

nation.⁴⁰ We may conclude that in the Mishnah we are given a picture of Pharisaic Judaism as it appeared after it had had its face "lifted".

Finally, what assurance have we that the carefully selected texts from the vast rabbinic literature served up by the apologists deserve to be considered *typical* of Pharisaic teaching.⁴¹ What touchstone did Montefiore use when he rejected inconvenient texts as "negligible," "the usual Rabbinic paradoxes," and blamed Strack-Billerbeck for "taking playful exaggerations or casuistic enjoyments too seriously?"⁴² Montefiore himself declared, "You can fish out from the Talmudic sea what suits your purpose."⁴³

Our conclusions, then, are twofold. First, that the delineation of the Pharisees in the rabbinic sources and that given in the New Testament are not so contradictory as the apologists of Pharisaism make out; and secondly, that in so far as the two accounts do conflict, the version set forth in the New Testament deserves to be accepted against that of the Mishnah and the Talmud. For the New Testament contains documents of much higher historical value. They have emerged safe and sound after a century of testing at the hands of the higher critics. As for the Mishnah, no one has even produced a critical edition of it.

The apologists of the Pharisees, it is true, show great severity toward the Gospels as historical documents. But we may well bring this paper to a close with the apposite remark of an authority on Palestinian Judaism of the first century, Père Bonsirven, S.J., who declares: "The same severity applied to the Talmud would not leave a line of it standing."⁴⁴ Historically, then, the Gospel picture of the Pharisees remains in possession.

ROBERT C. HARTNETT, S.J.

Clipping Norton, Oxfordshire, England.

⁴⁰ *Studies in Pharisaism*, II, p. 134.

⁴¹ See *Recherches des Sciences Religieuses* 21 (1933) pp. 308-309 for a searching criticism of the methods employed by Montefiore in his *Rabbinic Literature and Gospel Teachings*.

⁴² *Rabbinic Literature*, pp. 264-5, 213, 113, etc.

⁴³ Quoted in *Expansive Times* 41 (1923-24) p. 534.

⁴⁴ *Op. cit.*, I, p. 5.

THE MORALITY OF ARTIFICIAL FECUNDATION.

THE FIRST REACTION of many priests to the subject of artificial fecundation is to consider it as quite impractical. This, I think, is a somewhat hasty judgment. Eminent theologians of the past half-century have judged this question to have its practical aspects; and most of the ordinary moral theology manuals of to-day give some space to it. And I am told that within the past year a popular novel appeared that developed the theme of artificial insemination as the solution of the otherwise thwarted life of an unmarried woman. It is not so long ago that the magazine, *Time*, gave not a little space to the question of "proxy fathers;" and only at the beginning of the present year another magazine, *Ken*, intrigued its readers with a very fantastic idea concerning fertilization without the aid of the male germ cell. Now, it is true that much of what our people read is sheer nonsense; nevertheless they read it, and, truth or nonsense, they ask us about it. For these, and other reasons that could be advanced, it seems that a discussion of the moral aspects of artificial insemination would not be useless for the practical-minded; and I am confident that it offers a large measure of interest to those inclined to speculation. Hence, I propose to give here a brief survey of the subject as it has been treated by the moralists of the past five decades and to expand a bit on one or two aspects of the question that they have not yet thoroughly discussed.

In the strict sense of the word, artificial fecundation comprises any attempt to fertilize a female by a means which is a substitute for natural sexual intercourse. Such a substitution might be called for in cases in which both husband and wife have normal procreative cells but by an organic malformation are prevented from having intercourse; or again in cases in which natural intercourse is rendered fruitless by an acid condition of the vagina which is fatal to the spermatozoa, and so forth.

Eachbach was, I believe, the first to introduce the question of artificial insemination into moral theology.¹ According to him, doctors were meeting with a certain degree of success in

¹ Cf. bibliography appended to this article. Unless otherwise specified, references in italics may be found in the works and numbers listed in the bibliography.

this matter; and the means which they most commonly preferred for obtaining the male germ cells was masturbation by the husband. Eschbach judged this to be immoral, the use of an intrinsically unlawful means to a good end. Lehmkuhl² agreed with Eschbach. But Palmieri,³ after having first decided the act to be a pollution, offered the following objection toward which he seemed to incline rather favorably: Under such circumstances (namely, husband and wife unable to have natural intercourse), the seminal ejaculation would really be directed to the fecundation of a lawful spouse. There would be no real frustration of nature; and the child conceived would be legitimate. Berardi⁴ sponsored this objection as his own opinion.

This was all before March, 1897, when the Holy Office issued a decree, approved by Leo XIII, condemning artificial fecundation as illicit.⁵ Palmieri withdrew the offensive paragraph from the next edition of the *Opus Theologicum Morale*;⁶ and Berardi retracted.⁷ That the decree referred at least to masturbation is the unanimous opinion of theologians. That it included also the practice of obtaining the male germ cells by means of interrupted intercourse was Berardi's own opinion, as well as that of four "very learned men" whom he consulted about the meaning of the decree. And I might add that, among the works that I have studied, all that explicitly mention interrupted intercourse as a means of obtaining the male germ cells include this method in the condemnation.⁸

In one of the earlier editions of the Génicot-Salsmans *Casus Conscientiæ*,⁹ Father Salsmans gave his opinion that, in the case of infertility resulting from hyperacidity of the vagina, condomistic intercourse for the purpose of artificial insemination

² At least he states in the 1914 edition: (II, 1072) "Id mihi semper videtur esse a pollutione non distare ideoque esse illicitum." He did not treat the question in the very early editions of his Moral Theology.

³ Cf. Ballerini-Palmieri: VI, 1504. (1892 edition).

⁴ *Praxis Confessionariorum*, n. 1009 (ed. 2a).

⁵ A.S.S. 29 (17 Mar. 1897) 704.

⁶ Third edition (1898), VI, 481.

⁷ Third edition (1898), n. 1009.

⁸ Cf. Berardi, Cappella, De Sancto, Eschbach, Ferrero, Innocentio, Naldini-Schmitt, Pisoni, Palmieri-Gonzalez, Sebani-Berardi, Tapponey, Wimmer, Wimmer.

⁹ Fourth edition (1822), case 1125.

probably licit. He has since withdrawn that opinion.¹⁰ Now of no other work by a Catholic theologian that has even stated that such a practice would be lawful. Practically the works in my own bibliography include interrupted and condomistic intercourse within the scope of the decree.

In view of the condemnation and of the general opinion of theologians, we may take this as a minimum working principle: artificial fecundation is unlawful, if it involves venereal activity which is of itself unnatural. This is true of masturbation and of interrupted or condomistic intercourse. It is true when there is question of artificially uniting the procreative cells of husband and wife; and it is of course true *a fortiori* if the parties are not united together in marriage.

The question now arises: Is any form of artificial fecundation permissible? Theologians generally speak of two methods as being either certainly or probably licit. Neither of these methods is artificial fertilization in the strict sense—that is, a substitute for intercourse. Rather they are merely aids to efficient organic conditions or physiological processes. The first of these consists of inserting some kind of instrument into the vagina before intercourse for the purpose of facilitating the passage of the spermatozoa into the womb. The second is used when sufficient penetration for probable fertilization is impossible. In this case the doctor uses a syringe to collect the male germ cells already deposited within the vagina and then forces them further up into the vagina or into the womb. Though a large number of theologians approve of this method,¹¹ some make the explicit restriction that the seminal deposit be not withdrawn from the confines of the vagina.¹²

The methods thus far outlined are the only ones treated by moralists who wrote in the early part of the present century. But about twenty years ago, Vermeersch enlivened the theological discussion by relating a means of insemination that would involve no abuse of the sexual processes. The male germ cells, he said, could be obtained by anal massage or by puncturing the

¹⁰ Cf. Seventh edition (1938).

¹¹ Berardi, Bucceroni, Cappello, De Smet, Eschbach, Ferreres, Gemicot-Salmans, Jans, Jorio, Lehmkahl, Marc-Gestermann, Merkelbach, Noldin-Schmitt, Palmieri, Payer, Pizzuto-Gonzalez, Sabetti-Barrett, Tanqueray, Ubach, Vermeersch, Wouters.

¹² De Smet, Merkelbach, Payer, Ubach.

epididymis.²² Doctors with whom I have discussed this matter rather doubt the efficacy of the massage for fertilizing purposes; and they add that there is little danger of either method's becoming very common. Nevertheless, there is a possibility of this type of artificial fecundation; hence it is well for us to crystallize the principles according to which various cases might be solved.

The question, then, is: Is artificial fecundation permissible if the male cells are obtained without venereal activity? We shall consider the problem with reference to three cases: 1. between husband and wife; 2. between two unmarried persons; 3. between a married person and a third party, especially if the other spouse consents to the operation.

In introducing the first question, it may be useful to state that we presuppose a validly married couple, therefore a marriage contracted without antecedent and perpetual impotence. Furthermore, to avoid all confusion of issues, we can presuppose a marriage already consummated. Our only question, therefore, is: Is it licit, under certain circumstances, for such a married couple to have recourse to the form of artificial impregnation now under consideration?

Thirteen of the works that I have consulted take up the problem of this type of artificial insemination between husband and wife. Of these, six (Sabetti-Barrett, Cappello, Marc-Gestermann, DeSmet, Merkelbach, and Ubach) look upon it as illicit; seven (Gémicot-Salsmans, Iorio, Noldin-Schmitt, Payen, Piscetta-Gennaro, Vermeersch, and Wouters) consider it as at least probably licit. Before examining the details of this controversy, it will be useful to give a brief analysis of certain fundamental notions concerning the right of married people to propagate.

In one sense, it seems fairly evident that married persons have what may be termed a merely indirect right to propagate. I refer to the right which each party acquires to the body of the other, a right to which the other party assumes a corresponding obligation. Thus, neither party is obliged in virtue of the marriage contract to submit to artificial fecundation upon the request of the other. The precise obligation to receive or give

²² De Gestat., an. 11, 241.

germ cells is only indirect, namely, it is assumed only with reference to sexual intercourse, of which this receiving and giving are the natural culmination. So, since the right to give and receive is correlative to the obligation assumed, we may conclude that in this sense each party to the marriage contract acquires only an indirect right to propagate.

But, is this the only aspect under which their right to propagate can be considered? By marriage, these two, taken together and excluding all others, are set up by God as an adequate principle of human generation. They are the natural founders of the human family, evidently with some right to propagate their kind. Must we say that this is merely the indirect right indicated above, which belongs to the individual with respect to the other party; or is it not rather true that these two, as a new generative unit in society, have a direct right to propagate by any means which is not in itself wrong? Are not the married parties in very much the same situation regarding propagation as the individual is in regard to self-preservation? He has a natural right to preserve his life, and failing *normal* means he may use abnormal, or artificial, forms of nourishment. So, it seems that married people, when unable to generate by the normal means of sexual intercourse, may use abnormal means, provided that means be not sinful.

The foregoing analysis expresses the opinions of those who uphold the licitness of the type of artificial fecundation we are now discussing. Objections against the solution may be grouped into four classes. The first objection—advanced by Cappello, De Smet, and Barrett—consists simply of the assertion that the right to propagate is limited to the normal means of sexual intercourse. In the light of the analysis already given, we must reply that this limitation is not evident. It is true that some capacity for intercourse is required for contracting marriage; it is true also that the mutual rights and obligations of married people do not extend directly to any other procreative act. But it seems that some further proof or declaration of the Holy See is necessary before it can be said apodictically that they do not possess in common a right to propagate which allows them, by mutual consent, to have recourse to some extraordinary means of propagating which is not in itself sinful.

Merkelbach considers the means (extraction of the germ cells from the epididymis) as evil, places this in the same category as pollution and onanism, and specifies it as "ratione sui generationis impeditiva". With due reverence, his parallelism must be denied and his terminology rejected. The expression, "ratione sui generationis impeditiva," implies the *abuse* of sexual processes. It applies therefore to pollution and onanism. But the puncture of the epididymis involves no use of the sexual processes, hence cannot properly be styled an abuse, an unnatural sexual act. Of itself, its intrinsic morality might partake of the nature of a minor mutilation, somewhat similar to that involved in a blood transfusion. Moreover, if extraction of seminal fluid from the epididymis were absolutely wrong (like pollution and onanism), it could never be allowed, and physicians could not resort to it even for examination purposes!

A third objection is that urged by Ubach: artificial fecundation of this type would render the married state ridiculous. For, if it is licit at all, it is always licit; and the married people could have recourse to it at will. And thus many of the natural purposes of matrimony would be thwarted.

Once more we can reply with reverence and suggest that this *reductio ad absurdum* seems to act somewhat like a boomerang. Surely the illustrious author did not think that the possibility of artificial impregnation would do away with the sexual impulse. Natural appetites have a way of asserting themselves. Men who can eat normally are not much inclined to feed themselves artificially; nor are people capable of normal fertile intercourse greatly tempted to forego that action for a means of fecundation which is, to say the least, a nuisance. Moreover, the implication that the authors who permit this type of artificial insemination for a grave reason should hold it as licit without any justifying reason is not a fair conclusion. Many things are listed by moralists as illicit without a justifying cause. The principle seems to apply rather generally to things which are notable departures from the *normal*, though not in themselves *unnatural*. The *normal* usually includes a certain degree of *well-being* in an action, and nature aims at this *well-being*, if it can be attained.

A final objection is this: there are dangers connected with artificial fecundation, dangers especially of deception. But in

uman affairs there are such dangers, even in normal married

It is because of these dangers and because it is a pronounced departure from the normal method of having children that authors who admit the licitness of this type of artificial fecundation between husband and wife demand that it should be practised with great caution and resorted to only for a very serious reason.

To sum up. There is a very solid extrinsic authority for permitting this type of artificial fecundation between husband and wife, and it seems justifiable on intrinsic grounds. It has nothing in common with an unnatural sex act, such as pollution; or with a disordered sex act, such as fornication. In this method of fecundation, there is no frustration of the sexual processes; and the child thus conceived is the offspring of parents united in the stable bond of matrimony, and thus naturally apt and obligated to provide for its welfare.

The second case proposed for discussion was: May an unmarried woman be artificially impregnated by cells extracted from an unmarried man? The theologians' answer to the question is an emphatic "no". Some¹⁴ dismiss the subject with the mere statement that a woman has no right to fecundation, save by her lawful husband; some¹⁵ add the intrinsic reason that the act does not make the provision demanded by the natural law for the care of the offspring. They refer to the principal philosophical argument for the necessity of marriage and the evil of fornication; an argument which is valid here because it is directed against fornication, not precisely as an act of disordered passion, but rather as a disordered generative act. Artificial insemination, consisting essentially of the giving and receiving of the procreative cells, is a generative act, and so must be governed by this law of nature which requires that such an act be placed only by persons united in the permanent bond of matrimony.

There is little need of delaying longer on this case. The argument suggested above can be found fully developed in St. Thomas,¹⁶ his commentators,¹⁷ and in many modern theological

¹⁴ E. L. Palmieri, Lehmkühl, Cappello, Merkelbach, Noldin-Schmitt, Tanqueray.

¹⁵ E. L. Wouters, Vermeersch.

¹⁶ *Contra Gentiles*, III, 122; *Secunda Secundae*, Q. 154, a. 2.

¹⁷ Cf. especially Cajetan, in 2a 2ae, Q. 154, a. 2.

manuals.¹⁸ Traditional Catholic theology teaches without equivocation that generative activity must be confined to the married state;¹⁹ and no Catholic theologian could look with favor upon procreation by the unmarried.

To come now to our last case. Two married people are unable to have children. May they, by mutual consent, have recourse to a "proxy father," provided the germ cells be obtained from this third party without venereal activity?

Fundamentally, the question has already been answered. The parties to the fecundation are not man and wife, hence the law of nature forbids the operation. Nor does the guarantee offered by the married parties themselves furnish the natural provision required. Philosophically, such a compact to care for the child would be termed accidental; it is merely an exceptional case. The minimum absolute rules that nature has laid down for the good of the species admit of no exceptions.

Furthermore, married parties have no power to give such consent. For if their right to propagate is taken directly, it refers to the two parties themselves as a generative unit, and of its nature it excludes third parties. And if it is considered indirectly, as connected with their right to conjugal acts, then it is something essentially mutual and also exclusive of third parties. The consent of the husband might do away with the personal injury that would otherwise be inflicted on him; but it cannot take away the injury to the marriage bond.²⁰ Married people must take this bond as it has been established by God. Their various marriage rights are not communicable to others. The parties have a certain negative and limited control over their rights in the sense that under certain conditions they may abstain from using them. A change or a transfer of rights would mean a changing of the bond, for the bond actually consists of these marriage rights.²¹

Analyzing the present case more closely, we find other reasons for condemning it. It violates a sacred equality that should

¹⁸ E. g. Womersley, *De Virtute Castitatis*, n. 33; Merthelbach, *De Castitate et Libertate*, Q. 3, n. 1.

¹⁹ Cf. *Casti Connubii*, A.A.S., 22, p. 146, "Nepos . . ."

²⁰ See proposition 18, condemned by Innocent XI, March 1, 1679: "Copula cum conjugata, committitur maritus, cum sit adulterium." (DS 1200).

²¹ Schiffrin, *Etica Speciale* (1873), n. 346; Ford, *The Validity of Virginal Marriage*, p. 83.

between husband wife with respect to their child; and it realizes the happiness of all three. The child is born into world, not only without the natural guarantee of fatherly affection and love that he should have, but rather in circumstances which are of their nature apt to deprive him of this affection. He is flesh of his mother's flesh, but not of his father's; he is born a stepson; throughout his childhood days and on into the successes or failures of his manhood, he will be at least a potentially constant source of jealousy. By nature, a child should bind father and mother together; this child is not apt to divide their love.

There might be exceptions to the last argument; but it does define the dangerous situation into which "third-party" artificial fecundation places married people. Even if the practice were not wrong in itself, childless couples would do better to forego it and to adopt someone. With the adopted child they begin life on an equal footing.

This entire discussion may be summarized in a few brief sentences. Artificial insemination involving pollution or onanism is never lawful; but if married people who are unable to have natural fertile intercourse wish to resort to a means of impregnation which includes no abuse of the sexual functions, it is probable that they may do so. Between two parties who are not united together in marriage, no form of artificial fecundation is lawful.

REFERENCES TO AUTHORS CITED IN THIS ARTICLE

I. These works contain a rather complete treatment:

Lojio: *Theologia Moralis* (1934), II, 875, 876.

Payen: *De Matrimonio* (1936), II, 2110 ff.; also III, 2110 ff.

Wouters: *De Virtute Castitatis*, (1929 and 1932), n. 106.

II. Cf. also these general works on Moral Theology:

Arregui (1937), n. 806.

Ballerini-Palmieri (1892), VI, 1304; (1900), VI, 891.

Bucceroni (1915), IV, 1052.

Bulot (1908), II, 842, 883.

Ferreres (1932), II, 1137.

Gémicos-Salamans (1936), II, 545.

Loe: (1934-French ed), n. 749.

Lehmkuhl (1914), II, 1072.

- Marc-Gestermann-Rauss (1934), II, 2118.
 Merkelbach (1936), III, 938.
 Noldin-Schmitt (1935), "De 6°", n. 77.
 Piscetta-Gennaro (1934), VII, 249 ss.
 Piscetta-Gennaro: *Summarium* (1938), n. 1017.
 Prümmer (1936), III, 799.
 Sabetti-Barrett (1931), n. 934 and add. 66.
 Tanqueray (1936), I, "Suppl." n. 36.
 Vermeersch (1933), IV, n. 64.
 Ubach (1927), II, 866.

III. Confer also these more specialized works:

- Berardi: *Praxis Confessariorum* (1898), nn. 1009, 1010.
 Cappello: *De Matrimonio* (1933), n. 383-384.
 De Smet: *De Sponsalibus et De Matrimonio*: volume II (1919), n. 560.
 Eschbach: *Disputationes Physiologico-Theologicae* (1901), 70ss.
 Ojetii: *Synopsis Rerum Moralium* (1912), n. 2194.
 Vermeersch: *De Castitate* (1919 and 1921), nn. 88, 241.
 Wernz: *Jus Decretalium*: volume IV (1911), n. 347.

GERALD KELLY, S.

Saint Marys, Kansas.

"CUPIDI CURIOSI GYBOVAGI".

THE *De Imitatione Christi* has been frequently commended by editors and translators for its "simplicity". There is a sense in which this commendation is merited. The reader of almost any version of it into his own vernacular tongue will indeed find the highest ascetical truths conveyed to him in brief, quivering sentences that find their way easily into his mind and heart. The Golden Book is a masterpiece of brevity. In a certain sense, it is also clear, because its author avoided contention and disputation and tried to win all men to the cause of peace by the methods of peace. "He was simple, and he dipped his pen in simplicity."

20).
P.
432.
J.
The message he sought to deliver to men was capable of simple statement because the author had first of all understood it himself, and had thus merely to open to his readers his heart rather than his library. He did not content himself with the easy theory that a simple message, uttered in a slovenly fashion, could not be marred by a crude statement of it. He therefore knew the advantage of disciplined habits of expression. He went farther still, and added to a pleasing rhetoric a rare power of compression. And to this directness and brevity thus achieved he superadded rhythmic and rhymic cadences intended, doubtless, to emphasize certain thoughts and at the same time to make his message more attractive to the tastes of his own age. He was an artist in style. And, if we trust the theories of Carl Hirsche and the inferences of Dr. Cruise, we shall conclude that he had also mastered that *ars artium* of the refined writer, the trick or power to conceal his art; for it was not until comparatively recent years that the rhymes and rhythms faintly appreciated by modern ears in the Latin text of the *Imitation* were deemed capable of such analysis as sought to elevate them into a conscious and systematized art of expression on the part of Thomas à Kempis. If the feature of his artistry was intelligently appreciated in his own times, it had nevertheless been lost to the recognition of succeeding centuries down to the last quarter of the nineteenth century.

A good translation of the *Imitation* will of course try to preserve the simplicity of thought and the directness and brevity of the original Latin. While attempts have been made to pre-