many associates who preserve their proper individuality and independence, but among whom there is unity of order. Hence the organs of the body have a special function, but live only through one body and in one body; they do not have a separate existence, and therefore are totally subordinated to the good of the whole. A part of the body, namely, does not have its own end. On the contrary, persons are individuals who, having their own end, exist

for their own sake and not only for society. The person as such is inviolable as regards his end and is subordinated to no one except God alone. Therefore society cannot dispose of persons and of their integrity and natural rights, unless they are malefactors or criminals. They are nevertheless subordinated to the State as regards procuring the common temporal happiness of all; but the State also exists for their sake, as bringing them necessary assistance toward their own end.

The function of the State, therefore, is not to take away the antecedent rights of the person, but to render the exercise of them more secure. Its function is to improve the life and vital operations of its subjects, not to destroy them. And just as it cannot directly impede vital operations, such as thinking, knowing, willing, seeing, hearing, sensing, and eating, neither can it impede the operation of procreating and generating. These natural rights are inviolable.

B. **They insist:**

a. Just as it is licit to cut off a member for the health of the whole body, so too it is licit, if necessary, to procure the health of the whole social body and of the stock.

b. The State can imprison men who constitute a danger to society and impede them from the exercise of a faculty; so too can it act against those who, by generating, constitute a danger to the stock. But imprisonment or separation can be an ineffective or impossible means; therefore sterilization is then licit.

c. St. Thomas says of malefactors that they are like beasts and that it is therefore licit to kill them: "Although to kill a man remaining in his dignity is evil according to itself, nevertheless to kill a sinful man can be good, just as to kill a beast; for an evil man is worse than a beast and does more harm."[7] But this too can be said of a harmful insane person who is led by a bestial sexual instinct: he has lost human dignity, namely, and the right to procreation.

[7] II-II, q. 64, a. 2, ad 3.

Response. If this were so, it would be licit not only to impose sterilization, but rather euthanasia and death. For sterilization does not suffice to prevent scandals and the bestial instinct. But:

1. The radical right which is given with human nature is one thing, and the use of the right another. An insane person who cannot use the right of procreation in a human manner can, while the insanity lasts, be impeded from this use, but cannot be deprived of the radical right itself and of the power of generating, as is done by sterilization. If he had lost this right, it would also be licit for private persons to sterilize him.

2. One who cannot rightly use a right does not lose the right; otherwise he would be deprived of the right to life, to health, to integrity, to private ownership, and so forth. The right is not given with its use, but with human nature, and therefore it inheres in all, even children and the insane. The State cannot take it away, but ought rather to protect it: law ought to guard the rights of citizens. Nor does a right cease because of abuse.

3. St. Thomas always presupposes an offense, sin, and fault, and speaks of deprivation of life or a faculty as punishment; he never said, nor even implied, that this applies to one insane in mind.[8] Hence what he says of sinners who voluntarily harm others through fault is wrongly applied to the insane who involuntarily cause harm. Therefore, just as it is illicit to cut off the

hands of kleptomaniacs in order to prevent their thefts, so it is illicit to mutilate or sterilize the insane lest they harm society.

[8] In the cited places.

Moreover, although each person is ordered to the good of the whole, he is not thereby directly ordered to the health of society.

C. **The common good takes precedence over private good**, and therefore in necessity the State can also demand the sacrifice of life for its own defense.

Response. It is one thing to require citizens, if necessary, to expose their lives for the common good, because natural right demands it; it is another to take away by positive law the rights granted to citizens by nature. The State can defend itself, but by licit means, not by intrinsically evil means.

D. **The necessity of the State is the supreme law:** this is the foundation of all its rights.

Response. This theory is full of dangers. What the common good demands is right. Necessity alone removes disorder from acts otherwise illicit! Then all things would become licit if the State judged them necessary. And the power of the State would be unlimited: the State would not exist for individuals, but individuals would exist simply for the State.

But this is false. Before the State can impose a law for the common good, two things must be established: 1. that the means imposed is not evil; 2. that the right of disposing of it was not given to another before the State. Individuals and families exist before civil society.

V. **Applications.** It is now fitting to apply the principles set forth more concretely.[9] The State imposes sterilization either for the defense of individuals, or for the common good, whether as a punishment or as a preventive means.

[9] The following are taken from the distinguished professor A. Janssen, *Het onvruchtbaar maken van zwakzinnigen en misdadigen,* in *Collectanea Mechliniensia,* 1927; and *Les lois sur la stérilisation,* in *Saint-Luc médical,* 1934.

A. **For the defense of individuals**, as a means of protecting the life and rights of citizens, sterilization cannot be justified. The individuals are either those now living or those foreseen as to be born.

1. **For the protection of the living**, lest they be victims of abnormal and criminal passions, sterilization is ineffective and superfluous:

ineffective, because vasectomy and fallectomy leave the sexual instinct complete and the possibility of intercourse. The latter is infertile, but on that account is all the less avoided by those who are led by a bestial instinct. Likewise, castration is not an effective remedy, for eunuchs also have their loves;

superfluous, because another means exists, namely, separation.

2. **For the protection of weak and abnormal persons to be born:**

a. It can never be said with certainty that the children to be born will necessarily be affected by the defects of their parents. More often an individual altogether different from what had been foreseen is born. Therefore there are only greater or lesser conjectures. But a conjecture cannot be the reason for depriving a man of a certain right which he holds from nature.

b. Even if the children to be born will probably or certainly be abnormal, sterilization is not justified. For no right of children not yet begotten exists, because a right presupposes a subject of the right; before conception the subject does not yet exist. Therefore it is impossible either to injure or to protect their rights. Moreover, even for children or the weak, it is better to be called to life in less favorable circumstances than not to exist in any way: "It is better," says St. Thomas, "to exist thus than not to exist at all." To live is still a great benefit; and their spiritual soul, created in the image of God, can enjoy spiritual life, know God, receive His grace, and be endowed with the eternal vision of Him.

B. **For the common good:**

1. **As a punishment.** It cannot be denied *a priori* that sterilization can be applied as a punishment for a crime; but, all things considered, it is not an effective or adequate punishment.

a. **Mutilation in general** does not appear to be a commendable punishment. It is repugnant to modern ideas and customs, and has been abandoned almost everywhere.

b. **Mutilation of a genital organ in particular** does not appear commendable. The sanction of a punishment is established before an offense in order to deter citizens from the offense, and after the offense in order to restore the order injured by fault, to correct offenders, or to deter others by example. A punishment which is not apt for these ends is unsuitable. Such is sterilization.

Present operations do not cause much pain; therefore they do not deter. The degradation arising from deprivation of the generative faculty can move an honorable or normal man, but not the abnormal and criminal. They prefer sterilization, because they can practice vice with impunity. Experience has proved that many greatly desire it.[10] Such a thing certainly is not a punishment, nor is it able to correct offenders. Moreover, eugenicists now reject punitive sterilization.

[10] Thus Dr. Sharp of Indiana states that 176 persons asked him to perform sterilization upon them, because others had said so many good things about this operation.

2. **As a preventive means against the multiplication of abnormal persons.** This is illicit not only for Catholics, from the encyclical *Casti connubii*, but for all, as contrary to natural law. This does not move many, but it can be said to them that sterilization is not very effective for this end, is not necessary, and presents great disadvantages.

a. **Not very effective.** Punnett, a professor at Cambridge who enjoys great authority in eugenic matters and in the theory of heredity, made a computation according to which sterilization would have to be applied for 216 generations in order to reduce the number of abnormal persons from 1 in 100 to 1 in 10,000. And Dr. Niedermeyer, a Viennese physician, estimates that for thirteen generations more than 500,000 individuals would have to be sterilized in order that the number of those suffering from schizophrenia be reduced from 60,000 to 30,000.[11]

[11] *Saint-Luc médical*, 1936, no. V.

b. **Not necessary**, for danger to the human race is not yet present.

alpha. The number of abnormal persons is not yet so great that society is already under a necessity of defending itself.

beta. Heredity is not the sole cause of abnormal persons. It is impossible to say adequately how great its influence is; but there are many other physical and moral causes, such as blastophthoria, blastotoxia,[12] syphilis, blennorrhagia, alcoholism, defective social conditions, insufficiency of food, unhealthy habitation, and so forth. Therefore the common causes are first to be removed by the State through hygienic remedies. Moreover, the laws of nature appear to tend toward correcting hereditary diseases after some time or some generations.

[12] Dr. Vervaeck asserts that blastotoxia is a cause of degeneration more than heredity.

gamma. Even if heredity were the sole or principal cause, sterilization would not yet be necessary, for other means exist, especially segregation. This is a less radical means, because it impedes only the use and does not take away the faculty. Now, since another means exists, sterilization cannot be employed, because defense cannot exceed the limits of sufficiency and necessity. The American society *Central Association for Mental Welfare* [printed: *Walfare*], which subjected 34,000 cases of mental diseases to examination over ten years, acknowledges that a general law of sterilization is not effective as a preventive means; that the liberty left after sterilization is rather harmful to the sterilized and only causes them to be segregated later; and that sterilization protects neither abnormal persons nor society.[13]

[13] They say: imprisonment is more cruel than sterilization and demands greater monetary expenses. **Response.** Segregation is not necessarily strict imprisonment. Thus in Denmark, the island Sprogø is reserved as a colony for abnormal girls and women, who are occupied with agricultural labors and other work; similarly the island Livø for young men. There they lead a sufficiently happy life, and generally a better one than they would have had in their own family.

3. **It presents great disadvantages in practice.** For:

a. Who ought to undergo sterilization? By what criterion is this to be judged? In the present state of science it is impossible to determine with sufficient certainty which persons will have abnormal children.

Laughlin says: only grave and indubitable abnormal persons; afterward, when the laws of heredity are better known, a broader application will be possible. The German law is more determinate. Nevertheless, it remains difficult to determine in what degree the infirm ought to have contracted the disease. This uncertainty provides occasion for abuses; the law, for example, could be applied to political adversaries more than is necessary.

b. In order to be effective, sterilization ought to be performed at a young age. But in many cases the necessity of sterilizing is manifested only after puberty, or when offspring has already been generated.

c. Among many persons, the presence of a harmful hereditary taint will remain hidden, because they will easily conceal it.

d. There are also dangers of arbitrary application. Abuses are to be feared because of superficial investigations or reports, the exaggerated ideas of certain physicians, and the untimely zeal of officials. Dangers especially threaten the poor and the weak, among whom their very condition will easily be a cause for impeding generation.

e. Even with sterilization in force, a great number of abnormal persons will still have to be confined because of their continuing tendency toward crimes.

f. Finally, physicians acknowledge that sterilization is a means which provokes lust. The number of fornications is increased, free love is fostered, and a custom is introduced of separating the sexual instinct from the end of generation; future generation is preserved, but the present generation is infected by the poison of immorality and becomes most wicked.

And the labor itself can be productive and remunerative. Thus, in the examples given, the remuneration for labor suffices for the support of the life of the infirm and for the expenses of the administration of the colony. And in America, eight colonies of abnormal persons in 1928 even made a profit of 6,000 dollars. Similarly, the colony at Ursberg in Bavaria can subsist well without alms and without subsidies.

Question Three: On Cooperation in Sterilization

I. **Cooperation is called every concurrence afforded to the action of another**; in the present case, concurrence afforded to a sterilization to be decreed or performed by another.

It can be given in diverse ways. One kind is cooperation in the broad sense, which occurs through a moral influence upon the will of another, whether directly and positively, as by commanding, counseling, requesting, seducing, consenting, and so forth; or indirectly and negatively, by not admonishing or not impeding, when someone can and ought to admonish or impede. Another is cooperation in the strict sense, which occurs through a real or physical influence, as by assisting, partially causing, supplying means, and so forth. This is immediate or mediate, according as the cooperator executes the work itself with the principal agent, as if he takes away another's property by carrying it together with a thief; or only supplies means by which the other can perform the work, or can perform it more easily. In the latter case the cooperation can be more proximate or more remote, according as the means exercises a greater or lesser influence and is more or less connected with the work of the other.

By reason of intention, one kind of cooperation is formal, when the cooperator consents to the will of the principal agent and intends the latter's work; another is merely material, when he does not consent to the latter's intention, but acts from another intention with foresight that the other will use it to perpetrate his work.

Now the question is asked whether it is licit to cooperate in sterilization.[1] Here the question concerns illicit sterilization; for if the sterilization is licit, it is also licit to cooperate in it, provided this is done by means which are not evil.

[1] Cf. Grosam, *Die Sterilisation auf Grund privater Auktorität und auf Grund gesetzlicher Ermächtigung*, in *Theologisch-praktische Quartalschrift*, 1930.

II. **Formal cooperation**, which proceeds from an evil intention and from approval of illicit sterilization, is always evil and prohibited. Indeed, it is a sin of the same species as sterilization, as a concurrence formally intending and approving it. Hence it is a special sin against justice.

Such are not only those who spontaneously offer themselves to be sterilized, but also physicians who, on their own initiative and without being bound by a public office, deliberately carry out an illicit sterilization; editors and writers who recommend and propagate it from conviction; deputies who approve by vote a law that sterilization is to be performed; and spouses who consent to the

sterilization of their consort. Indeed, negative cooperators could in this way be guilty, namely, magistrates, officials, and agents who knew that evil sterilizations were being performed in their territory, provided they could and by reason of office ought to impede them, and could do so without inconvenience, but did not.

III. **Merely material but real cooperation, whether immediate or mediate, proximate or remote.** Merely material cooperation is that which, without an evil intention or consent to another's sin, someone freely affords to the action of another, but rather unwillingly, in order, for example, to avoid an inconvenience or loss, or to procure gain for himself.

1. If it is **immediate**, it is always evil, because it consists in the execution of the evil action itself. There is an exception when external goods of fortune are involved, to the removal of which the owner can consent; but this exception does not come under consideration in the question of sterilization, to which it is licit for no one to consent unless it were necessary for bodily health. Hence immediate cooperation in the action of decreeing or performing sterilization is intrinsically evil, just as sterilization itself is, and indeed it is a sin of the same species as the work itself.

Thus physicians who perform the operation unwillingly because they are compelled by law themselves cooperate immediately in the execution of a wicked law; or two physicians who together immediately execute the operation of sterilization itself.

2. **Mediate cooperation**, however, is that which supplies the means required for performing sterilization, by preparing or assisting. This also is of itself illicit unless there is a grave reason, and indeed a proportionately grave one; that is, a reason graver in proportion as the cooperation is more proximate and in proportion as it is more necessary, that is, as the sterilization would more probably be prevented if the cooperation were refused.

For it is licit to place a cause good or indifferent in itself which has two equally immediate effects: one good, which alone is intended, and the other evil, provided there is a proportionately grave reason for acting. But merely material mediate cooperation has immediately a good effect which alone is intended. Therefore it is licit, provided the action is not evil in itself and there is a proportionately grave reason or a sufficient cause for cooperating.

Such cooperators are assisting physicians and nurses; a nurse who, for example, under the direction of a physician, attends to a Roentgen apparatus; subordinate officials who, by writing records or giving some assistance, cooperate in the execution of the law; workers who prepare the instruments or keep them clean or heated; and *a fortiori* those who hand instruments to the physician during the operation.

Cooperation that is altogether proximate, such as that of assisting physicians or nurses who attend to the apparatus, demands a most grave cause, for example, if they would lose their means of support but nevertheless could not impede the sterilization. It would very rarely be licit for Catholic Sisters, for example, if otherwise they would be expelled from the institution with great harm to religion.

Proximate but more remote cooperation requires a lesser cause, yet one still grave, for example, a grave inconvenience, and a greater cause in proportion as the cooperation is more proximate.

Cooperation can be altogether remote, for which the reason of one's office itself suffices. Thus it is licit for servants to keep the operating room or chamber clean or heated.

In a case in which there is not a sufficient reason for mediate cooperation, there is a sin against the virtue which is injured by the action of the principal agent; in the present case, against justice, because it is to assist in injuring justice by an unjust sterilization, although the sin is not of the same most specific species or the same gravity. Moreover, scandal, which can arise, is to be avoided; concerning it only those who know all the circumstances of places and persons can judge. This is not always easy. Hence, if it is doubtful whether scandal is to be feared in the concrete case, judgment concerning it in determinate circumstances pertains to the local Ordinaries, who are able to know and estimate all the circumstances.

IV. **Moral cooperation** is especially that by which someone positively influences the will of him who does evil, and it coincides with direct scandal or scandal inducing one to sin. It is committed, for example, by commanding, counseling, praising, requesting, protecting the sin, in the present case sterilization, or consenting to it.

This is a sin against charity, because it is scandal; and at the same time against the virtue which it induces one to violate, because it directly induces one to this. In the present case it is against justice, which is injured in a special manner whether by private sterilization or by public sterilization.

Such are those who by private authority decree that someone is to be sterilized; those who summon a physician and request sterilization for another; those who command sterilization or invite another to it; and those who report the sick in order that they be sterilized.

V. **Observation.** Illicit cooperation is not only a sin against the virtue or precept to whose violation concurrence is afforded; it is also against charity when the sin would be prevented if the cooperation were omitted.

VI. **Applications.** From the foregoing it follows:

1. It is illicit to recommend or counsel sterilization, to request it or formally consent to a request for it, to present a report or vote concerning persons infected with hereditary disease in order that they be sterilized, or to summon a physician for this purpose; because to recommend, counsel, request, or in any way procure a thing intrinsically evil, and so forth, is likewise intrinsically evil. But merely to report or explain the law of sterilization without approval, merely to indicate diseases or merely to report sick persons while nevertheless knowing that they are to be sterilized, and to summon a physician without saying anything, are not intrinsically evil. Hence, by these means, merely material cooperation can be licit for a grave cause and with scandal excluded. Scandal, however, could easily arise from a public explanation of the law made *ex officio*.

2. It is illicit for physicians to perform the operation of sterilization or to take active parts in carrying out the very act of sterilizing, because this is to do something intrinsically evil. On the contrary, to be present or assist during the operation, to hand over instruments, or to watch over the patient is not of itself intrinsically evil. Wherefore, merely material cooperation in this manner can be licit, but only for a graver cause, because it is altogether proximate cooperation.

3. Likewise, it is illicit for a physician to persuade patients to present themselves for the execution of sterilization, even if he acts thus from the obligation of a public office or of the law, and after the tribunal has pronounced a sentence of sterilization, because to counsel a thing intrinsically evil is always intrinsically evil. Nevertheless, perhaps it would not be illicit to say, "You know the provisions of the law," and merely to declare them without adding persuasion, but only for a graver cause, because this is proximate cooperation.

4. Likewise, it is illicit to present oneself voluntarily for sterilization, because this is to request and consent to a thing intrinsically evil, even if it is done lest a person, after the sentence of the tribunal has already been pronounced, suffer force through compulsion. Rather, he ought not yield except to violence. It is sufficient, however, that force begin to be applied, for example, if an official places his hand upon the shoulder, or if he declares that he has come to employ the force of compulsion. It is not necessary to offer further resistance, because it is then evident to all that the person does not proceed voluntarily but yields to compulsion.

5. Likewise, it is illicit for anyone to permit sterilization to be performed upon himself; rather, he ought to avoid it insofar as is morally possible for him, and to withdraw himself from the sterilization to be imposed.

6. Likewise, it is illicit to compel the sick by force to present themselves for sterilization, even if someone acts thus after the sentence of the tribunal has been pronounced and from the obligation of his office, because this is to compel another to a thing intrinsically evil. This is to be understood of officials who act by their own authority and according to their own judgment, but not of altogether subordinate agents who merely ministerially execute orders by leading persons to a determinate place, and who do not always understand the nature of the thing prescribed or to be executed. These appear to be excused by reason of their office, unless something were demanded of them out of hatred of religion or something manifestly dishonorable.

7. Likewise, it is illicit to discharge the office of judge in a special tribunal instituted solely to treat cases of sterilization. *A fortiori*, it is illicit to pronounce a decretory sentence that sterilization is to be executed, because this is to command a thing intrinsically evil.

Let it not be thought that the judge only pronounces that the conditions indicated in the law have been verified, upon the presence of which the law itself commands sterilization. On the contrary, the judge does not merely declare the law, but as a superior applies the law by his authority to particular cases and persons. For these he commands in the concrete, authentically intimates the obligation to them, and renders them liable to sterilization, since the law commands that they be rendered liable. Hence he establishes and introduces a new obligation, wherefore his sentence is like a particular law.[2] But directly to command a thing intrinsically evil and to oblige one to it is illicit.

[2] St. Thomas, II-II, q. 67, a. 1.

The judge, namely, cannot licitly apply an iniquitous law; iniquitous, I say, not only by reason of incompetence, because it is enacted concerning things not subject to the civil power, for in that case the Church could sometimes concede this or renounce its right; but iniquitous by reason of the

matter or the thing prescribed, because it commands against the natural law. It is never licit, namely, to command a thing intrinsically evil and contrary to natural right.[3]

[3] St. Thomas, II-II, q. 60, a. 5, ad 1.

You will object: a. The judge does not act spontaneously and freely, but is compelled by the force of law. Therefore he is not responsible for the effect of the law. One who is compelled appears to afford only merely material cooperation, which can be licit for a grave cause.

Response. He is compelled not by physical force but by moral violence which leaves freedom. What is done from fear is involuntary in a qualified respect, because it is done with repugnance, but is voluntary simply. The judge acts as an agent, while the legislator gives the mandate. Just as the legislator is responsible for the mandate of the law, so the judge is responsible for the execution of the mandate or law. And just as it is not licit to command something intrinsically evil, neither is it licit to execute it. Thus the judge cooperates immediately in the execution of the iniquitous law; and he formally moves another toward a thing intrinsically evil by commanding it, which is direct scandal.

b. St. Thomas says that it is licit for a judge to condemn an innocent man whom he knows by private knowledge to be innocent, but who publicly and juridically has been convicted of a crime.[4] In judgment he ought to be directed not according to what he himself knows as a private person, but according to what becomes known to him as a public person.

[4] St. Thomas, II-II, q. 67, a. 2, and q. 64, a. 6, ad 3.

Response. It is one thing to apply a law which is just in itself and favors the common good but which *per accidens* has an evil effect; it is another to apply a law unjust according to itself. It is one thing to compel him who has been juridically convicted of a crime according to laws just in themselves; it is another to compel him who is plainly manifest to be innocent and whom iniquitous laws alone intend to oblige to something intrinsically evil. This latter plainly cannot be licit, whereas the former could appear licit in certain circumstances.

c. According to many, it is licit for a judge to pronounce a civil divorce, which nevertheless is intrinsically evil.

Response. Those who think thus say that civil divorce is not intrinsically evil, because it does not dissolve the marriage but only the civil contract, and removes civil protection from the marriage, and consequently the opposition of the law to new civil nuptials. It is altogether another thing to command something intrinsically evil, which is never licit. Hence, if the pronouncement of civil divorce were evidently intrinsically evil, neither could it ever be licit.

No solid probability belongs to these and other similar little arguments which could be adduced. Wherefore it is in no way probable that it is licit for a judge to pronounce the execution of sterilization.

Conclusions

Therefore:

1. Sterilization for a therapeutic cause is licit for individuals, but only for the health of the whole body.

2. Sterilization for a eugenic cause is illicit even for the public authority.

3. Sterilization for a punitive cause is licit for the public authority, but it is not fitting or perfectly reasonable, as not depriving one of sexual appetite.

4. Formal or immediate cooperation in sinful sterilization is illicit; merely material and mediate cooperation can be licit, but for a proportionately grave reason.

Appendix — On the Marriage of Sterilized Persons

I. **A threefold question can be proposed:**

1. whether sterilization renders one impotent for conjugal intercourse and for marriage;

2. supposing impotence, whether it is perpetual or, on the contrary, whether potency for intercourse can be restored;

3. whether the use of marriage is licit for sterilized persons.

II. **Whether sterilization constitutes impotence.** We judge that the answer must be different for the woman and for the man.

A. **In the woman**, sterilization does not constitute true impotence for the matrimonial act or carnal intercourse, nor consequently for marriage itself; but induces only infertility or incapacity to generate. For sterilization in the woman results from deprivation of the ovaries or their perfect atrophy, or from an impediment by which the ovum is prevented from descending into the uterus. But this does not impede the matrimonial act or carnal intercourse, because the ovum is not an essential element of intercourse of itself apt for generation, but only of generation. Thus the Holy Office has resolved, at least practically; and the matter is easily understood: sterilization does not prevent the woman from receiving true semen in the vagina from the penetrating man and retaining it there. Therefore, nothing is lacking for the completion of intercourse itself in a woman who lacks ovaries or ova, or does not provide them.[1]

[1] Nevertheless, a woman who suffers from sterility is bound, from natural honesty, to disclose it before marriage to an ignorant prospective spouse, lest the latter be deceived. And the same holds for a sterile or doubtfully impotent man.

B. **On the contrary, in the man**, in whom various conditions can be considered:

1. Castration of both testicles most certainly constitutes the impediment of impotence, as we know from the declaration of Sixtus V, *Cum frequenter*, 27 June 1587, concerning eunuchs and spadones. The reason is both that they cannot complete perfectly satiating intercourse which calms concupiscence, and that they cannot emit true semen, but only a fluid similar to semen.

2. Irradiation of the testicles can produce sterility, and sometimes impotence, but only for a time.

3. Vasectomy appears to constitute true impotence, because a vasectomized man cannot emit true semen, but only a fluid similar to semen, since he cannot ejaculate anything elaborated by the testicles. But emission of true semen is an essential element of intercourse of itself apt for generation; and if such emission cannot occur, by that very fact an act apt for generation is impossible.

Recently some have said that carnal intercourse does not require that true semen elaborated by the testicles be emitted and deposited in the vagina, but that it suffices for the testicles to produce it, even if it cannot be emitted externally. Hence they say that vasectomized men are capable of intercourse.[2] But although this can suffice for copulation even with delight that is in some measure satiating, it nevertheless does not suffice for conjugal intercourse, or intercourse of itself apt for generation.

[2] Thus Dr. O'Malley and Gemelli, under the pretext that spermatozoa are not an essential element of true semen. But in this they most certainly err, for secretions elaborated by glands other than the testicles produce only a fluid apparently similar to semen. Most recently certain persons proposed the same opinion on the ground that vasectomized men are not incapable of intercourse. Vermeersch also acceded to this opinion, which hitherto he had not yet dared to hold and propose firmly. See *Theologisch-praktische Quartalschrift*, 1936: *Aktuelle Fragen des Eherechts und der Ehemoral*.

And indeed, that act is of itself apt for generation in which nothing on its own part is lacking for generation to follow; that is, an act which, from the manner in which it is performed and from all the elements required for it, including the very condition of the potency and the organ by which it is exercised, is apt for generation, although generation does not follow because of a defect arising from elsewhere. But in vasectomized men intercourse takes place in such a manner and condition that, from the very constitution of the organ, the emission of true semen and consequently generation are altogether impossible, because an essential element has been destroyed, namely, the communication of the canals which carry the semen. Therefore vasectomized men are not capable of an act of itself apt for generation. And although a certain fluid similar to semen can be ejaculated, true semen furnished with spermatozoa, which are an essential element of semen, cannot, since nothing elaborated by the testicles can be emitted. Hence, if we called such an act of itself apt for generation, they would certainly ridicule us. In the same way, the looking by which a blind man attempts to see those standing by would be called an act of itself apt for vision.

Vasectomized men, under this aspect, are like eunuchs.

They say: 1. Under another aspect they are not alike, because they can complete intercourse and seek the calming of concupiscence, which is a secondary end of marriage.

Response. They generally preserve the internal secretion of the testicles, and therefore sexual appetite and all the energy and capacity for intercourse that is even somewhat satiating; and thus a certain secondary end of marriage, the calming of concupiscence, could be obtained. But since this end is subordinated to the primary end, it cannot licitly be procured except by an act of itself apt for generation. "For there are, both in marriage itself and in the use of the conjugal right, secondary ends also," says the encyclical *Casti connubii*, "which spouses are by no means forbidden to intend, provided the intrinsic nature of that act is always preserved and therefore its ordination to the primary end." But among vasectomized men the nature of the act is perverted, and its order to generation is radically removed.

They insist: 2. According to the ancient theologians the power of intercourse sufficed, and there was no question of an act of itself apt for generation.

Response. They did not say this in express words, but it was implicitly contained there, as is evident from the declarations generally added. Moreover, this clearer manner of speaking has already been employed in theology for more than three centuries, and is sanctioned by the Code of Canon Law itself, indeed by canon 1081, §2, in which matrimonial consent itself is defined "as an act of the will

by which each party gives and accepts a perpetual and exclusive right over the body, in order to acts of themselves apt for the generation of offspring." Such a declaration, pertaining to natural and divine law, could scarcely be said to be subject to change. Indeed, it appears to regard the universal Church, since it concerns "those things which by the very nature of the matter also affect the Oriental Church" (can. 1), and for this reason it would fall indirectly under the infallibility of the Church.

Therefore our manner of speaking is conformable to the opinion hitherto common for many centuries, and the new opinion does not appear solidly probable.

III. **Whether the aforesaid impotence is perpetual or, on the contrary, potency for intercourse can be restored.** Definitive impotence certainly results from castration, but the question concerns vasectomy.

Some affirm that the former physiological condition can be restored and communication between the testicles and the penis reestablished. For since the nerves, arteries, veins, and lymphatic vessels are not customarily cut in the operation of vasectomy, and their action remains intact, while only the spermatic cord or vas carrying the semen is resected, atrophy of the testicles does not follow from this, and communication of the excised deferent canal can be restored by suturing together its two extremities. Hence they say that the impotence is merely temporary. Others, regarding this as doubtful, and consequently judging that the aforesaid impotence can perhaps be removed by some operation, assert in consequence that marriage can be permitted to vasectomized men, according to canon 1068, §2: "If the impediment of impotence (namely, perpetual impotence) is doubtful, whether by a doubt of law or a doubt of fact, marriage is not to be impeded." But:

1. The doubt appears negative, as founded upon a mere hypothesis, since up to the present not even one fact is reported of a man who underwent vasectomy and whose potency was restored.[3] But doubts which are negative are commonly taught not to be worthy of consideration, even in this matter.[4]

[3] Concerning this Antonelli, *op. cit.*, III, pp. 429-431, says: "It must be said that the operation of restoration of the deferent canal has up to the present been performed only in cases of epididymitis, with an outcome not too successful.... In a man after vasectomy, this operation has never (so far as I know) been performed. Moreover, there is the fact that the operation of restoration, according to the testimony of Dr. O'Malley himself, is very difficult, requires the greatest skill, and a certain outcome cannot be expected in it. For the lumen, or diameter, of the deferent canal is very small, since it is 1 to 2 1/2 millimeters, and sometimes even 1 millimeter. In the middle, the diameter of the canal reaches a third part of this thickness of the walls, according to ... all treatises of human anatomy. Hence it is exceedingly difficult so to suture the margins of the excised canal that communication can be established in a physiological manner. Nor can it be said that this was obtained in the operation of restoration of the canal in epididymitis.... In epididymitis a lumen not altogether obstructed can remain; but through vasectomy the extremities of the excised canal are necessarily covered by scars, and in the operation of restoration they become shorter, whereby their suturing and the restoration of the former condition become more difficult....

[4] Cf. Vermeersch, *Theologia Moralis*, III, n. 720, referring to Wernz, IV, 345, note 35; Cappello, *De Matrimonio*, n. 367; Wernz-Vidal, *Ius Canonicum*, V, n. 223; Vermeersch-Creusen, *Epitome Iuris Canonici*, II, n. 341, 2; Génicot-Salsmans, *Theologia Moralis*, II, n. 487; Noldin-Schmitt, *Theologia Moralis*, III, n. 569, 4; Chrétien, *De Matrimonio*, n. 148, B, 1°, 2c.

2. Since, therefore, that operation is very problematic, a vasectomized man is rather to be regarded as perpetually impotent until it is established that potency has been restored to him.

He, namely, concerning whom it is established that he was once impotent, must prove that he has become, or can become, potent.

3. Indeed, in practice the impotence is to be regarded as perpetual in the present state of surgical art, because no apt means for restoring potency yet exists.

4. Moreover, although prudence can warn that the impossibility of a certain surgical operation is not easily to be asserted theoretically, nevertheless in certain circumstances it appears impossible: namely, where, besides the cutting of the deferent canals, other vessels also have been excised or tied with a silk thread, and this has lasted for a notable time; or if the cut canals are so affected by atrophy that their physiological operations cannot be restored to their former condition, as can easily occur in a vasectomy which is not recent. Hence it would not be intelligible for marriage to be declared permissible to vasectomized men by a certain general rule and without discrimination. But in particular cases attention must be given to the manner in which the vasectomy was performed and to the present conditions of the organism, so that it can be known whether restoration is altogether impossible, or at least is not possible without grave danger; for then the impotence is perpetual.[5] This can be established from the testimony of physicians. But if they disagree and the doubt remains, marriage is not to be impeded, although ordinarily it is to be dissuaded.

[5] Gasparri, *De Matrimonio*, I, appendix *De Vasectomia*, 3° and 7°.

IV. **Whether the use of marriage is licit for sterilized persons.**

A. For sterilized women the use of marriage is *per se* licit, because *per se* they remain capable of an act of itself apt for generation. But if sterilization results from an illegitimate act voluntary on their part and can easily be removed, it will first have to be removed before they request the marital debt, because otherwise they would voluntarily place an impediment to generation.

B. For sterilized men who are impotent, as generally happens, the use of marriage is illicit. And indeed:

1. If the impotence is only doubtful, after a diligent examination has first been made, it is licit for them to attempt carnal intercourse so long as they have hope of completing it.

2. If the impotence is certain, the use is illicit. For if it is perpetual and antecedent to marriage, the marriage is null, and consequently every use of it is illicit. If the impotence is consequent, the marriage subsists; but intercourse is illicit so long as the impotence lasts, whatever one or another may have thought,[6] for although the radical right to intercourse remains, an unimpeded right or the exercise of the right does not, because there cannot be an unimpeded right of doing, attempting, or exercising an altogether impossible act. And although it is *per accidens* that they cannot perform intercourse apt for generation, nevertheless intercourse such as would occur in them is unfit for generation, not indeed *per accidens*, but *per se*. Hence:

[6] It does not appear that much attention should be paid to this opinion, both because more recently they did not study this question specifically, and because in this matter they do nothing but copy, without a new examination, what certain persons said earlier to be probable.

a. Even to seek the venereal pleasure of intercourse is illicit for them, because pleasure is not licitly sought except for the sake of the act; and if the act is illicit, the pleasure annexed to it is likewise illicit.

b. If potency could easily be restored, it would first have to be restored so that intercourse could licitly be had.

c. Inchoate or incomplete venereal pleasure is also illicit, whatever some have said,[7] because inchoate and incomplete pleasure in its entirety is ordered to consummated and complete pleasure; hence, if one is illicit, so also is the other. An exception is to be made if the impotence will last a short time, because then incomplete pleasure could be had as a preparation, disposition, or arousal toward intercourse to occur in the near future. But this can in no way be said if the impotence is perpetual or remains for a long time.

[7] See the note on the preceding page.

3. **As regards touches, kisses, and looks**, since according to themselves or according to their species they are indifferent acts, a distinction must be made:

a. To exercise those acts in order to intercourse, as though they are a preparation for or beginning of the complete act, is generally illicit, because for those to whom consummation is illicit, its preparation and beginning are also illicit. Hence they cannot seek venereal pleasure in those acts, voluntarily perceive it, or consent to it when it arises, saving the exception indicated above under 2.c, because the entire pleasure exists for the sake of intercourse, which is prohibited to them.

b. To exercise those acts moderately, insofar as they pertain to the conjugal state and belong to spouses more than to others, or insofar as they are of themselves directed to mutual love and mutual consolation, is licit for impotent spouses, even if it is foreseen that venereal pleasure will arise or that pollution will follow *per accidens*, provided they do not consent to these and are not in proximate danger of consenting.

In practice, impotent spouses can easily be ignorant in good faith concerning these matters, and for a grave reason can be left in that good faith, provided a greater evil is not to be feared.

"The experiments instituted by Gemelli upon dogs and cats which he had previously subjected to the operation of vasectomy, and in which he afterwards affirms that he joined the excised deferent canals with a successful outcome so that the animals subsequently even produced spermatozoa, did not generally receive the applause of physicians. For he himself says only that he successfully performed this restoration after vasectomy. But in a question of such moment many more things ought to have been added and elucidated. For we do not know the particulars of the operation; how long after the vasectomy the operation of reintegration was performed; the method employed; possible changes in the testicles after vasectomy; and so forth.

"Moreover, whatever may be true of the experiments of Father Gemelli, we have no operation restoring the aforesaid canals in a man after vasectomy; and from experiments upon dogs and cats moral certainty cannot be had that in a man the operation can result with lesser difficulty.... Moreover, the other reasons which we have set forth remain intact concerning the very doubtful outcome, and concerning profound changes with atrophy in the ligation of the deferent canals, and therefore in their resection. Consequently, the difficulties in performing the operation of

reintegration of the deferent canals are increased, so that the former physiological condition may follow, especially if the vasectomy was performed no short time previously."

Synoptic Conspectus of the Doctrine Of Both Booklets A and B, Coordinated According to Logical Order

Let one who wishes to traverse the whole complex of all the questions, whether in learning or in teaching others, choose the following order.

Subject	Reference
General introduction concerning embryology	B, n. I
Questions to be treated	A, introd. B, n. II

Questions Pertaining to Embryology Itself — Question I. Physiological Notions Concerning the Uterine Life of the Fetus, Its Development, and Birth

Subject	Reference
1. Uterine development of the fetus	A, I, q. 1, n. I
2. Pregnancy	A, I, q. 1, n. II
3. Birth	A, I, q. 1, n. III
4. Abortion and premature birth	A, I, q. 1, n. IV
5. Phases of the development of the fetus	A, I, q. 1, n. V
6. Extrauterine or ectopic pregnancy	A, I, q. 1, n. VI
7. False or imaginary pregnancies	A, I, q. 1, n. VII
8. Anomalies and monsters	A, I, q. 1, n. VIII

Question II. Theological Principles Concerning Actions Harmful to the Life or Integrity of Man

Subject	Reference
1. From the doctrine concerning human acts	A, I, q. 2, n. II
2. From the doctrine concerning justice	A, I, q. 2, n. III
3. From the doctrine concerning charity	A, I, q. 2, n. IV

Question III. Caesarean Section and Other Operations Which Injure the Mother

Subject	Reference
1. Various operations	A, I, q. 3, n. I
2. Liceity and obligation of the operation while the mother is living	A, I, q. 3, nn. II-III B, I, q. 1, n. II
3. Obligation of the operation when the mother is dead	A, I, q. 3, n. IV B, I, q. 1, n. III

Subject	Reference
4. Cases	A, I, q. 3, n. V
5. Other connected operations	A, I, q. 3, n. VI

Question IV. Embryotomy, or Operations Which Injure the Fetus

Subject	Reference
1. Various operations	A, I, q. 4, n. I
2. History of the question concerning feticide	B, I, q. 2, n. II
3. Embryotomy and every action directly killing the infant are illicit	A, I, q. 4, n. II B, I, q. 2, nn. III-IV
4. Occasion of error	B, I, q. 2, n. V
5. Observations	A, I, q. 4, n. III B, I, q. 2, n. VI

Question V. Procurement of Abortion

Subject	Reference
1. Procurement of abortion	A, I, q. 5, n. I B, I, q. 3, n. I
2. Causes of abortion	A, I, q. 5, n. II B, I, q. 3, n. II
3. Diverse opinions	B, I, q. 3, n. III
4. Direct abortion is illicit; indirect abortion can be licit	A, I, q. 5, nn. III-V B, I, q. 3, n. IV
5. Occasion of error	B, I, q. 3, n. V
6. Is abortion homicide?	B, I, q. 3, n. VI
7. Observations	A, I, q. 5, n. VI and Appendix B, I, q. 3, n. VII
8. Disputed cases	B, I, q. 3, n. VIII

Article I. Excision of the Diseased Pregnant Uterus

Subject	Reference
1. Occasion of the dispute	B, I, q. 3, a. 1, n. I
2. State of the question	B, I, q. 3, a. 1, n. II
3. Arguments and responses	B, I, q. 3, a. 1, n. III
4. Judgment concerning the controversy: excision of the uterus is probably licit	B, I, q. 3, a. 1, n. IV
5. What follows after the controversy?	B, I, q. 3, a. 1, n. V
6. Corollary	B, I, q. 3, a. 1, n. VI

Article II. Puncture of the Amnion

Subject	Reference
1. Puncture of the amnion	B, I, q. 3, a. 2, n. I
2. State of the question	B, I, q. 3, a. 2, n. II

Subject	Reference
3. Puncture of the amnion to avert danger from the mother is illicit	B, I, q. 3, a. 2, n. III
4. Puncture of the amnion for baptizing the fetus is probably licit	B, I, q. 3, a. 2, n. IV
5. Observations	B, I, q. 3, a. 2, n. V

Article III. Cleansing of the Pregnant Uterus

Subject	Reference
1. State of the question	B, I, q. 3, a. 3, n. I
2. Cleansing in the case of a dead fetus is licit	B, I, q. 3, a. 3, n. II
3. Cleansing in the case of a fetus detached from the uterus is licit	B, I, q. 3, a. 3, n. III
4. Cleansing in the case of an irreparably disturbed pregnancy is probably licit	B, I, q. 3, a. 3, n. IV
Warning	A, I, q. 5, n. VII

Question VI. Artificial Premature Birth

Subject	Reference
1. Acceleration of birth	A, I, q. 6, n. I
2. When it is licit	A, I, q. 6, n. II
3. Is it obligatory?	A, I, q. 6, n. III

Question VII. Operations Concerning Ectopic Fetuses

Subject	Reference
1. Ectopic or extrauterine pregnancy	B, I, q. 4, n. I
2. False opinions	B, I, q. 4, n. II
3. Conclusions	B, I, q. 4, n. III A, I, q. 7, n. II
4. Disputed questions	B, I, q. 4, n. IV

Article I. Removal of the Fetal Sac

Subject	Reference
1. State of the question	B, I, q. 4, a. 1, n. I
2. Judgment: removal of the fetal sac is illicit	B, I, q. 4, a. 1, n. II
3. Corollary	B, I, q. 4, a. 1, n. III

Article II. Removal of the Oviduct Containing the Fetus

Subject	Reference
1. State of the question	B, I, q. 4, a. 2, n. I
2. Judgment: removal of the oviduct can probably be licit	B, I, q. 4, a. 2, n. II
3. Practical applications	B, I, q. 4, a. 2, n. III
4. Observation	B, I, q. 4, a. 2, n. IV

Article III. Ligation of the Arteries

Subject	Reference
1. Ligation of the arteries can be licit	B, I, q. 4, a. 3, n. I
2. Corollary	B, I, q. 4, a. 3, n. II
Conclusions	A, I, q. 7, n. I B, I, q. 4, concl.
Observation	A, I, q. 7, n. III

Questions of Embryology Concerning the Administration of Baptism — Question I. Theological Principles Concerning the Matter of Baptism

Subject	Reference
1. Three things required for the validity of baptism	A, II, q. 1, n. I
2. Valid, invalid, and doubtful remote matter	A, II, q. 1, n. II
3. Proximate matter	A, II, q. 1, n. III
4. Matter required for liceity	A, II, q. 1, n. IV

Question II. Theological Principles Concerning the Form of Baptism

Subject	Reference
1. The form of baptism, in which are to be expressed:	A, II, q. 2, n. I
2. The person baptizing	A, II, q. 2, n. II
3. The act of the one baptizing	A, II, q. 2, n. III
4. The person baptized	A, II, q. 2, n. IV
5. Unity of the divine essence	A, II, q. 2, n. V
6. Trinity of Persons	A, II, q. 2, n. VI
7. Matters to be observed in the pronunciation of the form	A, II, q. 2, n. VII

Question III. The Baptism of Unborn Children in the Mother's Womb

Subject	Reference
1. Is baptism in the womb valid?	A, II, q. 3, n. I
2. Three hypotheses to be considered in this baptism	A, II, q. 3, n. II
3. Cases in which baptism is to be administered in the womb	A, II, q. 3, nn. III-IV
4. Practical manner of baptizing in the womb	A, II, q. 3, n. V

Question IV. The Baptism of Immature Fetuses

Subject	Reference
1. The question concerning the moment at which the fetus is animated by a rational soul	A, II, q. 4, n. I
2. Practical conclusion regarding baptism	A, II, q. 4, n. II
3. Certain signs both of death and of life	A, II, q. 4, nn. III-IV
4. Practical manner of conferring baptism	A, II, q. 4, n. V
5. Causes and signs of accidental abortion	A, II, q. 4, n. VI

Subject	Reference
6. Practical admonitions for physicians, midwives, and spouses	A, II, q. 4, n. VII
7. Observation concerning burial of the fetus	A, II, q. 4, n. VIII

Question V. The Baptism of Monsters

Subject	Reference
1. Simple monsters	A, II, q. 5, n. I
2. Conjoined monsters	A, II, q. 5, n. II
3. Matters to be observed	A, II, q. 5, n. III
4. Baptism of the insane	A, II, q. 5, n. IV

Question VI. The Baptism of Persons under Condition [printed as Question V]

Subject	Reference
1. When baptism is to be repeated under condition	A, II, q. 6, n. I
2. Conclusion regarding baptism administered by a physician, midwife, or layperson	A, II, q. 6, n. II
3. Baptism of an exposed child	A, II, q. 6, n. III
4. What is to be said of one who, educated among Christians, lacks testimony of baptism?	A, II, q. 6, n. IV
5. Baptism of heretics and schismatics	A, II, q. 6, n. V
Epilogue	A, II, q. 6, n. VI

Questions Concerning Sterilization

Subject	Reference
1. Eugenic science	B, II, n. I
2. Sterilization	B, II, n. II
3. Various manners of sterilization	B, II, n. III
4. Importance of the question	B, II, n. IV
5. Questions to be treated	B, II, n. V

Question I. The Morality of Private Sterilization

Subject	Reference
1. Sterilization belongs to the genus of mutilation	B, II, q. 1, n. I
2. Direct sterilization is not licit except for the good of the whole body	B, II, q. 1, n. II
3. Corollaries	B, II, q. 1, n. III
4. Observation concerning the manner of speaking	B, II, q. 1, n. IV
5. Whether sterilization is licit for an erotic man, in order that he may be cured	B, II, q. 1, n. V

Question II. The Morality of Sterilization to Be Imposed by Public Authority

Subject	Reference
1. State of the question	B, II, q. 2, n. I
2. Sterilization to be imposed by public authority is illicit	B, II, q. 2, n. II
3. Corollary	B, II, q. 2, n. III
4. Objections and responses	B, II, q. 2, n. IV
5. Applications	B, II, q. 2, n. V

Question III. Cooperation in Sterilization

Subject	Reference
1. Various manners of cooperating	B, II, q. 3, n. I
2. Formal cooperation	B, II, q. 3, n. II
3. Merely material cooperation, immediate and mediate, proximate and remote	B, II, q. 3, n. III
4. Moral cooperation	B, II, q. 3, n. IV
5. Matter to be observed concerning scandal	B, II, q. 3, n. V
6. Practical applications	B, II, q. 3, n. VI

Subject	Reference
General conclusions	B, II, q. 3, at the end

Appendix Concerning the Marriage of Sterilized Persons

Subject	Reference
1. Threefold question to be investigated	B, app., n. I
2. Whether sterilization constitutes impotence	B, app., n. II
3. Whether it is perpetual or, on the contrary, potency can be restored	B, app., n. III
4. Whether the use of marriage is licit for sterilized persons	B, app., n. IV

Index (as printed)

Contents	Printed page
To the Benevolent Reader	5
General Introduction concerning Embryology	7

I. Questions Concerning Operations during Pregnancy or Birth

Contents	Printed page
Question One. Caesarean Section and Other Incisions Which Injure the Mother	10
Question Two. Embryotomy, or Incisions Which Injure the Fetus	14
Question Three. Procurement of Abortion	24
Article I. Excision of the Diseased Pregnant Uterus	29
Article II. Puncture of the Amnion	40
Article III. Cleansing of the Pregnant Uterus	46
Question Four. Operations Concerning Ectopic Fetuses	49
Article I. Removal of the Fetal Sac	54
Article II. Removal of the Oviduct Containing the Fetus	56
Article III. Ligation of the Arteries	59
Conclusions	60

II. Questions Concerning Sterilization

Contents	Printed page
Introduction	64
Question One. The Morality of Private Sterilization	70
Question Two. The Morality of Sterilization to Be Imposed by Public Authority	74
Question Three. Cooperation in Sterilization	84
Conclusions	90
Appendix. The Marriage of Sterilized Persons	91
Synoptic Conspectus of the whole doctrine coordinated according to logical order	98
Index	105

Publisher's Notices

Booklets Published by the Reverend Father Merkelbach, O.P. — In the Collection *Pastoral Questions*

They were universally received with gratitude and confirmed by the praises of many.

The aforesaid booklets, although previously published, are nevertheless a necessary complement to the *Summa of Moral Theology*, since they treat questions more profoundly and extensively, and in another order, or more practically, or even treat new and diverse questions. This is especially evident in booklets I, II, III, and VI.

I. On Chastity and Lust: Third Edition

> ...His chapter on the causes of and remedies for carnal sins is well timed, and will be especially valuable for confessors and directors of youth.

The Month.

> Brief, clear, methodical: these are the first qualities of a summary which the author wished to be, as far as possible, complete so that it would be practical. The preliminary anatomical and physiological notions are happily chosen: here are found details ordinarily passed over in silence, and nevertheless indispensable. We cannot point out all the particulars of this work which are worthy of praise: we would never finish.

Collationes Namurcenses.

> We commend this booklet by the distinguished author as being of the highest quality: skillfully and concisely, indeed, it treats a matter now much and long discussed, and one certainly difficult.

Divus Thomas, Piacenza.

> No theoretical digressions, but the correct and certain exposition of everything required to form the reliable adviser and confessor.

Ons Geloof.

> A work of great clarity in its terminology, of true solidity in its pastoral and penitential practice, and in which we find what is too often lacking in similar works: the physiological and moral notions necessary to the confessor.

P. Hourat, *Bulletin Circulaire*.

> The treatise *On Chastity*, while complete, remains brief, as befits a work having above all a pastoral purpose. Its object is chastity in marriage as well as in celibacy; it does not omit the study of the causes and remedies of lust.

Collationes Tornacenses.

II. On Embryology and the Administration of Baptism: First Section, Second Edition

This volume brings together and develops somewhat more than general treatises of moral theology do the questions relating to abortion, surgical interventions, and the administration of baptism. In these matters, which give rise to so many anguishing cases of conscience, the opinion of the eminent professor, whose subtlety of analysis and rigor of reasoning are sufficiently known, will be learned with great interest. He solidly proves the severe solutions proposed by the Church; he very happily refuses to proclaim an obligation certain when it cannot be proved in a sufficient manner.

J. Salsmans, S.J., *Nouvelle Revue Théologique*.

The doctrine in general is safe, the exposition clear and orderly, and the end intended by the author excellent. The booklet will certainly prove useful, especially to priests who exercise the care of souls. We willingly recommend it.

Felice M. Capello, S.J., *Gregorianum*.

III. On Various Categories of Penitents: Second Edition

...The doctrines are clearly expounded, the arguments summarily but solidly proposed, and the solutions frankly given. And we will open this work with the certainty that we shall find what we seek. For everything which ought to be there is there, and there is more than one expected to find. Every kind of penitent is reviewed, from children, the simple, those in occasions of sin, relapsing penitents, habitual sinners, the sick, and so forth, up to abnormal persons, the devout, contemplatives, and so forth. The author takes advantage of these diverse questions to sketch little special treatises: ...on contemplation and its degrees, ...on the morality of dances and dress, ...on the absolution of the excommunicated, ...on temperaments. How many instructive things professors of pastoral theology do not have time to develop before their students! Here it is done by a master. Let confessors consult it: they will not regret doing so.

G. Kiselstein, *Revue Ecclésiastique de Liège*.

Father M. gives us a truly excellent pastoral-theological treatise concerning the administration of the Holy Sacrament of Penance.... Through its clear expositions and sound judgment, this book acquires a distinctive value of great utility for every confessor.

Studiën.

IV. On the Minister of Penance and His Duties: Second Edition

Very Reverend Father,

...It is with lively gratitude that I received your book *On the Minister of Penance*. Thank you for sending it to me, and thank you also for publishing it. I am persuaded that it is worthy of your preceding works.

Your studies of pastoral theology will thus constitute a whole of the very first value. I wish for your books the widest and most enduring influence.

J. E. Cardinal Van Roey, Archbishop of Mechelen.

> They are both pastoral treatises, and will be acceptable to all shepherds of souls. The former deals with the confessor's treatment of various classes of penitents, much as St. Alphonsus did so well in the *Homo Apostolicus*. Father Merkelbach has given us the benefit of wide reading and a long experience. The second monograph deals with the confessor himself, his powers, jurisdiction, reservation, the seal, and so forth. Though the seminarian will hardly have time to read them with all his other work, the priest on the mission should find time to do so.

The Month.

V. On the Parts of Penance and the Dispositions of the Penitent

> Like the two volumes which preceded it, this one is a summa of dogmatic and moral doctrine, at the same time as a precious pastoral manual. It is the fruit of numerous readings but also of long reflections. Upon everything he touches the author places a stamp of order and measure, and he declares himself satisfied only when he has rendered it substantial with ideas proposed, explained, defended, and coordinated. Too modestly he titles his works *Pastoral Questions*. Read the present work, and you will see that it lacks no aspect which could appear in an extended treatise, not even historical observations drawn from universally esteemed authors. Here will be found what concerns the matter of the Sacrament of Penance, remote matter and proximate matter, that is, the acts of the penitent: contrition, confession, and satisfaction, with the various questions customarily treated concerning them.

G. Kiselstein, *Revue Ecclésiastique de Liège*.

> In various fascicles, M. publishes the most important doctrinal parts of pastoral theology. The fascicles are essentially a welcome compilation of the teachings presented by various authors.

Zeitschrift für katholische Theologie.

> All kinds of questions, elsewhere distributed among different treatises and sometimes touched upon only in passing, are found here systematically ordered and discussed more fully, with references to the best authors. This is indeed the great merit of this series.

Studiën.

> ...A series of pastoral-theological booklets which, in our opinion, is eminently worthy of particular attention, especially from clergy engaged in the ministry.... The strong, expressive printing, alternating ordinary type, bold type, and italic type, corresponds to the contents. In these booklets the author shows himself an excellent theologian, whose works, at once theoretical and practical, deserve the highest recommendation.

M. van Grinsven, C.Ss.R., *Nederlandsche Katholieke Stemmen*.

C. Salmon, O.P. — VII. On the Sacrament of Marriage

> This seventh fascicle of the *Pastoral Questions* is a good summary of the treatise on marriage: brief, clear, practical.... It is well informed concerning the most recent decisions of the Pontifical Commission for the Interpretation of the Code.

A. C., *Collationes Namurcenses*.

> It is a very well-made summary of current teaching.... We know of no work of this kind superior to it.

Revue Ecclésiastique de Liège.

> The treatise on the Sacrament of Marriage by the Reverend Father Salmon is in no respect inferior to those of the Reverend Father Merkelbach: the same concision, the same clarity, the same precision in the exposition of theory. We could add, the same concern to connect practice with theory and to illuminate the latter by the former.

Revue Dominicaine (Canada).

> This especially is held to be a praiseworthy merit in the present work: by using this guide, a priest will be able as quickly as possible, as it were in a single brief view, to perceive the whole treatise on marriage. Such complete knowledge is certainly an advantage of no small moment for the pastoral ministry.

Armand Gougnard, *Collectanea Mechliniensia*.

> Almost nothing on purely speculative questions, no long theories concerning controverted points, but always practical, frank, and sure solutions. Thanks to the sound divisions made evident by an excellent typographical arrangement, consultation of the work is easy and rapid.

D. A. S., *Revue Liturgique et Monastique* (Maredsous).

B. H. Merkelbach, O.P. — Summa of Moral Theology — According to the Mind of St. Thomas and According to the Norm of the New Law

> The work of Father B. H. Merkelbach will be most useful by reason of its clarity, the exactness of its definitions, and that of its generally well-justified divisions. On many difficult and complicated questions, it gives in few words a solution whose precision manifests the very conscientious and profound study which he made of it, while keeping abreast of the most recent works.

F. Garrigou-Lagrange, O.P., *Angelicum*.

> We are persuaded that students, from the study of this work, will arrive at a more solid and more scientific knowledge of moral theology than from many even celebrated manuals of moral theology. To the praise of the author we add that he wrote his work methodically and in a style not difficult.... Truly and heartily we congratulate the distinguished professor upon this eminent work, which we judge useful also for professors.

Vermeersch, *Gregorianum*, 1932 (fasc. 2).

> A strong work, because it was thought through and conducted with constant care for logic; compact, because fully up to date, touching upon all questions of morals, in a close style, without useless digressions. Once again we were struck by the precision of the author's formulations.... To this is added great erudition....

G. Kiselstein, *Revue Ecclésiastique de Liège*.

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J. Creusen, S.J., *Nouvelle Revue Théologique*.

> We have the impression that these two volumes belong among the best works offered in recent times in the speculative-theological renewal of moral theology. That the doctrine is maintained in a strictly Thomistic manner is an unqualified gain.

Dr. Damen, C.Ss.R., *Nederlandsche Katholieke Stemmen*, November 1932.

> Everything is diligently elaborated, fully treated, and clearly expounded, so that the work is to be numbered among the more excellent. One who is not deterred by the scholastic and speculative method will scarcely find a better guide.

F. B., *Collationes Gandavenses*.

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