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Commentary on Abortion Article

Rev. Thomas J. O'Donnell, S.J.



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"*Abortion: A Question of Catholic Honesty*" is the title of an article recently appearing in *The Christian Century* (Sept. 14-21, 1983, pp. 803-807) by one Daniel J. Maguire, formerly a Catholic priest in-good-standing who is listed in the byline as professor of moral theology at Marquette University, Milwaukee, Wisconsin, and presently the visiting John A. O'Brien professor of moral theology at the University of Notre Dame, South Bend, Indiana.

It is not intrinsic merit of the article itself that calls for comment, but rather the fact that Maguire identifies himself as a Catholic theologian and is likewise thus identified by two prominent Catholic universities, which might mistakenly convey the impression to some readers that his analysis of the Catholic teaching on abortion is in some way to be trusted as acceptable in the context of Catholic doctrinal teaching and/or moral practice. The fact is that the article is an error-ridden diatribe against the teaching of the Catholic Church on the question of abortion.

ITEM: Maguire writes that: "It is a theological fact of life that there is no one normative Catholic position on abortion." **FACT:** The

solemn declaration of the Second Vatican Council that "abortion and infanticide are unspeakable crimes" (*Gaudium et Spes*, no. 51) is clearly one and the only normative Catholic position on abortion.

ITEM: Commending the American bishops on their unwillingness to make absolute statements in their recent pastoral letter entitled "The Challenge of Peace: God's Promise and Our Response" (May 3, 1963), even though the bishops made quite a few absolute statements, Maguire writes that, on the issue of abortion: "the bishops move from the theological mainstream to the radical religious right." *FACT* The teaching of the bishops in union with the Roman Pontiff is, and necessarily is, the theological mainstream of Catholic teaching. The Second Vatican Council also declared: "Bishops, teaching in communion with the Roman Pontiff, are to be respected by all as witnesses to Divine and Catholic truth" (*Lumen Gentium*, no. 25).

ITEM: Maguire writes that: "It is safe to say that only a minority of Catholic theologians would argue that all abortions are immoral" but asserts that the majority of theologians are afraid to let their views be publicly known. From this undocumented assertion (which does not have a grain of truth in it, as is clear enough from the publication of a handful of dissident theologians), Maguire asserts that this alleged wide dissent engenders a solidly probable opinion against the teaching of the Church and in favor of the moral defensibility of abortion. *FACT:* Even if this unsubstantiated generality were true (as regards the extent of the dissent), such dissent against a long established and solemnly proclaimed teaching by the bishops of the world and the Roman pontiffs does not engender the solid probability required for the application of the principles of probabilism in the context of authentic Catholic theology. An official Vatican communication to the American bishops has made this quite clear in response to certain questions about contraceptive sterilization. In March, 1975, the Congregation for the Doctrine of the Faith reaffirmed Catholic teaching on contraceptive sterilization and added: "The Congregation, while it confirms this traditional doctrine of the Church, is not unaware of the dissent against this teaching from many theologians. The Congregation, however, denies that doctrinal significance can be attributed to this fact as such, so as to constitute a 'theological source' which the faithful might invoke and thereby abandon the authentic Magisterium and follow the opinions of private theologians which dissent from it" (Prot. 2027/69, March 13, 1975). Obviously this would be likewise true of the dissent against the Church's teaching on abortion.

While these items make up the main points of Maguire's article, much of the rest of it is merely tiresome and irrelevant. He traces the rationale of the Church's teaching to the fact of an all-male episcopate with a hatred of women. That is just tiresome! He sees a great significance in the fact that the Code of Canon Law inflicts the penalty of excommunication on a person (either male or female, by the way) for

aborting what he calls a "fertilized egg," but not for killing a "baby" after birth. (And incidentally, if a preborn baby is just a "fertilized egg," then aren't we all?) The supposed significance that Maguire professes to see in this fact is irrelevant because it manifests an unbelievable lack of sophistication regarding the philosophy and purpose of ecclesial penalties.

There is nothing, of course, all that new in Maguire's erroneous interpretation of probabilism. The renowned English Jesuit moral theologian, Henry Davis, was running into somewhat the same problem 35 years ago when he wrote, regarding the history of probabilism: "It was even misapplied by too ardent devotees, whose chief fault was that they unwarrantably extended the meaning of the term 'probable' in supposing that any opinion held by any author might be looked upon as probable, a phenomenon that is not very uncommon in young students today" (Henry Davis, S.J., *Moral and Pastoral Theology*, vol. 1 [London: Sheed and Ward, 1949], p. 92).

It is relatively new, however, that Catholic authors writing in direct contradiction to Catholic teaching (as Maguire has done on more than one occasion [cf. *Medical-Moral Newsletter*, Jan., 1981]) should receive the approval implied by professional rank in a Catholic university, nor are Marquette and Notre Dame alone in this.

What is new, however, and to be reckoned with, is the revised Code of Canon Law, published by Pope John Paul II on Jan. 26, 1983 and going into effect later this month (Nov. 27, 1983) and prescribing that: "In Catholic universities it is the duty of the competent statutory authority to ensure that there be appointed teachers who are not only qualified in scientific and pedagogical expertise, but are also outstanding in their integrity of doctrine and uprightness of life. If these requirements are found to be lacking, it is also that authority's duty to see to it that these teachers are removed from office, in accordance with the procedure determined in the statutes.

"The Episcopal Conference and the diocesan Bishops concerned have the duty and the right of seeing to it that, in these universities, the principles of Catholic doctrine are faithfully observed" (Canon 810, nos. 1 and 2).

We do not, of course, question Dr. Maguire's "uprightness of life" in any way. As for the qualities of "scientific expertise" and being "outstanding in their integrity of doctrine," the article in *The Christian Century* speaks for itself.