

February 1956

The Teaching of Pope Pius XII on Artificial Insemination

Gerald Kelly

Follow this and additional works at: <http://epublications.marquette.edu/lnq>

Recommended Citation

Kelly, Gerald (1956) "The Teaching of Pope Pius XII on Artificial Insemination," *The Linacre Quarterly*: Vol. 23 : No. 1 , Article 8.
Available at: <http://epublications.marquette.edu/lnq/vol23/iss1/8>

The Teaching of Pope Pius XII on Artificial Insemination

GERALD KELLY, S.J.

Professor of Moral Theology, St. Mary's College
St. Marys, Kansas

[INTRODUCTORY NOTE: *In the August number of THE LINACRE QUARTERLY we began the publication of answers to questions that are frequently asked at informal discussions with doctors and medical students. One of the most frequent of these questions concerns the teaching of the Church about artificial insemination. This question could be answered simply by a reference to the article, "Moral Aspects of Sterility Tests and Artificial Insemination," which is included in Medico-Moral Problems, II. However, although that article has pertinent references to the address of Pope Pius XII to Catholic physicians, it was actually written before the address and the references had to be inserted. Moreover, the article is necessarily only a summary; and it seems that an adequate answer to doctors' questions about artificial insemination should be more complete.*

The present article seems to have the desired completeness. It was prepared at the request of the editor of the University of Detroit Law Journal and was published in the January, 1956, number of that periodical under the title, "Artificial Insemination: I. Theological and Natural Law Aspects." It is being published here with the approval of the editor of the Journal. Besides the changes of title, there are other minor changes, especially in the footnotes.]

During the fourth international convention of Catholic doctors, held in Rome in September, 1949, there was much discussion of artificial insemination. At the conclusion of the convention, the delegates assembled at Castelgandolfo to hear an address by Pope Pius XII. The first part of this address dealt with the attitude of the Christian doctor toward the progress of medicine and the part he is to take in it; the second part was specifically concerned with the judgment

of natural and Christian morality on the practice of artificial insemination. An English version of this official statement runs as follows:

We have already had many occasions to speak on a good number of special points regarding medical morality, but now we have here a question of the first order which, with no less urgency than other questions, requires the light of Catholic moral doctrine: that of artificial insemination. We could not allow this present opportunity to pass without indicating briefly, along general lines, the moral judgment that must be made in this matter.

1) The practice of artificial insemina-

tion, when human beings are concerned, cannot be considered exclusively or even principally, from a biological and medical point of view, leaving aside the claims of morality and law.

2) Artificial insemination outside of marriage is to be condemned purely and simply as immoral.

According to both the natural law and the divine positive law, the procreation of new life can be only the fruit of marriage. Marriage alone safeguards the dignity of the parties (principally, in the present case, of the woman) and their personal well-being. And it alone, by its nature, provides for the well-being and education of the child.

Consequently, there is no possibility of difference of opinion among Catholics as regards the condemnation of artificial insemination outside the conjugal union. The child conceived under these conditions would be, by that very fact, illegitimate.

3) Artificial insemination in marriage, but effected by means of the active element of a third party, is equally immoral and, as such, is to be summarily rejected.

It is the spouses alone who have a mutual right over their bodies for generating a new life, and this right is exclusive, nontransferable, inalienable. And so it must be also out of consideration for the child. By virtue of this same bond, nature imposes on whoever gives life to a little one the responsibility for its preservation and education. But between the lawful husband and the child who is the fruit of an active element derived from a third party (even should the husband consent) there is no bond of origin, no moral and juridical bond of conjugal procreation.

4) As for the morality of artificial insemination within marriage, let it suffice for the present to recall these principles of the natural law: the simple fact that the desired result is attained by this means does not justify the use of the means itself; nor is the desire to have a child — perfectly lawful as that is for married persons—sufficient to prove the licitness of artificial insemination to attain this end.

It would be false to think that the possibility of resorting to this method might make valid a marriage between persons who are unfit to contract a marriage by reason of the impediment of impotence. Also, it is needless to observe that the

active element can never be procured licitly by acts that are contrary to nature.

Although one may not *a priori* exclude new methods for the sole reason that they are new; nevertheless, as regards artificial insemination, there is not only reason for extreme reserve, but it must be entirely rejected. To say this is not necessarily to proscribe the use of certain artificial means designed only to facilitate the natural act or to enable that act, performed in a normal manner, to attain its end.

We must never forget this: It is only the procreation of a new life according to the will and plan of the Creator which brings with it—to an astonishing degree of perfection—the realization of the desired ends. This is, at the same time, in harmony with the dignity of the marriage partners, with their bodily and spiritual nature, and with the normal and happy development of the child.¹

This was the first official pronouncement of the Holy See since 1897, when the Sacred Congregation of the Holy Office had answered a question with the brief statement that artificial insemination is illicit. And it is undoubtedly the most important of all Catholic statements on the subject. Some time later (October 29, 1951), in an address on the moral problems of married life, Pope Pius XII referred to his former address in the following words:

To reduce the cohabitation of married persons and the conjugal act to a mere organic function for the transmission of the germ of life would be to convert the domestic hearth, sanctuary of the family,

¹The papal address was given in French. The complete original text is given in the official journal of the Holy See, *Acta Apostolicae Sedis*, 41 (1949), 557-61. The second part, which I have quoted, begins on p. 559. There is an English version of the complete address in *THE LINACRE QUARTERLY*, Oct. 1949, pp. 1-6. An English version of the second part of the address is also given by T. Lincoln Bouscaren, S.J., *The Canon Law Digest*, Vol. 3, pp. 432-33 (Milwaukee: The Bruce Publishing Co., 1954).

into nothing more than a biological laboratory. Hence, in our address of September 29, 1949, to the international congress of Catholic doctors, we formally excluded artificial insemination from marriage. The conjugal act in its natural structure is a personal action, a simultaneous and immediate cooperation of the spouses which, by the very nature of the participants and the special character of the act, is the expression of that mutual self-giving which, in the words of Holy Scripture, effects the union "in one flesh."

This is much more than the mere union of two life-germs, which can be brought about also artificially, that is, without the natural action of the spouses. The conjugal act, as it is planned and willed by nature, implies a personal cooperation, the right to which the parties have mutually conferred on each other in contracting marriage.²

Commentary

The papal statements give the essential points on the morality of artificial insemination so completely that a theologian can do little more than supply explanatory background and perhaps indicate more specifically some practical conclusions. This I shall try to do by considering both donor insemination and insemination within the conjugal union itself. Before doing this, however, it seems advisable to say a word of explanation concerning the expressions, "natural law" and "divine positive law," which are used by Pope Pius XII and which are common in theological literature.

These notions were very familiar to Sir William Blackstone and to the jurists of his time. Speaking of the law of nature, he says: "This law of nature being coeval with mankind, and dictated by

God Himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive their force, and all their authority mediately or immediately from this original."³ This is exactly what Catholic moralists mean when they refer to the natural law. It is a divine law because it originates directly from God, not from man. It is sometimes referred to as the natural *moral* law to distinguish it from the laws that express the nature and properties of irrational things (e.g., the law that certain things will burn under given circumstances). It is often said to be "imprinted in the heart of man" to signify that God expressed His will in the very creation of human nature and that this will exists independently of any written or oral formulation—also to show that it binds all men, not just a certain group.

Describing the revealed divine law, Mr. Blackstone says: "This has given manifold occasion for the benign interposition of divine providence; which, in compassion to the frailty, the imperfection, and the blindness of human reason, hath been pleased, at sundry times and in divers manners to discover and enforce its laws by an immediate and direct revelation. The doctrines thus delivered we call the revealed divine law, and they are to be found only in the holy

²*Acta Apostolicae Sedis*, 43 (1951), 850; an English version in Bouscaren, *op. cit.*, p. 434.

³Blackstone, *Commentaries*, 1, *41 *Ibid.*, at *41-42 *Ibid.*, at *42

scriptures." Subsequently, he adds: "Upon these foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these." This "law of revelation" is what Catholic moralists designate as divine positive law. The one point that they would add to Mr. Blackstone's description is that these laws of revelation may be found not only in Holy Scripture, but also in apostolic tradition.

One further introductory point—and this purely by way of information and not in any argumentative sense. According to Catholic belief, the Church was commissioned by Jesus Christ, whom Catholics believe to be God, to teach the whole world; and the ambit of this teaching authority includes not only the truths and laws of divine revelation but also the natural moral law. Thus, though the Church can in no sense make or change the laws of God, it does have authority to interpret these laws, that is, to declare officially the true meaning and the extent of the laws. That is why Catholics look to their bishops, and particularly to the pope, for guidance even in matters pertaining to the natural law; and that is the reason why the Catholic doctors undoubtedly expected and wanted Pope Pius XII to give them an official statement concerning the morality of artificial insemination.

I. DONOR INSEMINATION (Heterologous Insemination)

One should not infer from what I have just written that the moral

problems inherent in scientific and social progress are always solved for Catholics by official pronouncements. The more usual procedure is that the moral theologians, who are highly trained experts in the science of ethics, discuss and write about the new problems, and thus the issues are crystallized and the problems solved without any official statements by hierarchies or the Holy See. Papal statements are generally made only when special circumstances require them—as was the case, for example, regarding the great social encyclicals, the *Rerum novarum* of Pope Leo XIII and the *Quadragesimo anno* of Pope Pius XI, as also regarding the latter's celebrated encyclical on marriage, *Casti connubii*. Occasionally, too, the official statements are made in order to settle a matter of controversy among theologians.

Moral theologians do not make a habit of always agreeing with one another. There has never been the slightest disagreement, however, regarding the morality of donor insemination, whether the woman be married or unmarried. From the time when this topic was first brought up for discussion, theologians have consistently opposed donor insemination for the following reasons: it is contrary to the divine plan for marriage; it is the product of a false philosophy of life; it generally involves the immoral procurement of sperm; and its consequences on social life are apt to be disastrous. A word about each of these points.

LINACRE QUARTERLY

1. Contrary to *The Divine Plan for Marriage*:

One way of learning the Creator's plan is to make a careful analysis of the natures He creates. Certainly His plan for human propagation must be judged according to human nature and not according to mere animal nature. And, whatever may be said of cats and dogs and horses, the well-being of the human child normally demands the care of father and mother over a considerable number of years. Moreover, the parents also, if they are to rear their children in a manner consonant with human dignity, need mutual support and security. Because of such facts, Catholic theologians have unwaveringly held to the principle that reproductive acts are permissible only between two persons who are united in the firm bond of marriage. It is the contract of marriage that gives the child the guarantee of father-mother care that his genuine well-being requires and that gives to the parents themselves their much-needed comfort and security. This principle—that the right to generate children belongs only to husband and wife—is not only deduced from an analysis of human nature; it is also an integral part of the Christian tradition. Whatever may have been the lapses in practical life, the principle has never been seriously challenged by Catholics nor—as far as I have been able to discover—by any recognized Christian society.

In a word, the Catholic theologian maintains that the well-being of the parents themselves and es-

FEBRUARY, 1956

pecially the well-being of the child demand that generative activity be restricted to the conjugal union. These points were briefly stated by Pope Pius XII in his condemnation of donor insemination. The same points were stated more completely by Pope Pius XI in his encyclical on Christian marriage. As regards the welfare of the child, Pope Pius XI said:

The blessing of offspring, however, is not completed by the mere begetting of them, but something else must be added, namely, the proper education of the offspring. For the most wise God would have failed to make sufficient provision for children that had been born, and so for the whole human race, if He had not given to those to whom He had entrusted the power and right to beget them, the duty also and the right to educate them. For no one can fail to see that children are incapable of providing wholly for themselves, even in matters pertaining to their natural life, and much less in those pertaining to the supernatural, but require for many years to be helped, instructed, and educated by others.

Now it is certain that both by the law of nature and of God⁴ this right and duty of educating their offspring belongs in the first place to those who began the work of nature by giving them birth, and they are indeed forbidden to leave unfinished this work and so expose it to certain ruin. But in matrimony provision has been made in the best possible way for this education of children that is so necessary, for, since the parents are bound together by an indissoluble bond, the care and mutual help of each is always at hand.

Nor must We omit to remark, in fine, that since the duty entrusted to parents for the good of their children is of such high dignity and of such great importance, every use of the faculty given by God for the procreation of new life is the right and the privilege of the marriage state alone, by the law of God and of nature, and must be confined absolute-

⁴This expression, "by the law of nature and of God," is but another way of saying "by the natural law and by the law of revelation."

ly within the sacred limits of that state.⁵

In the encyclical, Pope Pius XI followed St. Augustine's plan of considering marriage according to its three "blessings": offspring, conjugal fidelity, and indissolubility. The words just quoted are in the section dealing with the blessing of offspring, and they show how the true welfare of the child requires that the right to generate children belongs exclusively to the married. The subsequent section explains more in detail the Christian concept of marriage with reference to the welfare of the parents themselves; and it is also pertinent to the question of artificial insemination. It reads in part:

The second blessing of matrimony which We said was mentioned by St. Augustine, is the blessing of conjugal honor which consists in the mutual fidelity of the spouses in fulfilling the marriage contract, "so that what belongs to one of the parties by reason of this contract sanctioned by Divine Law, may not be denied to him or permitted to any third person, nor may there be conceded to one of the parties that which, being contrary to the rights and laws of God and entirely opposed to matrimonial faith, can never be conceded."

Wherefore, conjugal faith, or honor, demands in the first place the complete unity of matrimony which the Creator Himself laid down in the beginning when He wished it to be not otherwise than between one man and one woman. And although afterwards this primeval law was relaxed to some extent by God, the Supreme Legislator, there is no doubt that the law of the Gospel fully restored that original and perfect unity, and abrogated all dispensations, as the words of Christ and the constant teaching and action of the Church show plainly.

With reason, therefore, does the sacred Council of Trent solemnly declare: "Christ Our Lord very clearly taught that in this bond two persons only are to be united and joined together when

⁵Quoted from the pamphlet edition of the encyclical published by the America Press, p. 6.

He said: "Therefore they are no longer two but one flesh."...

This conjugal faith, however, which is most aptly called by St. Augustine the "faith of chastity" blooms more freely, the more beautifully, and more nobly when it is rooted in that more excellent soil, the love of husband and wife which pervades all the duties of married life and holds pride of place in Christian marriage.⁶

I have given these lengthy quotations because I think it is imperative to note how the Christian concept of marriage insists that the divine law concerning marriage provides for the welfare of both child and parents. This twofold purpose of marriage requires that generative activity be absolutely restricted to man and wife. The inherent wrongness of fornication and adultery are deduced from this principle; and from the same principle we deduce the immorality of donor insemination. It is true that donor insemination is not the same as fornication or adultery in the ordinary sense of these terms. Nevertheless, donor insemination is a generative act—that is precisely the reason why it is used—and the donor and recipient are not man and wife; hence it is immoral for the same basic reason that fornication and adultery are immoral. This idea is quite well expressed. It seems to me, in the following quotation from a speech made by the Archbishop of Canterbury (an Anglican, not a Roman Catholic) in a debate in the House of Lords:

Adultery is the surrender, outside the bonds of wedlock and in violation of it, either of the sexual organs alone by the use of contraceptives, or of the reproductive organs alone by A.I.D., or, of course, of both, as in normal intercourse. If that be so, A.I.D. is adultery. I do

⁶*Ibid.*, pp. 6-8.

not wish thereby to stigmatize A.I.D. as having the same moral turpitude which attaches to the word adultery in ordinary use... there is certainly a moral difference between adultery in the ordinary sense and A.I.D., yet in fact A.I.D. is adultery. Lord Dunedin, in *Russell v. Russell*, said bluntly: "Fecundation *ab extra* [which I take to mean from another party] is, I doubt not, adultery." Other legal judgments have supported that. It is a mere fact, whether you like to use the word or not, that by the introduction of semen *ab extra* outside wedlock there is an intrusion into, and a breach of, the natural relations of husband and wife—and that is what adultery means; and the exclusive union set up by marriage between husband and wife is violated—and that is what adultery means.⁷

2. Product of a False Philosophy of Life:

I cannot dwell on this reason, but I wish at least to point out that donor insemination makes a logical piece with the false philosophy that has long been working for the degradation of the family. One of the ingredients of this false philosophy is a crude liberalism that claims for every man the "right to be happy" and which really means the right to do as one pleases. A second ingredient is sheer materialism, which denies the spiritual and thus puts man on the same plane as brute animals. The same subversive principles apparently underlie the "proxy" father propaganda. People want a child; they need it "to be happy"; therefore, let them have it in any way they can. And, since artificial insemination is a good way of breeding animals, it should be satisfactory for men, too.⁸

⁷Cf. Henry Davis, S.J., *Artificial Human Fecundation* (London: Sheed and Ward, 1950), p. 13. The Archbishop's speech was given March 16, 1949. Fath-

3. Immoral Procurement of Sperm:

The point I wish to make here is aptly expressed by an extract from an Anglican paper:

Artificial insemination usually depends on masturbation. This is condemned by all Christian moralists, because it implies the solitary and essentially individualistic use of sexual activities intended to be used in association. It disregards the truth that with those powers God provides physiological means for exercising them in a joint and common act.⁹

The statement that masturbation is condemned by all Christian moralists may be somewhat exaggerated. At any rate, I have seen statements made by supposedly Christian leaders that masturbation is no more immoral than picking the nose. One can hope that these men were merely expressing their own opinion, and not the view of any definite Christian group.

As for the Catholic moralists, they have constantly taught with a practical unanimity that masturbation is against the natural law and the divine positive law, and that there is no exception to the law. In proving that masturbation is against the natural law, they have advanced various arguments, the simplest of which, I believe, is the one indicated in the Anglican statement just quoted. This argu-

er Davis quotes from the official report of the debates in the House of Lords.

⁸For a profound study of the forces undermining traditional concepts of the family and of sexual ethics, see Jacques Leclercq, Ph.D., LL.D., *Marriage and the Family* (New York: Frederick Pustet Co., 1941).

⁹Quoted by Davis, *op. cit.*, p. 13. This is one of three extracts taken by Father Davis from the *Church Times* for March 16 and 23, 1945.

ment is based on an analysis of the physical sex mechanism. The very configuration of the male and female bodies and the biological processes pertaining to reproduction make it clear that the psycho-physical processes culminating in orgasm should be directed to and find their fulfillment in coitus. Solitary orgasm makes a mockery of this entire mechanism. Thus runs the principal argument. Besides this there is the plain fact that, if a solitary act is not against nature, then no other sexual act is against nature. In a word, there are no perversions and there is no natural basis for sex morality. That, of course, is just the conclusion that the materialists would like us to draw; but one can reach such a conclusion only by blinding oneself to the divine plan as manifested in human nature.

The argument from revelation is based principally on St. Paul, who says that "Effeminate . . . shall not inherit the kingdom of heaven" (cf. I Corinthians, ch. 6). Early Christian tradition has interpreted "effeminate" (the Latin word is *molles*) to mean those practicing self-abuse; and this interpretation squares perfectly with the context, in which various acts of impurity are enumerated.

4. Consequences on Social Life:

An eminent Jewish scholar speaks thus of donor insemination: "Such human stud-farming exposes society to the gravest dangers which can never be outweighed by the benefits that may accrue in individual cases."¹⁰ Catholic theologians would agree with this gen-

eral statement, though they might, with a very realistic scepticism, underscore the word "may" and even follow it with a very large question mark. Enthusiasts for donor insemination speak and write glowingly about the great happiness that this procedure has brought to many couples. They admit that they cannot prove this because of the secrecy necessarily involved. Moral theologians, who are not mere armchair philosophers but men who must constantly face the realities of life, consider themselves justified in questioning these glowing reports as long as proof is wanting. However, granted for the sake of argument that the reports are true, theologians would still say that the social evils and dangers inherent in the practice are such that there would be no sound moral justification for it, even if it were not in itself contrary to the divine law.

Only rank sentimentalists and the exceptionally boastful "liberals" are willing to plead the case for insemination of an unmarried woman. No one who has had to deal with the problems of unmarried motherhood would seriously argue for insemination of unmarried women. Usually the case for donor insemination concerns the married couple who want a child but cannot have one because of sterility of the husband. The following remarks are made principally with a view to this case.

First of all there is the effect on society when this practice is en-

¹⁰The Very Rev. I. Jakobovits, B.A., *Problems of Jewish Family Life* (London, 1953), p. 14.

couraged and propagated. I have already indicated that the practice is apparently an offshoot of the materialistic attitude that reduces man to the level of the brute animal. It does not stop here; it also fosters the growth of the same attitude. This is aptly expressed by the strong (but not too strong) expression chosen by the Jewish scholar, "human stud-farming."

Then there is the question of the donor. The literature favoring insemination always stresses the splendid qualifications of the donor, his intellect, his character, etc. Alan F. Guttmacher, M.D., a professed advocate of the practice, gives this simple test of the ideal donor: "Is that the kind of a man whom I would like my daughter to marry?"¹¹ Let the readers answer the question for themselves. Personally, I can give my own necessarily conditional answer without any hesitation. If I had a daughter, I would not want her to marry a man whose sense of moral values was such that he would calmly enter a doctor's office or laboratory and ejaculate semen into a glass jar for a sum of money. As a confessor, I can understand and sympathize with the young man who masturbates because of outbursts of passion that he has not yet learned to control; I confess that I have little appreciation of the mentality of the donor. Moreover, to return to the question of my hypothetical daughter, I would not want her to marry a man whose

¹¹See *Transactions of the Conference on Sterility and Infertility of the American Society for the Study of Sterility*, Vol. 3, p. 10.

realization of the responsibilities of parenthood was so slight that he would be willing to father a child, or many children, whom he would never see and towards whom he would have no duty — and this, moreover through a woman he does not even know. The donor, whatever be his other qualifications, can hardly be either psychologically or morally normal. The policy of portraying such men as ideal progenitors of human beings is a menace to the true welfare of society.

Next there is the family itself, composed of the lawful husband, the wife and her child conceived through donor insemination. Theologians must admit that they cannot point to actual facts, just as the insemination enthusiasts who claim facts cannot prove them. Nevertheless, from their experience with human beings, theologians can point to some very real dangers inherent in the practice of donor insemination. The child is flesh of his mother's flesh, but not of his supposed father's. He is born a stepson, and worse. To the supposed father he is a constant reminder of the intense humiliation of his sterility.¹² (One wonders, incidentally, how often the

¹²I mention sterility because it is the most common reason alleged for resorting to donor insemination. Other reasons are "unfavorable genetic history or a previous erythroblastotic fetus." Cf. J. P. Greenhill, B.S., M.D., F.A.C.S., *The Year Book of Obstetrics and Gynecology, 1954-1955 Series* (Chicago: The Year Book Publishers, 1954), p. 361, abstract of an article by Sophia J. Kleegman. — Certainly the first of these two reasons would be at least as humiliating to the husband as consciousness of sterility.

husbands who give "consent" to donor insemination do so merely out of a sense of hurt pride, and not with genuine willingness.) To the mother, the developing child will bring none of the joy that comes to women as they see the characteristics of a beloved husband bud forth in the child; all that she will know about the child's father is that he is the kind of man who will masturbate for a price and assume the function of parenthood with neither the love nor the responsibility that parenthood normally entails. By nature's plan, children should be a bond of union between their parents, and bring them joy and a sense of mutual fulfillment; the donor-child is much more apt to be a source of humiliation, jealousy, and anxiety.

The foregoing are some of the dangers and evils inherent in the practice of donor insemination. With these in mind, the theologian seems perfectly justified in saying that, even if the practice were not wrong in itself, it would still be morally unjustifiable because of its actual and potential effects on society. But, as I have previously pointed out, it is wrong in itself, partly because it usually entails masturbation as the means of procuring the semen and mainly because it is contrary to the divine law which requires that "the procreation of new life can be only the fruit of marriage." It was this divine law that Pope Pius XII stressed in his address to Catholic doctors.

II. WITHIN THE CONJUGAL UNION (Homologous Insemination)

Some years ago Joseph B. Doyle, M.D. published a preliminary report of a new medical attempt to solve the infertility problem.¹³ Doctor Doyle used a concave Lucite spoon, which was inserted into the vagina before coitus in such a way that the spoon itself was directly under the cervix. The purpose of this procedure was to protect the semen from the acid of the vagina and to provide the best possible conditions for the largest possible number of spermatozoa to penetrate through the cervical os.

Obviously the use of the cervical spoon is not artificial insemination in the ordinary sense of the expression; it is merely a technique for aiding marital intercourse to be

¹³"The Cervical Spoon: An Aid to Spermiation and Semen Sampling," *Bulletin of the New England Medical Center*, 10 (1948), 225-31. This article was reprinted in *THE LINACRE QUARTERLY*, Jan.-Apr., 1949, pp. 41-47. It should be carefully noted that the cervical spoon is not the same as the "cervical cap." Recent medical literature contains occasional references to the cap, and these references usually trace back to M. James Whitelaw, M.D., "Use of the Cervical Cap to Increase Fertility in cases of Oligospermia," *Fertility and Sterility*, 1 (1950), 33-39. In this article there is question of artificial insemination between husband and wife, the purpose of the procedure being to place the husband's entire ejaculate close to the cervix. The purpose, therefore, is the same as that of the spoon; but there are two pronounced differences from the moral point of view. In the Whitelaw method, the semen is obtained "either by withdrawal or masturbation" and is placed in a cup-like container (the cap) which is then fitted over the cervix. This method therefore, is a substitute for intercourse, and it implies the obtaining of semen by illicit methods. The Doyle procedure is merely an aid to natural intercourse.

fertile by overcoming certain physiological obstacles. Some might call it "assisted insemination." Another form of assisted insemination sometimes discussed by theologians concerns a case like this: husband and wife have normal coitus, and after coitus the semen is collected in a syringe and placed further into the wife's genital tract. Although there was some theological controversy over the latter method, yet the general practical rule before the papal address to doctors was that the various forms of assisted insemination could be permitted. This practical rule may still be followed, because the Pope made it clear that he wished to make no official statement either for or against assisted insemination when he said: "To say this [that artificial insemination is to be entirely rejected] is not necessarily to proscribe the use of certain artificial means designed only to facilitate the natural act or to enable that act, performed in a normal manner, to attain its end."

As regards homologous insemination, therefore, the Pope's words of warning or condemnation refer only to substitutes for intercourse. Three points call for special attention.

1. *The Impediment of Impotence:*

Canon 1068 of the Code of Canon Law reads as follows:

1. Impotence, antecedent and perpetual, whether on the part of the man or the woman, whether known to the other party or not, whether absolute or relative, invalidates marriage by the law of nature itself.

2. If the impediment of impotence is

FEBRUARY, 1956

doubtful either in law or in fact, the marriage is not to be hindered.

3. Sterility neither invalidates marriage nor renders it illicit.¹⁴

A full explanation of this canon would carry me far beyond the scope of this article. I have cited it merely as background for the Pope's statement that the possibility of recurring to artificial insemination would not remove the impediment of impotence. By impotence is understood the inability to have coitus. If this condition certainly exists before a marriage, and if it is also certain that the condition is perpetual, and not merely temporary, the person so afflicted is incapable of contracting marriage. An example would be a man whom some accident has permanently deprived of the power of erection. It is quite possible that such a man might have fertile semen and that he could have a child by means of artificial insemination. This would not, according to the Pope, make the man capable of contracting marriage.

2. *Acts Contrary to Nature:*

With reference to homologous insemination, Stuart Abel, M.S., M.D., once wrote: "The semen specimens for insemination from husband to wife are collected by condomistic intercourse, coitus interruptus, or again, and preferably from a practical standpoint, mas-

¹⁴This English translation is taken from T. Lincoln Bouscaren, S.J., and Adam C. Ellis, S.J., *Canon Law: A Text and Commentary*, 2nd revised ed. (Milwaukee: The Bruce Publishing Co., 1955), p. 523. The canon is followed by a comprehensive explanation of the impediment of impotence.

turbation.¹⁵ Later in the same article, Dr. Abel pointed out that the Catholic Church would apparently object to all these methods of obtaining germ cells. This observation is correct. And it was undoubtedly to such methods that Pope Pius XII was referring when he said: "Also, it is needless to observe that the active element can never be procured licitly by acts that are contrary to nature."

Why do we consider these methods to be unnatural sex acts? The reason, as I have already indicated when speaking of masturbation, is that the psycho-physical processes leading to sexual orgasm are used in such a way that the orgasm itself takes place outside of coitus. It is true that there is an appearance of coitus in condomistic intercourse and coitus interruptus. But it is only an appearance. The determining factor of true coitus is ejaculation into the vagina; and that factor is missing in all three procedures.

I realize that some non-Catholics who might agree with all that has been said here about donor insemination would not agree that these methods of obtaining the husband's germ cells for insemination are always immoral. Even among prominent Catholic theologians there have been a few attempts to justify these means of accomplishing homologous insemination.

¹⁵ *The Present Status of Artificial Insemination*, p. 4. This is a reprint from *International Abstracts of Surgery*, Dec., 1947, Vol. 85, pp. 521-31. For a complete survey of the medical, legal, and theological aspects of artificial insemination up to 1947, this article is exceptionally valuable.

To practically all theologians, however, and certainly to the Pope himself, such attempts mean the sacrifice of principle for the sake of sympathy. It is a basic principle of sexual ethics that an unnatural act is never permitted, even for a laudable purpose; and, if ejaculation into the vagina is not taken as the minimum norm of determining a natural sex act, there seems to be no sound way of determining such an act.

3. *Is Any Substitute for Intercourse Justifiable?*

The following interesting quotation from *The 1952 Year Book of Obstetrics and Gynecology* can serve as an apt introduction to a final point of discussion:

Adler and Makris (*Ferti. & Steril.* 2:459, 1951) reported the first case of artificial insemination with use of testicular tissue. A man with aspermia had a testicular biopsy and the wife was prepared for insemination in an adjoining room. The specimen was placed in Ringer's solution and an emulsion of the tissue made. This showed active spermatozoa. Insemination was performed in the usual way and a healthy baby was delivered.

If I understand this procedure correctly, it is an example of homologous insemination in which the husband's germ cells were obtained without any unnatural sex act and then transferred to the wife. Granted that my interpretation is correct, the case may be used as a concrete illustration of a problem debated by theologians for many years before the Pope's address to the Catholic doctors. The question was: would homologous insemination without inter-

¹⁶ Chicago: The Year Book Publishers, 1952, p. 337.

course be permissible, provided the husband's germ cells could be obtained in some licit manner? The majority of theologians held that even this would not be permissible. It was their view that husband and wife have no right to generate offspring except through coitus. They contended that coitus is the means established by nature, and the only means of generation in keeping with human dignity and with the traditional notion of the marriage contract. In a word, this majority opinion was that no substitute for conjugal intercourse is permissible. There was, however, a minority opinion that the right of a validly married couple to generate children is not limited to intercourse but might include the use of any artificial means not in itself immoral.¹⁷

The Pope made no explicit reference to this controversy in his official statements on artificial insemination; but there can be little doubt that the last part of his ad-

¹⁷ For more details concerning theological opinions, and especially for further references, see *Medico-Moral Problems*, II, 18-22.

dress on September 29, 1949, and especially his further statement on October 29, 1951, adopt the majority view.

Summary

The official teaching of the Catholic Church on artificial insemination, as expressed by Pope Pius XII in the statements quoted at the beginning of this article, may be briefly summarized in these points:

1. Donor insemination, being contrary to the divine law that procreation must be only the fruit of marriage, is never permitted.

2. The use of acts contrary to nature to obtain germ cells for insemination is always immoral.

3. The possibility of having children by means of homologous insemination does not remove the impediment of impotence.

4. No substitute for intercourse is in harmony with the divine plan that children should be the fruit of a personal union by which the parents become two in one flesh.

5. The use of artificial means to help natural conjugal relations to be fruitful may be permitted.