

moral obligation of using these means can sometimes be involved, it is hoped that this dissertation will present some clarification in regard to this very interesting and timely moral problem. In this way, it is also hoped that the theological investigation of the moral teaching on the ordinary and extraordinary means of conserving life will have been furthered and any future applications to practical cases, occasioned by medical progress, will thus be facilitated.

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Daniel A. Cronin
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Conserving Human Life

Part I

by
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**The author holds in prayerful remembrance his mother and father to whom the original dissertation was dedicated.

CHAPTER I

The Duty To Conserve One's Life

Human life is at once a gift and a responsibility—a gift, because man could never create himself; a responsibility because man must use this gift properly. God, Life itself, is the source of all other life and to Him alone, therefore, belongs every power over it. Christians have ever appreciated this truth and none perhaps better than the Apostle, Paul: "None of us lives as his own master and none of us dies as his own master. While we live we are responsible to the Lord, and when we die we die as his servants. both in life and in death we are the Lord's."

Among the natural gifts with which the Most High God has favored man, there is none so excellent as that of life, because it is life that is the basis for all that man has or can hope to attain.

The human person exists as a composite: the immortal soul by which he is endowed with an intellect and free will, (this makes him similar to God Himself); the body through which his soul acts to satisfy man's natural needs and to acquire merit in the supernatural order.

Human life then is a gift, the fuller meaning of which becomes more evident elsewhere in Catholic theology. For the moral theologian, however, the aspect of main concern is life as a responsibility. This dissertation will

¹Romans: 14, 7-8. The translation was taken from *The New American Bible* (Nashville—New York, Thomas Nelson, Publishers, 1971).

treat of one point under that aspect; namely, the extent to which man has the duty of conserving his corporeal life here in this world. In other words, presupposing the fact that on earth the body is a necessity in order that « the man» can act, this investigation will continue on then to determine just what responsibility man has to conserve his bodily life and health prior to that final hour which God alone knows and He alone will divulge.

1.1 THE MALICE OF SUICIDE

Interestingly enough, the reasons traditionally assigned to prove the duty of self-conservation are the very same ones by which the theologians have consistently exposed the basic malice of suicide. To explain, therefore, that suicide is evil is by that very fact a virtual demonstration of an equally true proposition: self-conservation is a duty.

It is quite apparent that there exists deeply embedded in the human fiber a strong drive which urges man on to self-conservation. Gradually, it also becomes clear that there is coupled together with this human urge a very definite duty to conserve one's life. Nonetheless, however forceful the natural drive may be, or however clear the duty of self-conservation may become, one seeks an explanation of the underlying reasons and this can be involved.

Quite often it happens that before any process of reasoning takes place, one recognizes the truth of the conclusion. It is only when the intellect brings forth the arguments that the difficulty begins. This detail did not escape the eminent Cardinal De Lugo;¹ it is precisely in his discussion of suicide that he mentions it. For de Lugo, the intrinsic wickedness of suicide is immediately apparent; the basis of this truth, however, is not quite so obvious.

A—The teaching in Sacred Scripture, the Fathers and Church Documents

Properly speaking, suicide, as understood here, is the direct killing of a man, perpetrated by the man himself and on his own authority.² Suicide, thus understood, is always gravely illicit.

²* Totā difficultas consistit in assignanda ratione huius veritatis: nam licet turpitudine haec statim appareat, non tamen facile est eius fundamentum invenire: unde, quod in aliis multis quaestionibus contingit, magis certa est conclusio, quam rationes, quae variae a diversis afferuntur ad eius probationem.—J. de Lugo, *Disputationes Scholasticae et Morales* (ed. nova; Parisiis, Vives, 1868-1869), VI, *De iustitia et iure*, Disp. X, Sec. I, n. 2.

³Later in this discussion, the broader definition, as given in E. F. Regatillo et M. Zalba,

That God alone has the power of life and death, the Book of Deuteronomy clearly states—« Learn then that I, I alone, am God, and there is no god besides me. It is I who bring both death and life,"* and again in Wisdom:

For you have dominion over life and death; you lead down to the gates of the nether world, and lead back."

To God then, belongs the power of life, and man must never fancy that he may determine the hour of death—Thou shalt not kill.⁶ By this fifth injunction of the Decalogue, God forbids not only homicide but also suicide. How cleverly St. Augustine caught the full import of the fifth commandment:

It is not without significance, that in no passage of the holy canonical books can there be found either divine precept or permission to take away our own life whether for the sake of entering on the enjoyment of immortality or of shunning or ridding ourselves of anything whatever. Nay, the law, rightly interpreted even prohibits suicide where it says, Thou shalt not kill. This is proved specially by the omission of the words, « thy neighbor», which are inserted when false witness is forbidden . . . how much greater reason have we to understand that a man may not kill himself, since in the commandment, « Thou shalt not kill s, there is no limitation added nor any exception made in favour of anyone, at least of all in favour of him on whom the command is laid . . . The commandment is «Thou shalt not kill man a—therefore neither another nor yourself, for he who kills himself still kills nothing else than man.'

Theologiae Motilis Summa (Matrii, Biblioteca de Autores Cristianos, 1953), II, p. 257, will prove more accurate. Zalba, the author of this second volume defines suicide as: «actio vel omissio quae ad mortem propriam causandam natura sua ordinatur a.

*Deuteronomy: 32, 39. This translation, and all translations of the Holy Scriptures cited herein, are taken from The New American Bible (cf. note 1).

⁶Wisdom: 16, 13.

⁶Exodus: 20, 13.

⁷S. Augustinus, *De Civitate Dei*, Liber I, Cap.20 (Migne, *Patrologiae Cursus Completus*, Series Latina [Parisiis, 1844-1864], XLI, col. 34-35). Henceforth, this series will be referred to as MPL. The translation from St. Augustine is taken from the *City of God*, Modern Library Edition (New York, Random House Inc., 1950).

Such has been the tradition among ecclesiastical writers down through the ages, as these excerpts testify:

Lactantius:

For if the one guilty of homicide is wicked because he destroys a man, the same crime is to be leveled on him who kills himself because he also kills a man. Indeed, we must consider this crime greater, the revenge for which lies with God alone. For, just as we did not come into this life of our own free-will, so also we must leave this domicile of the body, which was given to us to watch over, by the command of the same person who placed us in this body to inhabit it until such time as He orders us to depart from it . . .

St. Jerome:

It is not up to us to seize death but to accept it willingly when inflicted by others.¹

Rabanus Maurus, the Abbot of Fulda:

Excepting those whom either a generally just law or the very source of justice, God, in a special way commands to be killed, anyone who would kill another man or himself is guilty of the crime of homicide.¹

Peter Abelard also discusses the problem of suicide, giving many famous examples from ancient times in chapter 155 of his *Theologica et Philosophica*.²

¹*, Nam si homicida nefarius est, quia hominis exstinctor est, eidem sceleri obstrictus est, qui se necat, quia hominem necat. Imo vero maius esse id facinus existimandum est, cuius ultio Deo soli subiacet. Nam sicut in hanc vitam non nostra sponte venimus, ita rursus ex hoc domicilio corporis, quod tuendum nobis assignatum est, eiusdem iussu recedendum est, qui nos in hoc corpus induxit, tamdiu habituros, donec iubeat emitti . . .—Lactantius, *Divinarum Institutionum*, Lib. HI, Cap. 18 (MPL. VI, col. 407).

9. Non est nostrum, mortem arripere, sed illatam ab aliis libenter excipere.—S. Hieronymus, *Commentaria in Jonam*, Cap. 1, ver. 12 (MPL. XXV, col. 1129).

10. His ergo exceptis quos vel lex generaliter iusta vel ipse fons iustitiae Deus specialiter occidi iubet, quisquis hominem vel seipsum vet quemlibet occiderit, homicidii crimine innectitur . . .—Rabanus Maurus, *Commentaria in libros Machabaeorum*, (MPL. CIX, col. 1255).

²Petrus Abelardus, *Theologica et Philosophica*, (MPL. CLXXVIII, col. 1603-1606). The reader can confer also MPL., Index de suicidio, CCXX, col. 858-861, for a concise list of other references to the crime of suicide in the writings of the ecclesiastical authors.

The teaching of the Church has been no less constant. Even in the sixth century, the Church legislated against suicide in the Council of Orleans.² It was decided at that time not to accept the offerings of a man who died by his own hand. In the Catechism of the Council' of Trent, one reads: « No man possesses such power over his life as to be at liberty to put himself to death. Hence we find that the Commandment does not say: Thou shalt not kill another, but simply Thou shalt not kill »." More recently, Pope Leo XIII reiterated the Church's doctrine when writing to the Bishops of Germany and Austria in regard to duelling.³ Add to this also, the sanctions placed on the one who has attempted suicide ("sibi vitam adimere tentaverit") by the laws of the Church in the present Codex Iuris Canonici" and it then becomes quite clear that the teaching of the Church holds suicide to be a grave sin.

B—The teaching of St. Thomas and subsequent theologians

Catholic theologians have ever been mindful of the problem of suicide and in their writings have constantly censured it as base and despicable, always and everywhere to be condemned. The arguments employed by the theologians have their foundation in Sacred Scripture, the writings of the Fathers and Doctors of the Church, the practice of the Church, and also in reason itself.

St. Thomas had an extraordinary understanding of metaphysics and thus produced an equally extraordinary treatment of ethics." Hence, his tract on suicide in question 64, article 5 of the Secunda Secundae of his *Summa Theologica* has been the basis for the subsequent theological discussions on the subject down through the years.

After introducing the article, as is his wont, with five arguments in favor of the opposite opinion, St. Thomas proceeds then to demonstrate by a three-fold argument the malice of suicide. First of all, suicide is against the natural

²J. Mansi, *Sacrorum Conciliorum Nova et Amplissima Collectio*, vols. 1-31, (ed. novissima, Phil. Labbeus-Cossaritus-Coleti; Florentiae-Venetis, 1759-1798), VIII, 837.

³* Neque vero seipsum interficere cuiquam fas est; cum vitae suae nemo ita potestatem habeas, ut suo arbitratu mortem sibi consciscere liceat, ideoque huius Legis verbis non ita praescriptum est, Ne alium occidas, sed simpliciter, Ne occidas.—Catechismai ex Decreto SS. Concilii Tridentini (Patavii, 1758), Pars Tertia, Cap. VI, de Quinto Praecepto, N. 10.

⁴Leo XIII, *Pastoralis officii*, epistola ad episcopos Germ. et Austr., 12.Sept. 1891. Cf. H. Denzinger, *Enchiridion Symbolarum*, ed. J. Umberg (Friburgi, Herder & Co., 1942), n. 1939. Hereafter this work will be referred to by the letter D.

⁵*Code of Canon Law*, Latin-English Edition (Washington, D.C.: Canon Law Society of America, 1983), Canons 1041.5 and 1044.3.

⁶Cf. G. Gustafson, *The Theory of Natural Apperteruty in the Philosophy of St. Thomas* (Washington, Catholic University Press, 1944), p. 99.

inclination and charity with which everyone should love himself. In the second place, since every man is a part of the community and in that sense belongs to the community, he does an injury to the community when he destroys himself. Lastly, since God alone, according to Scripture, causes a man to live, and He alone should decide the hour of death, the one who deprives himself of life by suicide is actually usurping the judgment of a matter over which God actually never gave him jurisdiction." St. Thomas, replying to the first objection, adds that suicide has a double aspect: in relation to the man himself, the guilty party has sinned against charity; in relation to God and the community, he has sinned against justice.'

Is man the master of himself? If so, it would seem that he might choose to live or die. Hence, any attempt on his part to appoint the hour of death would not only be licit, but sometimes, might even be laudable; e.g., he could select the time when his soul would be best prepared to meet God and thus insure his salvation. At least, one must admit that by suicide, if it were licit, it would be possible to avoid further sin.

Contained in the above reasoning is a fallacy which the Angelic Doctor exposes in his reply to the third objection:

We must say that man is constituted master of himself by his free will. Of his own free will, therefore, man is allowed to dispose of things of his life. But the passage from this life to a happier life, does not lie within the power of man's free will but, rather, within the power of Almighty God."

Theologians subsequent to St. Thomas were heavily influenced by his argumentation. Some, in fact, were content with either a direct quoting of his words or a mere rephrasing." Others, however, began to consider the full import of the reasoning, and thus, have left in their works a heritage of further thought on the subject. For example, the notion of justice existing between God and man was the point that Molina found troublesome. For him, our relationship with God is not one of justice; at least it does not fulfill

¹⁵St. Thomae Aquinatis, *Summa Theologica* (Taurini, Marietti, 1950), Pars II: II, q. 64, art. 5. For a very good commentary on this article, confer *Somme 7^eheologique—Saint Thomas D'Aquin* (Editions de la Reveu des Jeunes, Paris, Desclee, 1934), II, La Justice, pp. 146 ss.

¹⁸St. Thomas, op. cit., II:II, q. 64, art. 5, ad I.

¹⁹(Ad tertium dicendum quod homo constituitur dominus sui ipsius per liberum arbitrium. Et ideo licite potest homo de seipso disponere quantum ad ea quae pertinent ad hanc vitam, quae hominis libero arbitrio regitur. Sed transitus de hac vita ad aliam feliciorum non subiacet libero arbitrio hominis, sed potestati divinae a—Ibid., ad 3.

²⁰Cf. D. Soto, *De iustitia et lure* (Lugduni, 1582), Lib. V. Quaes. I. Art. V.

the complete notion of justice because we are never in the position of being able to render to God the equivalent of what He gives us. However, Molina feels that even though there is something of higher value than justice which binds us to God, nevertheless, we can speak of justice in the less strict sense," and thus condemns suicide as a sin against justice with respect to God.²² This is true because man does not possess dominion over his own life; the Author of nature has reserved this dominion to Himself."

When one is said to have dominion over anything, the implication is that he has supreme authority over it.' Hence, when theologians repeat again and again that the dominion over life belongs to God, they mean that He alone has the supreme and ultimate power over it."

On this notion of dominion, theologians have built their argument from reason. Cardinal de Lugo develops it nicely. The Cardinal cites the statement of St. Thomas in the *Summa Theologica*, 2:2, q. 64, art. 5, that man is not the master of his life. Then, de Lugo proceeds to praise Molina for a very fine exposition of the consequence of this statement. Since man is not the master of his life, he can not dispose of it at will; much less can he destroy it, because to destroy something implies an act which is proper only to the one having supreme mastery over it. This is all well and good, but for de Lugo, the problem is not explaining the consequence, but rather, proving the fact that man is not master of his own life. Very cleverly, de Lugo goes to the heart of the argumentation. For him, therefore, once it is proved that man does not possess supreme authority over his life, then everything else fits into place—but first, prove the point.

Now we prove that man is not the master of his life this way: although man can receive dominion over things which are extrinsic to himself or which are distinct from him, he cannot, however, receive dominion over himself, because from the very concept and definition, it is clear that a master is something relative, for example, a father or a teacher; and just as no one can be father or teacher of himself, so neither can he be master of himself, for to be master always denotes superiority with regard to the one over whom he is the master. Hence, God Himself cannot be master of Himself, even though He possesses Himself most perfectly. There-

²¹Cf. St. Thomas, op. cit., II:II, 1. 58, art. 2.

²²Cf. L. Molina, *De iustitia et lure* (Coloniae Agrippinae, 1614), IV, Tract. 3, Disp. 1, n. 1.

²³Ibid., Disp. 9, n. 2; also St. Thomas, op. cit., II:II, 1. 59, art. 3, ad 2.

²⁴Cf. word 'dominion', *Webster's Collegiate Dictionary* (Springfield, Merriam Co., 1942), p. 299.

²⁵Cf. Deuteronomy: 32, 39.

fore man cannot be master of himself, however, he can be master of his operations, and therefore, he can sell himself and thus, improperly speaking, we might say he gives mastery of himself to another but, he really does not give over mastery of himself basically or radically, but only mastery over certain of his operations, . . . therefore a man can dispose only of his own operations of which he is the master, not of himself, (or to say the same thing) not of his own life over which he is not master, nor can he be."

A study of these words of de Lugo reveals that fundamentally, he bases his reasoning on the notion of relativity contained in the concept of dominion, and ultimately on the relation which man, the creature, has to God, his Creator. For de Lugo, to have dominion necessarily implies something extrinsic to the one having dominion. Over and above that, dominion implies superiority, so that not even God has dominion over Himself, properly speaking. Since it is obvious that no man can be extrinsic or superior to himself, it follows that neither can he be basically master or lord of himself in regard to his life.

While it is true that man possesses a mastery over the actions of his life, which after all proceed from his own free will, he does not possess any like mastery over his life radically. Therefore, lacking the mastery, he must not act the part of a master and perform an act proper to the master alone—destruction. Hence, because of the lack of dominion in the strict sense, direct suicide is gravely illicit."

Who, then, has the supreme dominion? The implication is rather simple for de Lugo. God is the only one who is both extrinsic and superior to man—it is from God that man came—and therefore, He alone has supreme dominion. This becomes clear from de Lugo's reply to the first objection where he reasons that it would be licit for a man to kill himself in virtue of a precept or

permission from God, because God, after all, possesses the most perfect dominion over life and man would act then as His instrument.²⁶

The theologians appreciated the value of this basic notion of dominion. It was quite logical then for them to take the next step and apply the distinction existing at the time in juridic terminology between dominion over the « substance* of a thing and dominion over its «usefulness*. The first is known as a direct or radical dominion; the second, as an indirect or dominion of use." With these terms then, the theologians explained the difference between God's status and man's status in regard to a man's human life. To God belongs the basic or radical dominion and He allows man an indirect dominion or possession of its usefulness. Regarding his human life, man has only the right to its proper use because God alone possesses the basic lordship over its substance.

It is in this manner that for centuries theologians have refuted the arguments in favor of suicide and proved its malice. The reasoning can be put in the form of traditional scholastic argumentation as follows:

Man in killing himself usurps the direct dominion over his life which belongs to God alone.

To usurp this dominion is a grave violation of a divine right.

Therefore, man in killing himself, violates in a serious way a divine right.

The proof then of the major is: the one having dominion over anything is the one for whom the usefulness of such a thing is primarily intended, so that he can dispose of it for his own benefit without fear of violating another man's prior rights. Man, however, has not been created primarily for his own convenience or utility, but rather, for the glory and worship of God. Thus, he can not dispose of himself without consideration of God's rights. Therefore, he is not his own master in regard to the basic rights over his life. The minor in the argumentation is clear enough and discussion concerns only the major.

Such is the argumentation that appear generally in the writing of the Catholic theologians and moral philosophers." True, changes here and there

n. 10.

²⁶Cf. F. Harth—P. Abelian, *De Praeceptis* (Romae, Pontificia Universitas Gregoriana, 1948), p. 20, for a brief but precise explanation of these juridic terms.

"S. Alphonsus, *Theologia Moralis* (Romae, ex Typographia Vaticana, 1905), Lib. III, Tract. 4, Cap. 1, Dub. 1, n. 366; A. Lehmkühl, *Theologia Moralis* (ed. 10; Friburgi Brisgoviae, Herder, 1902), I, pp. 346-347; H. Noldin—A. Schmitt, *Summa Theologiae Moralis* (ed. 27; Oeniponte/Lipsiae, Rauch, 1940-41), II, p. 309; Aertnys-Darren, *Theologia Moralis* (ed. 16; Marietti, 1950), p. 458; L. Fanfani, *Manuale Theorico-Practicum Theologiae Moralis* (Romae, Libreria Ferrari,

²⁶Porro hominem non esse dominum suae vitae, probari potest, quia licet homo potuerit accipere dominium aliarum rerum, quae sunt extra ipsum, vel quae ab ipso distinguuntur; non tamen potuit accipere dominium sui ipsius, quia ut ex ipso conceptu et definitione constat, dominus est aliquid relativum, sicut pater, et magister; quare sicut nemo potest esse pater vel magister sui ipsius, ita nec potest esse sui ipsius dominus: nam dominus semper dicit superioritatem respectu illius cuius est dominus. unde nec Deus ipse potest esse dominus sui ipsius, quamvis possideat perfectissime seipsum. non potuit ergo homo fieri dominus sui ipsius, potest quidem esse dominus suarum operationum, et ideo potest vendere seipsum, et tunc dicitur improprie dare alteri dominium sui ipsius; sed revera non dat proprie dominium sui simpliciter sed solum in ordine ad aliquas suas operationes. . . . solum ergo potest homo disponere de suis operationibus, quarum dominus est, non de seipso, vel, quod idem est, de vita sua, cuius dominus non est, nec esse potest.—J. de Lugo, op. cit., Disp. X, Sec. I, n. 9.

²⁷Cf. *ibid.*, n. 10 ss., where de Lugo refutes the objections made to his doctrine.

in the presentation of the argument occur. The variation depends on the author. No change, however, is so singular as to warrant special mention here. These writers in their expression of the argument based on the divine dominion over human life obviously suppose the existence of God, creation and the end of man which is to be attained in the next life, as facts proved elsewhere." They then proceed to set forth their argument. This procedure is, of course, legitimate enough. As a matter of fact, the suppositions are quite necessary if one is to capture the validity of the reasoning process."

One frequently finds the argument from *charity* conjoined with the argument based on the exclusive dominion of God over human life. Man is bound to exercise the virtue of charity in regard to himself as he is in regard to others and this virtue he violates seriously by suicide." However the argument based on the virtue of charity does not seem to find unconditioned favor because of what theologians feel is a lack of universality. For example, one might argue that a situation could arise in which a man would actually show more love for himself if he would kill himself, rather than live in the necessary proximate danger of sinning seriously. Thus the authors feel that the prohibition against suicide must be proved from some other source besides the virtue of charity alone." Once suicide is proved illicit by another argument, e.g., the singular right which God has over human life, then, of course, it is true to say that man also sins against the love which he owes himself."

An interesting treatment of this problem occurs in the writings of Father Vermeersch. His approach is slightly different. Vermeersch states the arguments based on the dominion of God and the charity due one's self. He then proceeds to show that suicide also offends against the virtue of piety towards

one's self." Vermeersch explains this by pointing out that when a man commits suicide, he removes the fundamental condition of all worship—his life. By so doing, he fails to acknowledge his essential dependence on God, the Creator, and thus refuses to recognize his obligation to revere in himself the image of God from Whom he has come and to Whom, alone, belongs the dominion over his life."

By way of summary then, we may say the Catholic position in regard to suicide is that a man always sins seriously when he attempts to take his life on his own authority. This is so because suicide is a grave infraction of the natural law, the divine positive law, and the ecclesiastical law. The natural law is violated because man has only the right of using his life and never possesses a radical dominion over the substance of it. Hence, by suicide, he usurps a divine right. Suicide is prohibited also by the divine law in view of the fifth commandment, "the duty of loving one's self" and the open declaration in Scripture of God's dominion over life." Finally, the ecclesiastical law forbids suicide and thus the perpetrator offends against Church law. Add to this the constant teachings of the ecclesiastical writers, theologians, and moralists and one understands plainly and appreciates fully the import of the teaching of the Church in this matter. Scripture, Tradition, and the teaching Church all show the malice of suicide.

1.2 THE RESPONSIBILITY OF CONSERVING ONE'S HUMAN LIFE

A—Catholic teaching

Since man does not have perfect dominion over his life, but only a right to its use, which he receives from God, it follows that he is bound to take

1950), II, p. 323; Regatillo-Zalba, op. cit., II, p. 258; V. Cathrein, *Philosophia Moralis* (ed. 20; Friburgi Brig., Herder, 1955), p. 245; Schuster, *Philosophia Moralis* (Friburgi Brigoviae, Herder, 1950), pp. 91-92; Costa-Rossetti, *Philosophia Moralis* (Oeniponte, Rauch, 1886), pp. 265 ss.; T. Meyer, *Institutiones Iuris Naturalis* (Friburgi Brigoviae, Herder, 1900), II, p. 41; *Philosophiae Scholasticae Summa* (Matriti, Biblioteca de Autores Cristianos, 1952), III, p. 553.

³¹Cf. Schuster, op. cit., p. 91.

³²There are some who feel that there is apparent in the argument based on the dominion of God, an unwarranted influence of «juridism w. Cf. Bender, «Organorum humanorum transplantatio», *Angelicum*, XXI (1954), pp. 148-149. Of interest also is the contention of some that all the arguments against suicide are founded, in fact ultimately resolve themselves into the argument based on man's lack of perfect dominion over himself.

"Cf. Mt.: 22, 39; also Hiirth-Abellan, *De Principiis* (Romae Pontificia Universitas Gregoriana, 1948), p. 276.

"Cf. Schuster, op. cit., p. 91.

³³Cf. St. Thomas, op. cit., II, q. 64, art. 5.

"A. Vermeersch, *Theologiae Moralis Principia-Responsa-Consilia* (ed. 3; Roma, Pontificia Universitas Gregoriana, 1945), II, n. 296.

"Cf. A. Vermeersch, *Quaestiones de Virtutibus Religionis et Pietatis* (Brugis, Baeyaert, 1912), p. 205, n. 183 and p. 215, n. 190, for an added treatment of this argument.

"Exodus: 20, 13.

"Mt: 22, 39.

⁴⁰Deuteronomy: 32, 39; Wisdom: 16, 13.

"History reveals instances in which saints and martyrs threw themselves into fire or undertook other fatal tortures. Because of this, an objection often arises against the Church's condemnation of suicide. Also, in the Old Testament, Samson (Judges: 17, 30) killed himself and yet St. Paul numbered him among the saints (Hebrews: 11, 32). The interpretation of these events can be found in de Lugo; op. cit., Disp. X, Sec. I, n. 15; Regatillo-Zalba, op. cit., II, p. 259. Cf. also

proper care of it. Since he does not own his life, he must conserve it until such time as is indicated by the rightful owner.

Man does have dominion over his actions and even a certain dominion over his life and members, but only such as allows him certain limited rights:⁴ Furthermore private men have no dominion over the members of their body other than that which pertains to their natural ends . . .^{*42} Lacking therefore the perfect dominion, he not only must not destroy his life, but he must conserve it in a positive manner. He is not the lord of his life but only its custodian, and thus, he has the obligation and responsibility of caring for what has been entrusted to his charge. As the administrator of his life, he has the duty to take the steps necessary for its conservation. To him has been given life, not to be lost but to be conserved.

If however, man fails in this regard; if man decides to disregard his responsibility of administration and custody; if man does not conserve his life, he then violates the same law which forbids him to kill himself: « The same precept which prohibits suicide also prescribes by that very fact, the conservation of one's life, since not to conserve one's life and to commit suicide are virtually the same.^{*43} Hence, there is no difficulty in recognizing the duty of conserving one's life as a rather obvious consequence of the doctrine that suicide is illicit. Also, from the realization that man is merely the custodian of his life, the inference is clear—namely, he must conserve it and care for it.

In the Decalogue, no one can find this specific command: Thou shalt conserve thy life. Yet, Sacred Scripture certainly extols the value of human life. God is the ultimate end of man and of his actions, so that in all his actions, he should direct himself to glorifying God and one day possessing Him." Man accomplishes this end by the exercise of his powers and faculties. God has given certain natural gifts to man and, if he uses these properly, he will merit eternal salvation, thus giving glory to God and attaining the lasting possession of God.

Among these gifts of God, there is none more precious than life itself, for without life, there is no power or faculty or action. The first requirement,

therefore, for man in order that he may merit heaven is life here on earth. Then, as a true steward, he supervises these gifts of his Master until the Master demands an accounting." His time of existence here on earth becomes for him a period of probation. The entire New Testament portrays life as the time in which man must use the God-given talents" with which he can save his soul. Life is a period of sowing good seed in preparation for the harvest.' It is during life that man has the opportunity of working in the vineyard of the Lord." Thus he is able to store up treasures in heaven."

If, therefore, the relation between man's life on earth and future happiness in heaven is so intimate, an appreciation of the value of his life immediately arises. Man then should guard it, protect it, care for it, and conserve it as he would any precious thing. Certainly, he should not injure it; much less, should he destroy it. However, since man in this present economy can not hold himself indifferent to his supernatural end which is obligatory,⁵⁰ and since this end is attained by the correct use of his powers and faculties here on earth, one can argue that, therefore, the use of these powers and faculties and the life which is their foundation is also obligatory, because he who is bound to an end is bound also to the means. Then, since the use of the means, which in this case have not been freely elected by man but assigned by God,' is obligatory, the conservation of them is also obligatory. This is true because the obligation to use a thing does not bind unless the thing exists. In this particular case, however, the thing concerned—his life and faculties—has been placed at man's disposal by a higher power precisely for that purpose—namely, use. Furthermore, it can be gathered from Sacred Scripture, as we saw above, that the time for meriting is not a period determined by the servant but rather, by the Master. Thus, the use of necessary means of meriting and their conservation is obligatory not merely for a stated time, but until such time as God demands a settling of man's eternal account. Hence, it is true to say that the responsibility which man has to conserve his life is evident also in Scripture.

From another point of view, Pope Leo XIII, in his Encyclical *Rerum Novarum*, expresses the necessity of conserving one's life. Writing about the nature of human work, the Pope remarks that work is not only something

S. Augustine, *De Civitate Dei*, Cap. 21; St. Thomas, op. cit., II:II, q. 64, art. 5, ad 4. Briefly, we may say that these authors interpret the actions of the saints and martyrs and usually explain them as having occurred due to an erroneous conscience or to a divine inspiration.

⁴² Ceterum, quod ipsi privati homines in sui corporis membra dominatum alium non habeant, quam quid ad eorum naturales fines pertineat . . . XI. *Casti connubii*, D. 2246.

⁴³ -Idem praeceptum, quod prohibet sui occisionem, eo ipso praecipit etiam propriae vitae conservationem, cum virtualiter idem sit vitam non conservare et vitam sibi Schmitt, op. cit., II, p. 307.

⁴⁴ Regatillo-Zalba, op. cit., I, pp. 36-44.

⁴⁵ Luke: 16, 2.

⁴⁶ Mt: 25, 14.

⁴⁷ Mt: 13, 24 ss.

⁴⁸ Mt: 20, 1.

⁴⁹ Mt: 6, 20.

⁵⁰ Cf. Regatillo-Zalba, op. cit., I, pp. 45 ss.

⁵¹ Cf. T. Meyer, op. cit., II, p. 48.

personal, but also something quite necessary because it is the way in which man can care for his human life. To take care of one's life, the Pontiff emphasizes, is a demand of the very nature of things with which it is necessary to comply." The Holy Father says: «Indeed, to remain in life is a duty common to all—the non-fulfillment of which is a crime. Hence, the right of acquiring the goods by which life is sustained necessarily arises . . . ».⁵³ The teaching of Leo XIII, therefore, declares openly that the right to work exists precisely because man has the duty to conserve his life which he accomplishes by means which his daily work provides.

In this matter, the doctrine of the Church and her theologians has been consistent and constant through the ages. This is not surprising because, first of all, the Church has always condemned suicide, as has been shown, and thus the logical concomitant, self-conservation, has been rather obvious. Secondly, because of the value of human life as a precious gift of God, and of its necessity for performing meritorious acts, the theologians have, as we shall see, constantly emphasized the responsibility of using the means of self-conservation. An understanding of creation, the value of man's body and soul, and his final end leaves room for no other doctrine in this regard.

Commonly, theologians are accustomed to use also the argument based on the virtue of charity." Man is bound to love himself. Therefore, a fortiori, he must exercise charity in regard to his life and thus, he is bound to care for his life and conserve it as the means which serve for obtaining eternal salvation." Most theologians, however, add this argument to the others by which they have already proved the necessity of self-conservation."

St. Thomas employed the argument from charity when emphasizing the import of the natural attachment that all men have to life: «. . . it is by nature that everything loves itself so that everything conserves itself in being and resists, as far as it can, any corrupting influences. Therefore, he who kills himself, acts against a natural inclination and against the charity by which a man should love himself*." This excerpt from the *Summa Theologica* serves well

⁵²Leo XIII, *Rerum Novarum*, D. 1938c.

⁵³«Reapse manere in vita, commune singulis officium est, cui scelus est deesse. Hinc ius reperiendarum rerum, quibus vita sustentatur, necessario nascitur . . . »—loc. cit.

⁵⁴Cf. St. Thomas, op. cit., II:II, 1. 25, art. 4-5.

⁵⁵a. L. Fanfani, op. cit., II, p. 126.

⁵⁶The theologians are somewhat reserved about this argument. They feel it is valid as far as it goes but that it is not sufficiently universal to prove by itself the necessity of self-conservation. This point has been mentioned already in the discussion on suicide, but it is worthwhile here to call attention to the treatment in Cathrein, op. cit., p. 247, n. 347.

⁵⁷« . . . naturaliter quaelibet res seipsam amat: et ad hoc pertinet quod quaelibet res naturaliter conservat se in ease et corrumpentibus resistit quantum potest. Et ideo quod aliquis seipsum

as an introduction to the argument based on man's natural desire to live. St. Thomas recognized the instincts that man finds within himself. In his writings, therefore, he was quick to reveal their fuller meaning and implications. Certainly, the first instinct of man is the attachment to life and the desire to live. In fact, it is the first instinct of all living being. Quite properly, someone has defined life as « the internal power of development and of resistance to destruction ».⁵⁸ Within himself, man senses a vigorous drive which urges him on to protect and perfect himself under all conditions, and to oppose all powers bent on his destruction. Deep within himself, he senses a passionate urge to live. Even in times of adversity, his basic concern is the protection of his well-being, and the fear of his own destruction initiates violent reactions throughout his whole human structure. His is an ardent love of life and a forceful instinct to live— and this he shares with every member of the human race.

There is no doubt that this basic instinct within man manifests the law of nature for him. Such a design of nature he must not only approve but effectively obey. Hence, he has the obligation to comply with nature and conserve his life in a positive manner. Not to do so constitutes a crime against nature, since he is acting against a natural inclination placed in him by the Author of nature itself.⁵⁹ One author phrases it this way: It is *impossible that any appetite set up in us by nature should be directed to any other thing than the fuller being of the individual. It is impossible that it should aim at nothingness or at destruction* ». ⁶⁰ A simple glance at human life as it exists today in the world, and as it has existed since the beginning, reveals that what is said of the theory of this human desire to live and better one's self, has also worked out in practice. Man and woman unite to initiate the family by which they actually perfect their own personalities in addition to accomplishing other ends. The families have formed society, and all society is directed not only to the perpetuation and conservation of the human race, but also to its betterment and development by enabling man to accomplish in society what he could not do alone. Certainly, society is not bent on the destruction of the human race. Society represents the inner feelings of each individual of which it is comprised, and

occidat est contra inclinationem naturalem, et contra caritatem, qua quilibet debet seipsum diligere.—St. Thomas, op. cit., II:II, q. 64, art. 5, in corp.

Pouvoir interne de développement et de résistance à la destruction.—J. Leclercq, *Leon: de Droit Nature!* (Namur, Maison d'édition Ad. Wesmael-Charlier, 1937), IV, Les Droits et Devoirs Individuels, Première Partie, p. 14.

⁵⁸Cf. R. P. Sertillanges, *La Philosophie Morale de Saint Thomas d'Aquin* (Paris, Aubier, éditions Montaigne, 1946), p. 182.

⁶⁰M. Cronin, *The Science of Ethics* (Dublin, Gill & Son, 1917), II, p. 53.

thus represents the individual's desire for life, development and perfection. If, at times, society fails in this regard, the reason does not lie in any basic drive or urge to self-destruction, but rather, in ignorance, blindness, bad will or in many of the other effects of sin. This is evident even in war itself. Although one segment of society does not hesitate to destroy another, yet each individual member of society fears self-destruction and aims at his own protection and conservation.

This theme runs through the works of St. Thomas, as these few examples, besides the one already quoted, demonstrate:

It is natural for each individual to love his own life and things pertaining thereto, but in due measure: that they are loved not as if the end of life were rooted in them, but that they must be used in view of the ultimate end of life. Hence failure to love these things in due measure is contrary to the natural inclination, and consequently, a sin.'

Love of self-preservation because of which the dangers of death are avoided, is much more connatural than any pleasures whatever of food or sex which are intended for the preservation of life. Hence, it is more difficult to conquer the fear of dangers of death, than the desire of pleasure in the matter of food and sex."

Particular nature is conservative of each individual as much as it can, hence it is beyond intention that it be deficient in conserving.

And according to this all corruption and defect is against nature because a power of this type intends its existence and the conservation of that of which it is."

⁶¹ - Inditum autem est unicuique naturaliter ut propriam vitam amet, et ea quae ad ipsam ordinantur, tamen debito modo: ut scilicet amentur huiusmodi non quasi finis constituatur in eis, sed secundum quod eis utendum est propter ultimum finem. unde quod aliquis deficiat a debito modo amoris ipsorum, est contra naturalem inclinationem: et per consequens est peccatum.—St. Thomas, op. cit., II:II, q. 126, art. 1.

⁶² . . . amor conservationis vitae, propter quam vitantur pericula mortis, est multo magis connaturalis quam quaecumque delectationes ciborum vel venereorum, quae ad conservationem vitae ordinantur. Et ideo difficilius est vincere timorem periculorum mortis quam concupiscentiam delectationum, quae est in cibis et veneresw—Ibid., q. 142, art. 3, ad 2.

Natura particularis est conservativa uniusquisque individui quantum potest: unde praeter intentionem eius est quod deficiat in conservando . . .—S. Thomae Acquinatis, *De Caelo et Mundo* (Taurini, Marietti, 1952), Lib. II, Lec. 9.

⁶⁴ -Et secundum hanc, omnis corruptio et defectus est contra naturam . . . quia huiusmodi virtus intendit esse et. conservationem eius cuius est ».—St. Thomas, I:II, q. 85, art. 6, in corp.

Finally:

An act of this type, since one's intention is to conserve one's life, is not illicit because it is natural to everything to conserve itself in being in as much as it can⁶⁵

These citations from the writings of St. Thomas emphasize not only the strength of his arguments in the particular matter he is treating but also, the fact that all men sense within themselves a drive urging them on to the conservation of their own lives. This tendency of nature is not passive. One could never call it mere wishful thinking. In point of fact, it is to a great degree the psychological basis for man's actions. He acts not only in order to live but also to satisfy the drive within himself to self-protection and development. One of the demands of nature then is the conservation of one's own life. Since, also, it is true that man is bound to live according to his nature, it is true to say that man is bound by the law of nature to conserve his own life.

This argument is based not on the presence or apparent absence of this natural inclination within a particular man. Rather, it is based on the presence of this inclination in an individual as is observed in the majority of mankind. The objection, therefore, that a man could easily fancy his self-development as existing in some form of suicide, in no way vitiates the argument. Reasoning in argumentation of this type should be grounded on the solid manifestations of the feelings and actions of mankind in general, not on the psychological quirks of any particular individual.

A review, therefore, of the foregoing discussions indicates that neither Scripture, the tradition of the teaching Church, nor the nature of man can be cited in support of an argument denying the obligation to conserve one's life. Indeed, the facts reveal the contrary. The reasons demonstrating the malice of suicide and the obligation of self-conservation are intimately related, and the common Catholic teaching has been consistent and constant in regard to both.

The teachings of Sacred Scripture and of the Church in this matter are merely authoritative restatements of what is already contained in the natural law⁶⁶. Therefore, throughout this dissertation the malice of suicide is condemned as a grave infraction of the natural law and the obligation of self-

⁶⁵ _Actus igitur huiusmodi ex hoc quod intenditur conservatio propriae vitae, non habet rationem illiciti: cum hoc sit cuilibet naturale quod se conservet in esse quantum potest.—Ibid., II:II, q. 64, art. 7, in corp.

⁶⁶ In this dissertation, the natural law is understood as the natural *moral* law, as distinct from the physical laws of nature.

conservation is urged as a positive precept of the natural law—the supposition being that the reader in both instances will advert to the fact that the natural law is the foundation for any teaching in these matters found in Scripture or the teaching of the Church. This applies also to man's natural inclination to conserve his life. Such an inclination manifests the content of the natural law for an individual in regard to the conservation of his life. The natural law in this matter, as in all others, is consonant with the very nature of man. Therefore, not to conserve one's life or, in effect, to commit suicide directly is entirely against nature and therefore intrinsically wrong.

B—Euthanasia and the precept of self-conservation

In the light of the foregoing arguments, a condemnation of euthanasia presents no problem. If euthanasia is inflicted without the consent of the patient, then it **is** intrinsically evil because it is murder. (The malice of homicide is treated elsewhere in the texts of Catholic Moral Theology) If on the other hand, it is a form of voluntary euthanasia in which the person concerned gives permission on his own authority for his life to be taken, then it still remains intrinsically evil. The reason is a simple corollary to the discussions already made in this dissertation. Voluntary euthanasia is suicide and, as such, is a grave disregard of the obligation of self-conservation.

C—Epikeia and the precept of self-conservation

A question can easily arise which fittingly calls for attention here. Is it possible to apply epikeia to the natural law? More precisely, understanding epikeia as a correction of law made by a subject himself on the presumption that the legislator did not intend to include in a law his particular case," is it possible to apply epikeia in the question of the demand of the natural law that a man must not commit suicide and that he must conserve his life?

We must reply that there can never be an application of epikeia to the natural law and therefore, not even in this case. In a thorough treatment of epikeia, L. Riley, in his doctoral dissertation, devotes an entire chapter to this subject." In this chapter the author assigns the many reasons in support of this doctrine. First of all, since the acts prescribed by the natural law are intrinsically good, and those forbidden are intrinsically evil, any possible ex-

trinsic circumstances could never legitimately excuse an individual from positing the prescribed acts continuously or avoiding, as a rule, the prohibited actions." Furthermore, presuming that the licit use of epikeia is conditioned on the existence of the fact that the law is deficient, there can be no licit application of epikeia in the question of the natural law because there can be no defect in the Legislator—God; the promulgator—right reason; or in the matter of the law because it is comprised of what is either intrinsically good or intrinsically evil.⁶⁹ Therefore, whether the precepts of the natural law are negative or affirmative, the conclusion is that the natural law never admits of epikeia. An example of a negative precept of the natural law is the prohibition of suicide; an affirmative precept would be the duty of self-conservation. The following lines from Riley's work, which are based on the teaching of Suarez, are of considerable interest:

For the negative precepts bind *semper* and *pro semper*, and hence the obligation can never cease. The affirmative precepts bind *semper* but not *pro semper*. Natural reason or positive law dictates when precisely they must be put into execution. Not to fulfill them in *actu secundo* when, in the judgment of natural reason such is not demanded, is certainly no example of *epikeia*—it is simply an instance of interpretation. on the other hand, there can be no licit use of *epikeia* when reason dictates that the affirmative precepts of the natural law must be put into action. For to allow *epikeia* in such an instance would be to permit an action admittedly contrary to right reason and ultimately to the Divine Essence."

Hence since epikeia can never be licitly applied to the natural law," the further deduction is true; namely, epikeia could never be employed by any individual on the grounds that his particular circumstances represent a case where the natural law would not require the fulfillment of the obligation of self-conservation.

⁶⁹Ibid., p. 277.

⁷⁰Ibid, pp. 280-282.

⁷¹L. Riley, op. cit., pp. 284-285.

⁷²Further references to the question of epikeia and the natural law include: Aertnys-Damen, op. cit., I, p. 126, quaer. 3; Fanfani, op. cit., I. P. 197, dub II. Fanfani explains that the application of epikeia to the natural law is impossible because the natural law is founded in the very nature of man and comes from the supreme and most wise Legislator and thus, the law can not be deficient, neither can there be a particular case not foreseen by the omniscient Legislator.

⁶⁷L. Riley, *The History, Nature and Use of Epikeia in Moral Theology* (Washington, The Catholic University of America Press, 1948), p. 137.

⁶⁸L. Riley, op. cit., pp. 258-291.

D—Dispensation and the precept of self-conservation

A further question comes to mind. Is there such a thing as a dispensation from the natural law? Again, more precisely, can one obtain a dispensation from the obligation of conserving his life?

Dispensation is defined as the relaxation of a law in a particular case." The natural law is by its very nature immutable and universal. Hence, there can be no dispensation from it. Since the natural law is immutable, it can not be either suspended or abrogated and since it is **universal, it admits of no exception.**" However, a certain type of mutability **in the improper sense is admitted by some authors regarding the secondary precepts of the natural law."** They distinguish between the changing of a law and the changing of the matter of a law **Thus, a law properly could be called mutable if the obligation of the law ceases, while at the same time, the very same matter is involved. On the other hand, it would be called a mutable law in the improper sense if the obligation of the law ceases because the matter of the law has changed. The matter of the law here is understood as the item concerning which a law is formed and promulgated. Hence, these authors would say that regarding the secondary precepts, the natural law is mutable, in the improper sense, in a situation where the matter of the law has changed. Wherefore, a proper authority can dispense from the natural law in such a situation unless the law concerns a matter in itself everywhere** and always intrinsically evil.

Others deny any type of mutation whatever in the natural law, as long as **the demands of the law are expressed in complete and adequate terms with all the necessary restrictions, conditions, and determinations which would allow the applications of the law not only in general cases but also in particular and extraordinary cases.**⁷⁶ Hence, these authors feel there is no possible dispensation from the natural law, because, as is known, the indispensability of the natural law derives from its immutability. Therefore, they would say that there is no dispensation from the natural law, even in the improper sense. Any cases which are brought forth as examples of a dispensation from the natural law merely manifest special conditions which do not permit the application of a principle of the natural law because it has been expressed in terms too general and indefinite."

⁷⁴*Code of Canon Law (1983)*, Canon 85.

⁷⁴L. Fanfani, op. cit., I, p. 196.

⁷⁵Cf. Noldin-Schmitt, op. cit., I, p. 123, n. 116; Aertny-Damen, op. cit., I, p. 125, n. 136; Lehmkühl, op. cit., I, p. 122; Fanfani, op. cit., I, pp. 196-197.

⁷⁶Regatillo-Zalba, op. cit., I, p. 354.

⁷⁶*Ibid.*, pp. 355-356.

Whatever else remains to be said of this dispute would not be to the point here. Perhaps, the whole matter represents merely an argument over words because all admit that the natural law in itself is immutable and admits of no dispensation in that sense.

Therefore, an individual can never receive a dispensation from the obligation of conserving his life. God could manifest His will and demand that a person give up his life by some form of non-conservation of self. This would not be a divine dispensation from the natural law. God has the dominion over life and He can cede this faculty to man, **and thus the non-conservation of self or suicide would not be against the natural law since the individual would be acting, not on his own authority, but on God's. Killing is not against the natural law; it is killing without the proper authority that breaks the natural law. This authority, is not a dispensation; not a jurisdictional act whereby the natural law is relaxed in a particular case but rather, it is a divine permission to exercise a faculty which God ordinarily reserves to Himself. In passing, it should be noted that an individual must have positive evidence that this faculty has been granted him by God.** Presumption, instigated by the onslaught of physical or psychological ills, is certainly no indication that God has **given such a faculty.**

E—Ignorance and the precept of self-conservation

Another interesting point is the possibility of invincible ignorance in this matter. In effect, the question is: can there be invincible ignorance **of the natural law, or rather, is the natural law so well written and impressed in the hearts of men that it is quite inconceivable that a man could be invincibly ignorant of its demands.** Certainly, one of the basic postulates of the natural law is the precept of self-conservation. This is grounded on a very natural **inclination. It would seem, therefore, that no possibility of invincible ignorance in this matter could ever be present.**

In point of fact, the history of the world and of different races testify that it has been with considerable difficulty that some peoples have arrived at the knowledge of even the most fundamental moral truths. It is also true that in the present condition of fallen nature, the promulgation of the natural law by the light of the human reason alone is sufficient physically for a man to know the content of the natural law. However, human reason alone is insufficient morally—hence the need of revelation. In fact divine revelation in this present economy is morally necessary in order that the natural law can be known with sufficient ease, certitude and completeness."

⁷⁸A. Vermeersch, *Theologiae Moralis Principia-Responsa-Consilia*, I, p. 127.

The common teaching holds that an individual enjoying the use of reason cannot be in ignorance of the first and most universal principles of the natural law." Furthermore, the primary conclusions drawn from the most universal principles are also known and the individual can not be invincibly ignorant of these for any extended length of time, because the ordinary intellect can deduce these conclusions correctly with a minimum of effort. The foregoing, then, is the common teaching regarding the knowledge that a human being has of the natural law. However, it is necessary to admit that defects of education, past sins and evil habits, or false persuasions can be the cause of invincible ignorance for a time."

Vincible ignorance, which is also culpable, obviously can be present, not because of a defect in the intellect but due to a bad will—with this point there is no argument.' Over and above this, there can also be a situation in which the intellect would draw the correct conclusion from a most universal principle but err in the application of the conclusion to a particular case.'

It is necessary, then, to admit theoretically first of all that cases of invincible ignorance of the natural law can occur and, therefore, the person concerned is free of the guilt of formal sin. The opposite opinion, once held by the Jansenists, was condemned by Pope Alexander VIII:

Although there may be invincible ignorance of the law of nature, in the state of fallen nature, the one working in virtue of this ignorance is not excused from sin'.

Secondly, one has to agree that an individual can err in good faith in the application of a natural law principle or deduction, and thus, also, be free of guilt.

Now to the case in point. The principle guiding an individual to the conservation of his life is self-evident. Per se,* therefore, there can be no invincible ignorance in this regard. The drive leading a man forward to self-conservation finds its roots in the very nature of man. He can not be ignorant for any extended length of time of the obligation of self-conservation. However, the following would seem to be possibilities:

1. Theoretically, an individual, for a brief time, could be invincibly ignorant of the duty of self-conservation. Thus he would not be guilty of sin, if in that period of time, and acting in virtue of the invincible ignorance, he should take his life.

2. A situation can occur in which an individual would be vincible and culpably ignorant of his obligation of self-conservation. Any action performed in virtue of this ignorance would, of course, be sinful.

3. An individual could fully realize his obligation to self-conservation, and admit its truth, but feel that his failure to satisfy the obligation would be licit because of some particular circumstances. A good example of this is euthanasia. The patient could falsely justify euthanasia because of the overwhelming pain he is suffering. The doctor could falsely justify his administering of the euthanasia on the grounds of charity to the patient. This is ignorance not regarding the law itself, but, rather, in regard to the application of the law, and, thus, again an individual might escape formal sin.

However it was conceded that per accidens the subject may conceive an action as justifiable in practical action surrounded with all its circumstances while fully admitting the general prohibition. This would hold in the present consideration. The aversion to the physical pain that causes men to subvert the value of life to the value of physical well-being is no doubt due to a long series of sins on the part of both individuals and society. However, as has been seen, ignorance which is a consequence of sin is not always culpable ignorance. If it is a result of previous sin, it is not culpable unless it had been foreseen. Though its admission constitutes an indictment of modern society, the possibility of invincible ignorance of the evil of euthanasia is to be admitted. The same principles can sometimes be applied to suicide".

One must enjoy the use of reason before the above-mentioned rules on ignorance of the natural law apply. This does not mean, of course, that those who have not as yet reached the use of reason and those who are insane are not bound by the natural law. Rather, the opposite obtains. These people, as all other human beings, by their very nature, are subject to the natural law and thus when they break this law, they sin—materially, however, and not formally."

⁷⁹Regatillo-Zalba, op. cit., I, p. 361, n. 344; Fanfani, op. cit., I, p. 198.

⁸⁰Regatillo-Zalba, ibid., n. 345; Fanfani, ibid, p. 199.

⁸¹Noldin-Schmitt, op. cit., I, p. 122, n. 144.

⁸²Regatillo-Zalba, op. cit., I, p. 362, footnote 48.

⁸³Tametsi detur ignorantia invincibilis iuris naturae, haec in statu naturae lapsae operantem ex ipsa non excusat a peccato formali*.—D. 1292.

⁸⁴S. Bertke, *The Possibility of Invincible Ignorance of the Natural Law* (Washington, The Catholic University Press, 1941), p. 103.

⁸⁵Cf. Aertnys-Damen, op. cit., I, p. 124.

F—The principle of the double effect and the precept of self-conservation

The principle of the double effect also comes to mind and a question arises concerning it. Can the principle of the double effect be used in certain cases involving the dictate of the natural law requiring self-conservation? Is it licit to perform some action which will produce two effects—one of which will be an individual's won death? Up till now, therefore, the discussion has centered around the necessity of self-conservation and the malice of non-conservation of self by some form of direct suicide. Here, the question of indirect suicide comes into light.

Obviously, any form of non-conservation of self that happens without any intention at all on the part of the individual is without fault. It then is involuntary as, for example, in the case of an accidental suicide. However, in the case of an action which is entirely intended and willed, but which will produce two effects, one of which is good and the other evil, it would be licit to perform this action only if certain conditions are fulfilled. Edwin Healy, S. J. explains it this way:

It is allowable to actuate a cause that will produce a good and bad effect, provided 1) the good effect and not the evil effect is *directly intended*; 2) the action itself is good, or at least, indifferent; 3) the good effect is not produced by *means* of the evil effect; and 4) there is a proportionate reason for permitting the foreseen evil effect to occur."

Above all, it is necessary to underline the fact that, just as direct suicide performed on one's own authority is always illicit, so also, indirect suicide which is not accompanied by a proportionately grave reason is basically illicit. Indirect suicide is understood here as suicide eventuating from the performance or omission of an act on account of which death occurs. The moral difference in the two forms of suicide lies in the fact that indirect suicide can sometimes be licit if there is a proportionately grave reason on account of which the indirect suicide can be permitted.

Hence, the application of all the above principles to particular cases would show that the following solutions offered by the older moralists are valid. 1) A soldier may remain at his post even though he is morally certain that he will be killed." 2) An individual in a ship-wreck may give his means of

safety to someone else, even though the loss of his own life may occur." 3) One may minister to those infected with contagious fatal diseases even with great danger of his own life.' 4) In the event of a fire, it is licit to jump from a high position with the intention of escaping the fire even though there is certain danger of death involved in such a high fall.' Likewise, a young woman could do the same in order to escape an attacker.' 5) Naval personnel could scuttle a ship at sea during war even with danger and possible death occurring to themselves, lest the enemy capture the ship and thus inflict heavy damage on their native land." 6) It is also licit to fast and abstain, and inflict moderate injuries on one's body for the sake of penance, even though, unintentionally, one's span of life is considerably shortened.⁹³

Certainly, these cases are not the only ones possible to mention. The principles involved are clear. With the examples that have been given, the distinction between direct and indirect non-conservation of self has been sufficiently outlined.

There is an interesting case, however, which is worthy of separate mention because there could be a serious temptation to solve the problem by means of the two-fold effect principle. This, however, would seem to be unlawful and not allowable. These days, an episode involving voluntary hunger-strike occasionally occurs. As a rule, it receives tremendous publicity in the ordinary daily journals. This is true especially when the ones involved undertake their hungerstrike in order to emphasize or solve some public issue. The fascinating story of the voluntary hungerstrike of the Lord-mayor of Cork, Ireland in 1920 is typical. This gentleman, in order to defend the autonomy of Ireland against England, had recourse to a voluntary hungerstrike and died on October 25, 1920 after a fast from food which lasted seventy-three days, twelve hours and forty minutes."

It is quite simple to imagine that many, especially those emotionally connected with the situation, could fancy that some species of the principle of the double effect would justify the actual non-conservation of self on the part of the famous mayor of Cork. No doubt, there were several who felt at the time that the autonomy of the country, the striving after a great good, the interest in the common weal made his course of action licit.

⁹¹Loc. cit.

⁹²Loc. cit.
n. 367.

⁹³Loc. cit.

⁹⁴Loc. cit.
n. 371. The foregoing examples are given also in St. Alphonsus, *Homo Apostolicus* (Torino, Marietti, 1848), Tract. VIII, Cap. 1, n. 1.

"Cf. editor's note, *La Documentation Catholique*, 30 oct. 1920, p. 333.

⁹⁵E. Healy, *Moral Guidance* (Chicago, Loyola University Press, 1942), p. 20.

⁹⁶St. Alphonsus, op. cit., Lib. III, Tract. 4, Cap. 1, Dub. 1, n. 366.

An examination of the case proves, of course, that only a valid application of the two-fold effect principle could justify the situation. Certainly, the bare action alone of the mayor was not allowable, because it was direct non-conservation of self. However, a thorough analysis reveals that no application of the principle of the double effect would seem to be allowable here. The act of fasting is certainly good or, at least, indifferent. The good effect, namely, the recognition of Ireland's autonomy, was what was directly intended and certainly the bad effect was not the means by which the good effect would come. However it would seem that this particular hungerstrike was not allowable. Although the act of fasting in the beginning was good or, at least indifferent morally, the point eventually came when fasting ceased being a morally indifferent act. As the mayor's physical condition became worse, then fasting any longer became unlawful because of the grave injury to health and the danger of death involved. Furthermore, whether the action in itself were good or not, it certainly was an inefficacious means of obtaining the end in view. Thus, the mayor's action should be condemned also on the grounds of lacking a proportionately grave reason. It is difficult to agree that a voluntary hungerstrike on the part of the mayor of Cork would be a secure means, efficacious by its very nature, and the only means necessary and proportioned to the obtaining of national liberty and independence."

This case is cited here to show, first of all, an example of an invalid application of the principle of the double effect, and also, to emphasize that even when suicide is not directly intended, a voluntary and direct abstinence from food, complete and lasting till death, even though performed because of high political or social motives, remains illicit nonetheless." It can be said, in passing, that the mayor of Cork acted in good faith and thus was free from formal sin.

Thus far, the treatment of cases involving non-conservation of one's life has involved, first of all, direct suicide and this is always illicit. Secondly the possibilities of indirect suicide were mentioned together with stipulated reasons and conditions because of which the indirect suicide could be allowable. In the first of these cases, the non-conservation of self is said to be voluntary and thus, sinful. In the second, it is not voluntary but said to be permitted, and thus can, at times, be licit if certain conditions are verified. Thirdly, the case of the completely accidental, unforeseen non-conservation of self was mentioned. This is entirely involuntary, and therefore, free of any moral culpability. In all three of these cases, though, the common element is some

positive action performed by the individual which directly or indirectly brings about his death. There is present, therefore, a cause which exerts a positive influence in the matter.

G—Moral impossibility and the precept of self-conservation

Now what about a mere omission of an action, when by this omission death of one's self occurs? Would it be illicit for an individual to omit an action when he foresees that he could perform the action and that should he choose not to, he will die? (Furthermore, the supposition in the case would be that he really would not intend to choose death, or else, of course, it would be suicide.)

In treating the famous Cork case, we mentioned actually a situation involving the omission of food. However, at the time, the point of main concern was an explanation of the conditions involved in the licit application of the two-fold effect principle. Here our main concern is the direct treatment of the principles involved in the omission of an act. The reason for **the separate** mention of the moral principles involved in this question is the fact that they are of great importance in determining the obligation that an individual has of conserving his life in certain circumstances. We **shall** see the **application** of these principles more clearly as this dissertation progresses.

Three conditions are necessary in order that a person be charged with guilt in a situation which involves either the omission of an act in impeding **evil**, or the placing of an act which causes evil, even though the effects of evil **are** not intended. 1) In some manner, at least in a confused way, he must foresee the evil effect. 2) He must be able to prevent the evil either by acting or omitting an action. 3) He must be bound by some obligation to prevent the **evil.**"

In the case at hand, therefore, the supposition is that an individual can perform the action and that he foresees that if he does not, he will die; he does not, however, intend his death. Therefore, the response is that he is guilty of **sin** if he omits the conservation of **his** life, unless it should be in his case that he (this particular individual) is not bound to conserve his life. Yet, on the other hand, it is a dictate of the natural law that a person conserve his life.

When does the moral obligation of the natural law cease? The answer to **this** question is quite simple. The obligation imposed by the natural law never ceases. It binds every human being,— everywhere and always. However, it is possible that a human individual could be excused from the fulfillment of the natural law because of particular circumstances. One of the excusing causes is

⁹⁵14 *Civil & Cattoilea*, IV (1920), pp. 530-531. Cf. also P. Gannon, «La Greve de la Palm», *La Documentation Catholique*, 30 cot., 1920, pp. 333-336; *L'Ami du Clerg*, 1920, pp. 529 ss.

⁹⁶Cf. Aertnys-Damen, op. cit., I, p. 457, footnote 1.

⁹⁷A. Lehmkuhl, op. cit., I, p. 20.

ignorance of the law. This has been treated earlier. Another, however, is inability to fulfill the law. This inability can be of a physical nature. Certainly, no one is bound morally to fulfill a law when he is physically unfit to do so. This is obvious in the question of the conservation of one's own life. Otherwise, an individual would be morally bound to the performance of the impossible and this is a patent contradiction." On the other hand, the individual may be physically capable of fulfilling the law but unable to, here and now, because of some circumstance of fear, danger, or grave inconvenience which renders the observance of the law extremely difficult for him. It is then said to be morally impossible for him to fulfill the law. It is obvious that physical inability excuses from the observance of a precept of the natural law. Regarding moral inability, however, the following is to be noted. Theologians commonly distinguish between the affirmative and negative precepts of the natural law." In the case of the negative precepts, it is necessary to emphasize that they are always binding even when their fulfillment involves a grave danger of death. This is so because these negative precepts forbid what is intrinsically evil and not even death itself would make it licit to perform evil. So, no grave inconvenience would produce a moral impossibility in this regard.

Where an affirmative precept is concerned, however, a moral inability would excuse from the fulfillment or observance of the precept. The reason is that these laws bind an individual *semper* but not *pro semper*, as the common dictum puts it. Whereas, in the case of negative precepts, the obligation is *semper* and *pro semper*. It is a rational presumption then that since man is not always and everywhere, under every circumstance, bound to do something positively good, he would not be always and everywhere bound to fulfill an affirmative precept. Hence, a moral impossibility, while not freeing an individual from the basic obligation of the natural law, excuses him from the present observance of an affirmative precept of that law.¹⁰¹

One further point worthy of note is the fact that an instance of moral impossibility does not exist in a situation where the fulfillment of the law is intrinsically and radically accompanied by some considerable inconven-

ience.¹⁰² This is a difficulty common to all men and thus would not generally constitute a moral impossibility for any one individual. So, for example, the ordinary individual usually could not excuse himself from the obligation of obtaining food on the grounds that working for the money to buy the food constitutes for him a moral impossibility. In the case, however, where working would entail a difficulty for him not commonly experienced by men in general, then a possible instance of moral inability to fulfill the law might exist.

Therefore, to summarize the above doctrine and apply it to the problem at hand: an individual is always bound by the affirmative precept of the natural law commanding him to conserve his life. However, the individual is licitly excused from the fulfillment of this precept by circumstances which constitute for him a moral impossibility not commonly experienced by men in general. How grave this difficulty has to be is the question which will occupy a great section of the remainder of this dissertation.

H—Ordinary and extraordinary means and the precept of self-conservation

The law that demands the conservation of one's own life, also commands that he employ the means necessary to conserve his life. Since, however, this law is an affirmative law and a licit application of the doctrine on moral impossibility may be made, theologians commonly divide the means of conserving life into two categories. The first includes those which are obligatory for everyone. The second is comprised of those means whose use would constitute a moral impossibility either for human beings in general or for one particular individual. The former they term *ordinary means*; the latter, *extraordinary means*. An individual must employ the ordinary means of conserving his life. *Per se*, he need not use the extraordinary means. *Per accidens*, however, someone might have the obligation of employing the means which are recognized as extraordinary for him and human beings in general.

In this chapter, we have investigated the basic obligation that binds each individual to conserve his life. We have seen also that because this precept is affirmative, the individual is held *per se* to employ only the ordinary means of conserving his life, *per accidens* the extraordinary means. In the next chapter, we shall review the teaching of Catholic theologians regarding the nature and use of these ordinary and extraordinary means of conserving life.

¹⁰¹Cf. D. 804.

¹⁰²Noldin-Schmitt, op. cit., I, p. 179, n. 177.

moCf. L. Fanfani, op. cit., I, p. 184 and p. 272; also A. Lehmkuhl, op. cit., I, p. 108.

wThere are occasions when an affirmative law binds even in the presence of moral impossibility: 1) if the violation of the law brings about common harm, 2) if the violation tends to the detriment of religion or hatred of God, 3) if the violation tends to the grave detriment of the spiritual condition of the individual concerned. Cf. A. Lehmkuhl, op. cit., I, pp. 108-109; Noldin-Schmitt, op. cit., I, p. 179, par. 177, n. 2.

¹⁰²A. Lehmkuhl, loc. cit.

CONCLUSIONS

1. God retains the radical possession of the rights over man's life. Man has full rights to the use of his life but to this only. Hence, any form of non-conservation of self, directly intended by an individual on his own authority, is illicit.

2. Likewise, man has the serious positive obligation of caring for his bodily life and health.

3. It is possible that an individual could be invincibly ignorant, for a time, of this obligation but certainly not for any extended length of time. However, it is possible that one might realize his obligation to conserve his life, but err in the practical application of the obligation to his status here and now

4. There is no licit application of *epikeia* in this matter. Neither is a dispensation possible. However, an individual could receive the command from God to take his own life by some form of non-conservation of self. In such a case, the individual would then have permission to exercise a faculty ordinarily reserved as a divine prerogative.

5. The obligation to conserve one's life, being an affirmative precept of the natural law, does not require fulfillment under all circumstances. Hence a moral impossibility would excuse.

6. The means to fulfill this precept of self-conservation are obligatory. Those means binding everyone in common circumstances are ordinary means. Those means involving a moral impossibility are extraordinary means.

CHAPTER II

Historical Report of the Opinions in Regard to the Ordinary and Extraordinary Means of Conserving Life

Inasmuch as the main object of this dissertation is an analysis of the Catholic teaching concerning the ordinary and extraordinary means of conserving life, it is fitting that, from the outset, a simple report of the traditional opinions on this subject be given. However, to conjoin an analysis with this report would be far too cumbersome. Hence, the reader will find that an attempt has been made to keep the commentary on the opinions cited here to a minimum. A more lengthy analysis will follow in the next chapter.

2.1 THE THIRTEENTH TO THE SIXTEENTH CENTURIES

Having in mind the basic duty which obliges an individual to conserve his life, as was seen in the preceding chapter, we will now find it rather

interesting to follow the further development of this doctrine through the centuries. The present historical report commences with St. Thomas Aquinas. In point of fact, there was not much discussion of the problem of the ordinary and extraordinary means of conserving life in the writings of the theologians prior to the sixteenth century. However, in this report, we begin with St. Thomas because his treatment of the question of suicide in the *Secunda Secundae*, q. 64, art. 5 influenced later writers quite heavily. Furthermore, many of the commentators chose this article' and the one on mutilation (II: II, q. 65, art. 1)" as the place for their discussion of the ordinary and extraordinary means of conserving life. Citations have already been given from St. Thomas. The following one, however, is of interest:

A man has the obligation to sustain his body, otherwise he would be a killer of himself . . . by precept, therefore, he is bound to nourish his body and likewise, we are bound to all the other items without which the body can not live."

The theologians immediately succeeding St. Thomas were content merely to restate his arguments against suicide," and one does not discover in their writings any lengthy speculation regarding the use of the ordinary and extraordinary means of conserving life.

2.2 THE SIXTEENTH CENTURY TO THE TIME OF CARDINAL DE LUGO

In the sixteenth century much discussion about the problem occurs. One of the notable theologians in this regard is *Vitoria*, O. P. (1546). In his famous *Relectiones Theologiae*, there is much of considerable interest. This holds true of his commentary on the *Secunda Secundae* of St. Thomas also. First of all, in the *Relectio de Temperantia*, *Vitoria* treats many problems regarding one's

life by means of food. He proves this obligation by arguments based on man's natural inclination to self-conservation, the love a man owes himself and the malice of suicide contained in the non-conservation of self. Therefore, if the conservation of self by food is an obligation, it would seem that a sick person who did not eat because of some disgust for food, would be guilty of mortal sin. *Vitoria* replies:

Regarding the first argument to the contrary, . . . I would say secondly that if a sick man can take food or nourishment with some hope of life, he is held to take the food, as he would be held to give it to one who is sick. Thirdly, I would say that if the depression of spirit is so low and there is present such consternation in the appetitive power that only with the greatest of effort and as though by means of a certain torture, can the sick man take food, right away that is reckoned a certain impossibility, and therefore he is excused, at least from mortal sin, especially where there is little hope of life, or none at all. Responding by way of confirmation: first of all a similar case does not exist in reference to food and drugs. For, food is per se a means ordered to the life of the animal and it is natural, drugs are not: man is not held to employ all the possible means of conserving his life, but the means which are per se intended for that purpose . . . Thirdly, we say that if one were to have moral certitude that by means of a drug he would gain health, without the drug, however, he would die, he really does not seem to be excused from mortal sin: because if he did not give the drug to a sick neighbor, he would sin mortally, and medicine per se is intended also by nature for health, but since this rarely can be certain, therefore they are not to be condemned of mortal sin who have universally declared an abstinence from drugs, although this is not laudable because God created medicine because of its need, as Solomon says . . .¹⁰⁷

¹⁰³Cf. *Somme Theologique*, op. cit., p. 149.

¹⁰⁴For example, cf. D. Baiiez, *Scholastica Commentaria in Pastern Angelici Doctoris S. Thomae* (Duaci, 1614-1615), Tom. IV, Decisions de Jure et Justitia, in II:II. q. 65, art. 1.

¹⁰⁵*Praecipitur autem homini quod corpus suum sustentet, alias, enim est homicida sui ipsius . . . ex praecepto ergo tenetur homo corpus suum nutrire et similiter ad omnia sine quibus corpus non potest vivere, tenemur.—S. Thomas, *Super Epistolas S. Pauli* (Taurini-Romae, marietti, 1953), II Thess., Lec. 11, n. 77.

¹⁰⁶well e.g., S. Antonius, *Theologia Moralis* (Veronae, 1740), de Homicidio, tom. II, col. 861, lit. D.

¹⁰⁷..Ad argumentum in contrarium, ad primum . . . Secundo dico quod si aegrotus potest sumere cibum, vel alimentum cum aliqua spe vitae, tenetur sumere cibum, sicut teneretur dare aegrotanti. Tercio dico, quod si animi dejectio tanta est et appetitivae virtutis tanta consternatio, ut non nisi per summum laborem et quasi cruciatum quendam, aegrotus possit sumere cibum, jam reputatur quaedam impossibilitas et ideo excusatur, saltem a mortali, maxime ubi est exigua spes vitae aut nulla. Ad confirmationem respondetur. Primo, quod non est simile de pharmaco et alimento. Alimentum enim per se medium ordinatum ad vitam animalis et naturale, non autem pharmacum: nec tenetur homo adhibere, omnia media possibilis ad conservandam vitam, sed media per se ad hoc ordinata . . . Tertio dicimus quod si quis haberet certitudinem moraliter, quod per pharmacum reciperet incolumitatem, sine pharmaco autem

Later on then, discussing the lawfulness of abstaining perpetually from a certain type of food, even in extreme necessity, Vitoria has this to say:

Finally, for a solution of the objections, it must be noted: it is one thing not to protect life and it is another to destroy it: for man is not always held to the first and it is enough that he perform that by which regularly a man can live: if a sick man could not have a drug except by giving over his whole means of subsistence, I do not think he would be bound to do so.¹⁰⁸

Then he adds:

Second conclusion: One is not held to protect his life as much as he can by means of foods. This is clear because one is not held to use foods which are the best, the most delicate and most expensive, even though these foods are the most healthful, indeed this is blameworthy . . . Likewise, one is not held to live in the most healthful place, therefore neither must he use the most healthful food¹⁰⁹

Again:

Third conclusion: If one uses foods which men commonly use and in the quantity which customarily suffices for the conservation of strength, even though from this his life is shortened, even notably and this is noticed, he would not sin . . . From this, the corollary follows that one is not held to use medicines to prolong his life even where the danger of death is probable, for example to

moreteretur, non videtur profecto excusari a mortali: quia si non daret pharmacum proximo sic aegrotanti, peccaret mortaliter et medicina per se etiam ordinata est ad salutem a natura, sed quia hoc xiv potest esse certum, ideo non sunt damnandi de mortali, qui in universum decreverunt abstinere a pharmacis, licet non sit laudabile, cum creaverit Deus medicinam propter necessitatem ut aid Salomon . . . w—F. a Victoria, Relec. *de Temp.*, n. 1.

¹⁰⁸Pro solutione tandem argumentorum, notandum est: quad aliud est non protelare vitam, aliud est abrumpere: nam ad primum non semper tenetur homo et satis est, quad det operam, per quam homo regulariter potest vivere: nec puto, si aeger non posset habere pharmacum nisi daret totam substantiam sum, quad teneretur facere».—*ibid.*, n. 9.

¹⁰⁹«Secunda conclusio: non tenetur quis protelare vitam per alimenta quantum potest. Patet, quia non tenetur uti cibis optimis et delicatissimis et pretoisissimis etiamsi ea sint saluberrima, imo hoc est reprehensibile, . . . Item non tenetur vivere in loco saluberrimo, ergo nec uti cibo saluberrimo»
n. 12.

take for some years a drug to avoid fevers or anything of this sort. ¹¹⁰

Another pertinent passage comes from Vitoria's *Relectio de Homicidio*.

. . . One is not held, as I said, to employ all the means to conserve his life, but it is sufficient to employ the means which are of themselves intended for this purpose and congruent. Wherefore, in the case which has been posited, I believe that the individual is not held to give his whole inheritance to preserve his life, . . . From this also it is inferred that when one is sick without hope of life, granted that a certain precious drug could produce life for some hours or even days, he would not be held to buy it but it is sufficient to use common remedies, and he is considered as though dead."¹¹¹

Vitoria uses the same reasoning in his commentary on St. Thomas.

. . . In the second place, I say that one is not held to lengthen his life because he is not held to use always the most delicate foods, that is, hens and chickens, even though he has the ability and the doctors say that if he eats in such a manner, he will live twenty years more, and even if he knew this for certain, he would not be obliged . . . So I say, thirdly, that it is licit to eat common and regular foods . . . Granted that the doctor advises him to eat chickens and partridges, he can eat eggs and other common items."¹¹²

no.Tertia conclusio—Si quis utatur alimentis, quibus homines communiter utuntur et in quantitate, quae solet sufficere ad valetudinem conservandam, dato quad ex hoc abbrevietur vita, etiam notabiliter et hoc percipiatur, non peccat . . . Ex quo sequitur corollarium, quad non tenetur quis uti medicinis, ad prolongandum vitam, etiam ubi esset probabile periculum mortis, puta quotannis sumere pharmacum ad vitandas febres, vel aliquid huiusmodi».—*loc. cit.*

"« Non tenetur quis uti dixi, omnia media ponere ad servandum vitam, sed satis est ponere media ad hoc de se ordinata et congruentia, unde in casu posito credo quad non tenetur dare totum patrimonium pro vita servanda . . . Ex quo etiam infertur, quad cum aliquis sine ape vitae aegrotat, data quad aliquo pharmaco pretioso posset producere vitam aliquot horas, aut etiam dies, non tenetur illud emere, sed satis erit uti remediis communibus et ille reputetur quasi mortuus».—*Relec. de Homicidio*, n. 35.

¹¹²4c Secundum dico non tenetur aliquis augere vitam quia non tenetur semper uti delicatissimis cibis, scilicet gallinis et pullis, etiamsi habeat facultatem et medici dicant quad si comedit ex illis vivet plus viginti ar^{ms} et etiamsi hoc sciret pro certo, non tenetur . . . Et sic dico tertio, quad licet comedere cibos communes et regulares . . . Dato quad medicus consuleret illi comedere

Finally:

Where, however, one were to live in a very strict and singular manner, for example, eating perpetually only bread and water so that he abbreviates his life, perhaps it would not be licit, or even to eat only once in the week would not be licit. But, this ought to happen in a manner common to good men so that it is beside one's intention that death follow and not by intention."¹⁶

Dominic Soto, O. P. (t 1560), in his *Theologia Moralis* adheres to St. Thomas closely. Treating of suicide,¹⁶ he explicitly repeats the arguments of the Angelic Doctor. Soto includes this treatment in his tract *De Justitia et Jure*. The next point for explanation is the problem of mutilation. Soto, in this particular question, treats not only the lawfulness and unlawfulness of mutilation, but touches also on the intriguing speculation of whether or not a person is ever bound to suffer a mutilation, and further, whether the individual could ever be forced to submit to a mutilation. In the course of his discussion, Soto writes:

... a prelate indeed could force a subject, on account of a singular obedience promised to him, to take medicines which he can conveniently accept. But, really, no one can be forced to bear the tremendous pain in the amputation of a member or in an incision into the body: because no one is held to preserve his life with such torture. Neither is he thought to be the killer of himself."¹⁷

In his *De Justitia Commutativa*, *Molina (t 1600)* gives a good treatment of the status of man as the custodian and guardian of his life and members. In

the course of this treatment he describes the necessity «per accidens* of using the extraordinary means of conserving life. The section has these words:

Fourth conclusion. Because man has been constituted the custodian and administrator of his own life and members, when he is unwilling, no one can cut a member from him for the sake of curing him or apply any other medicinal remedy to him . . .¹⁶

Soon again then, he says:

The conclusion proposed, therefore, is understood only when it is not entirely certain that the remedy will be of profit for avoiding the grave harm of a neighbor: or when the remedy is such that because of too intense a pain or another legitimate reason, he is not obliged to undergo that which he needs in order to conserve his life or member."¹⁷

In this particular subject, namely, the necessity of using the ordinary means of conserving life and the lawfulness of shunning the extraordinary means, the teaching of Vitoria had tremendous influence."¹⁸ Many of the authors used his speculation as the foundation for their own thinking in the matter. Others were quite content with repeating verbatim his doctrine. An example of this latter approach is found in the writing of *Gregory Sayrus (t 1602)*. His famous *Clavis Regia Casuum Conscientiae* contains in the ninth chapter of the seventh book much of what has already been cited from Vitoria. For instance, in the question of the lawfulness of abstinence from food, and penances administered to the body, when such procedures injure one's health or shorten one's life, Sayrus uses the very arguments and words of Vitoria. Thus, one finds that he emphasizes that an individual is not bound to prolong

pullos et perdes, potest comedere ova et alia communia».—F. de Vitoria, Comeritan' ai a *la Secunda Secundae de Santo Tomas*, in II:II, q. 147, art. 1.

¹⁶Ubi tamen modo arctissimo et singulari quis viveret, puta non comedendo perpetuo nisi panem et aquam ut vitam abbreviaret, forte non liceret vel etiam semel tantum in hebdomada comedere non liceret. Sed debet hoc fieri modo communi hominum bonorum ut praeter intentionem mors sequatur, et non ex intentione».—*ibid.*, q. 64, art. 5.

¹⁷D. Soto, *Theologia Moralis* (Lugduni, 1582), 71.act. de Justitia et Jure, Lib. V, q. 1, art. 5.

¹⁸... praelatus vero cogere posset subditum propter singularem obedientiam illi promissam, ut medicamina admittat quae commode recipere potest. At vero quod ingentissimum dolorem in amputatione membri aut corporis incisione ferat, profecto nemo cogi potest: quia nemo tenetur canto cruciatu vitam servare. neque ille censendus est sui homicida».—D. Soto, *Theologia Moralis*, Tract. de Justitia et Jure, Lib. V, q. 2, art. 1.

¹⁶Quarta conclusio. Quia homo custos et administrator est constitutus suae propriae vitae ac membrorum, nullus ipso renuente, potest secare ab eo membrum gratia curationis, aut medicamentum aliud ei applicare . . .*—L. Molina, *De Justitia*, Tom. IV, Tract. III, disp. I, col. 514.

¹⁷Conclusio ergo proposita solum intefligitur, quando certum omnino non est remedium profinurum ad grave malum proximi, vitandum: aut quando remedium est tale quod propter nimium dolorem, vel alia legitima causa, non tenetur is sub reatu lethalis culpae illud subire, qui eo indiget ad vitam and membrum conservandum».—*loc. cit.*

¹⁸The influence of Vitoria is recognized not only in regard to this problem, but also in regard to many other aspects of Moral Theology. "Vitoria fama celebratus ob suas Relectiones, in quibus, derelinquens sententias Lombardi, felici innovationa a posteris imitanda sollerter Summam Aquintis commentatus est, cum applicationibus ad quaestiones novas sui temporis . . ." Regatillo-Zalba, *op. cit.*, vol. I, p. 25.

his life,¹¹⁹ nor is one held to use the very best and more delicate foods.'" However, Sayrus adds to the expression «common foods' the notion of their being produced naturally.

No one in order to prolong his life is bound to use the best and more delicate foods, even though he can, but the common ones, naturally produced."

Later then, he expresses in his own words an idea also found in Vitoria.

For although a man is held not to cut off his life, he is not held, however, to seek all the means, even licit ones in order to make his life longer. This is manifest because, granted that an individual should know for certain that in India or in another city, even nearby, the air is more healthful and milder and that there he would live longer than in his native land or in his own city, he is not bound, however, to seek all the means, even licit and exquisite ones in order to make his life longer."

Then again Sayrus repeats the teaching of Vitoria cited earlier in this chapter regarding the use of medicine," after which one reads: «. . . not all means must be furnished for the sake of conserving life, but those only which for this purpose are necessary and congruous. *¹²⁴ Finau» Sayrus reaches the problem of mutilation and answers the question whether or not, when a sick person is unwilling, he may be forced as a citizen by the state, as a son by his father or as a subject by a prelate to submit to the mutilation of one of his members. Sayrus shows himself indebted to Soto in his answer. His general response is in the affirmative if the person is necessary for the common good.

¹¹⁹G. Sayrus, *Clovis Regia Canaan Conscientiae* (Venetiis, 1625), Lib. VII, cap. IX, n. 28.

¹²⁰Loc. cit.

¹²¹"Nemo ad vitam prolongandam, cibis optimis et delicatioribus uti tenetur, etiamsi possit, sed communibus naturaliter productis." G. Sayrus, *Clovis Regia Casuum -Conscientiae*. Lib. VII, Cap. IX, n. 28.

¹²²Quamvis enim teneatur homo non abrumpere vitam non tenetur tamen omnia media etiam licita et exquisita quaerere, ut longiorem vitam faciat. Id quod manifeste patet, quia dato, quod aliquis certo sciat, quod in India aut in alia civitate edam propinqua salubrior et clementior aura sit et quod ibi diutius viveret, quam in patria, aut propria civitate, non tenetur tamen omnia media edam licita et exquisita quaerere ut longiorem vitam faciat.—loc. cit.

¹²³Loc.

¹²⁴ . . . non enim vitae conservandae gratia omnia media adhibenda sunt, sed ilia tantum, quae ad hoc sunt necessaria et congrua." *Ibid.*, n. 29.

If the mutilation, however, is necessary only for the particular good and health of the sick individual, then he can not be forced. To this he adds:

. . . furthermore, since by the natural law each one is bound to employ for the conservation of his body those licit means which he can conveniently undertake, the individual undoubtedly would sin who, when there is not question of great pain, would permit himself to die when he could take care of the health of his body. 'Ib this, however, that he suffer the very intense pain of the amputation of a member or of an incision into his body, neither a prelate can oblige his subject, nor a father his son.—The reason is both because the sick individual is not held to conserve the life of his body with such great pain and torture and because superiors can not prescribe all things licit and honest but those only which are moderate.¹²⁵

Before leaving the teachings of Sayrus, it is well to point out that what was said earlier regarding the fact that he in many points merely repeats the writings of other authors, in no way diminishes the value of his work. All through this report the reader will see evidence of the effect that one writer has had on another. To cite, however the same doctrine as each author comes into focus is not just simple repetition, but rather it is an attempt to show the constant tradition that has existed in this matter. Sayrus, for example, perhaps has added very little original thought to this subject. His work is of tremendous importance, nonetheless, because it mirrors the opinions prevalent in his age regarding the necessity of using the means of conserving one's life. Such will be the case also as the different authors come up for review.

Among the commentators on the writings of St. Thomas, one of the most famous is *Dominic Banez* (t 1604). Writing about St. Thomas' article on mutilation, Banez treats the question of whether or not the state can force a citizen to undergo an amputation.'" After this problem, he then places the query

¹²⁵ . . . ac proinde cum unisquisque jure naturali media licita, quae commode sumi possunt ad sui corporis conservationem ponere tenetur, peccaret sine dubio, qui absque magno dolore, cum possit salutem corporis succurrere, se mori permetteret. Ad hoc tamen, ut ingentissimum dolorem in membri amputatione, vel corporis incisione ferret nec subditum praelatus, nec pater filium, obligare potest. Ratio est turn quia nec infirmus tenetur cum tanto dolore et cruciatu vitam corporis conservare . . . Turn quia superiores non possunt omnia licita et honesta praecipere sed ea tantum quae moderata sunt.—*Ibid.*, n. 38.

¹²⁶D. Banez, op. cit., in II:II, q. 65, art. 1.

before himself: « . . . is the man himself bound to suffer the amputation of a member in order to save his life? »¹²⁷ In response, he writes:

It seems as though the answer is yes: because he is held to conserve his life through means which are ordered for this purpose and proportioned: but the cutting off of a member is a means proportioned to conserving life; therefore, he is bound to suffer the amputation. In answer here is the first conclusion. He is not bound absolutely speaking. The reason is that, although a man is held to conserve his own life, he is not bound to extraordinary means but to common food and clothing, to common medicines, to a certain common and ordinary pain: not, however, to a certain extraordinary and horrible pain, nor to expenses which are extraordinary in proportion to the status of this man. So that if, for example, it were certain that a common citizen would gain health if he spent three thousand ducats for a certain medicine, he would not be held to spend them. Thus, the argument is clear, for although that means is proportioned according to right reason and from the consequence is licit, it is, however, extraordinary.¹²⁸

Sanchez (t 1610) has substantially the same doctrine. This teaching is found in his famous *Consilia seu opuscula moralia*. Two of the more pertinent passages are the following.

One must suppose that it is one thing not to prolong life and it is another to shorten life. Let the first conclusion be; no one is held to prolong life, indeed neither is he held to conserve it by using the best and most delicate foods, rather this is reprehensi-

ble. This is proved by reason of the fact that one is not bound to live in the most healthful place but can dwell in, a region which is harmful due to the cold or heat neither is he held to seek out the most exquisite medicinal remedies etc., therefore. Likewise, he is not bound to abstain from wine in order to live longer . . . Hence the first inference that if one uses foods which men commonly use and in the quantity which customarily is sufficient for conserving strength, although he realizes due to this he will shorten his life considerably, he does not sin. Secondly, it is inferred that one is not obliged to use medicines to prolong life even where there would be the probable danger of death, such as taking a drug for many years to avoid fevers etc. The second conclusion; one is held however, while sick, to consult doctors and use healthful foods.''

Further on then, he writes:

It is licit to fast and abstain even from common foods, not only in regard to the plurality of meals but also, in regard to the quantity as long as the food necessary for the nourishment and conservation of the individual is taken . . . This is proved by reason of the fact that this is not to intend to abbreviate life or kill one's self but it is only to use means directed by nature for sustenance and not to prolong life, to which no one is bound, as I said.''

¹²⁷« . . . an ipsemet homo teneatur pati abscissionem membri propter sevandam vitam? »—Loc. cit.

124 Et videretur quod sic: quia tenetur servare vitam per media ordinata et proportionata: sed abscissio membri est medium proportionatum ad servandam vitam, ergo tenetur pati abscissionem. Respondetur et sit prima conclusio. Quod non tenetur absolute loquendo. Et ratio est quia quamvis homo teneatur conservare vitam propriam, non tenetur per media extraordinaria, sed per victum et vestitum communem, per medicinas communes, per dolorem quandam communem et ordinarium: non tamen per quandam dolorem extraordinarium et horribilem, neque etiam per sumpus extraordinarios, secundum proportionem status ipsius hominis. Ut, si v.g. communem civem salutem consequuturum esset certum, si insumeret tria millia ducatorum in quadam medicina, ille non tenetur insumere. Per hoc patet ad argumentum, nam quamvis illud medium sit proportionatum secundum rectam rationem et ex consequenti licitum, est tamen extraordinarium.—D. Banez, in II:II, q. 65, art. I.

¹²⁹«Supponendum est aliud esse non prolongare vitam et aliud abbreviare vitam. Sit prima conclusio. nullus tenetur prolongare vitam, immo nec illam conservare utendo optimis et delictissimis alimentis, immo hoc est reprehensibile. probatur quia non tenetur quis vivere in loco saluberrimo sed potest habitare in regione nociva frigoris vel caloris: nec tenetur exquirere exquisitissima medicamenta etc., ergo. Item, non tenetur abstinere a vino ut diutius vivat . . . Hinc infertur primo, quod si quis utitur alimentis, quibus homines communiter utuntur et in quantitate, quae solet sat esse ad valetudinem conservandam, licet percipiat, ex hoc abbreviare vitam notabiliter, non peccat. Secundum infertur, quod non tenetur quis uti medicinis ad prolongandam vitam etiam ubi esset periculum probabile mortis, ut quotannis sumere pharmacum ad vitandas febres etc. Secunda conclusio, tenetur tamen quis dum morbo laborat, consulere, medicos et uti cibis salutaribus.. Sanchez, *Consilia*, Tom. II, Lib. V, Cap. 1, dub. 33.

¹³⁰Licitum est jejunare et abstinere etiam a communibus cibis, non tantum, quo ad pluralitatem comestionum sed etiam quantum ad quantitatem, dummodo sumatur cibus necessarius ad alimentum et conservationem individui . . . Probat, quia hoc non est intendere abbreviare vitam, seu occidere se, sed tantum est uti mediis ordinatis a natura ad sustentationem et non prolongare vitam, ad quod nullus tenetur ut dixi .—loc. cit.

Francis Suarez (t 1617) has a very interesting article which treats of the necessity that a man has of guarding his life. The question proposed is whether a man is bound to think of himself rather than his neighbor when a situation of danger to his own temporal goods arises.¹³¹ Naturally, his life comes into question here. A good deal of the discussion would not be to the point just now, but there are a few passages which are of interest and which will prove helpful later on.

The reason is that although a man may never kill himself, he is not bound, however, to conserve his life always and by every means, even by taking less account of the life of a neighbor, especially a friend or father¹³²

Again he writes:

. . . without mortal sin one, even in extreme necessity, may take less account of himself in order to assist any other neighbor, even a stranger, in similar necessity. By the way of conclusion, it must be noted that we are speaking with only the consideration of charity in mind; for it is otherwise, if the obligation of another virtue comes into question, as for instance justice or piety, as if he is the father of a family who is bound to make provisions, and conserve himself for his sons and family"

Another interesting sentence is, 4, . . since mutilation in a principal member is almost equivalent to death, for this reason a man is not bound to undergo it in order to save his life. *'

Straight away, one can recognize that a problem that perplexed the moralists of this age was the doubt about whether anyone could be forced to

submit to an amputation in order to save his life. Interesting speculation arose around this problem, and in it, the writers have left indirectly, if not directly, their teaching on the ordinary and extraordinary means of conserving one's life. A good example of these is *Lessius* (t 1623).

. . . notice that a man is bound to permit a member to be cut from him, if the doctors judge this necessary and he will not have to suffer great pains . . . The reason is that he is bound to help his endangered life by ordinary means which are not extremely difficult. If however, tremendous tortures have to be suffered, he is not held to permit this nor can he be forced to this. The reason is because no one is obliged to conserve his life through such torture with an uncertain result¹³⁵

Lessius makes two exceptions however. The first is the individual who is necessary for the common good. This person is bound to conserve his life even if an amputation is necessary, and it is the opinion of Lessius that he can be forced to submit to it by the State. The second exception involves the religious who is entirely under the power of his Superior. However, even Lessius doubts if this second exception is valid because he does not feel that a Superior could licitly command under obedience such heroic an undertaking.¹³⁶

When discussing the problem of impure touches and glances, Lessius brings up the question of whether or not a virgin, in order to conserve her life, is bound to undergo treatment from a male doctor in the more private parts of her body, when such treatment would be a cause of intense embarrassment and shame. He replies:

. . . women, especially virgins, are not bound to accept from men medical treatment of this type in the more secret parts . . . The reason is because no one is held to accept a cure which he abhors no less than the disease itself or death: but many modest virgins prefer to tolerate a disease or death rather than to be

¹³¹F. Suarez, *Opera Omnia* (Paris, ed. Berton, Vives, 1858), Tbm. XII, disp. 9, sect. 3.

¹³⁴Ratio est quia licet homo nunquam possit se occidere, non tamen semper, et omni medio, et ratione tenetur servare vitam, etiam postponendo vitam proximi, praecipue amid, vel patris . . . »—F. Suarez, op. cit., Ibm. XII, Ti-act. III, Disp. 9, Sect. 3, conclu. 3.

^{133a}. . . potest quis sine peccato mortali in necessitate etiam extrema se postponere, ut simili necessitati cujusvis alterius proximi etiam extranei subveniat. Advertendum pro conclusione est, nos loqui considerata propria sola ratione charitatis; nam secus est si intercedat obligatio alterius virtutis, ut justitiae, vel pietatis, ut si sit paterfamilias, qui ex officio tenetur providere, et se conservare pro filiis et familia . . . conclu. 4.

¹³¹et quia mutilatio in membro principali quasi aequiparatur morti; unde non tenetur homo illam pati ut vitam servet." *Ibid.*, cond. 5.

^{133*}. . . advertet hominem teneri permittere sibi membrum secari, si medici id judicent necessarium, nec magni dolores sint preferendi . . . Ratio est quia tenetur vitae suae periditanti, emdiis ordinariis non admodum difficilibus opitulari. Si tamen ingentes essent cruciatus tolerandi, non tenetur permittere, neque etiam potest ad hoc cogi. Ratio est quia non tenetur quisquam cum tanto cruciatu vitam incerto eventu conservare*.—L. Lessius, *De Justitia et Jun*, Lib. II, Cap. 9, dub. 14, n. 96.

¹³⁶Loc. cit.

touched by men. Furthermore, no one is obliged to accept that to which is conjoined the danger of an evil motion or carnal pleasure; indeed it pertains to the heroic grade of chastity to prefer death rather than permit in one's self evil imaginations or any sense of evil desires."¹³⁷

Martin Bonacina († 1631) also writes concerning the necessity of submitting to an amputation.

It is licit to amputate a member or a part of a member from one's self when such an amputation is necessary for the health of the whole body. Indeed, in such an event, there is an obligation of amputating if in the judgment of the doctor the pains are slight. The reason is that a man is bound to help his endangered life by ordinary remedies which are not too difficult; when therefore, a certain member is injurious to the whole body, the law of nature dictates that it be cut off in order that we may help our life."¹³⁸

Similarly, *Paul Laymann* († 1635):

The second resolution is that we are not obliged for the most part to free our life from a disease or extrinsic violence by a means which is very difficult or not customary; v.g., by cutting of the feet, or by using very precious medications. The reason is that the *precept* of preserving life is affirmative, not obliging in all times and in every way."¹³⁹

In the *De justitia et Jure* of *Gabriel of St. Vincent*, the same doctrine is found.

In the seventh place, you ask whether one is obliged to yield to a doctor or surgeon who judges that it is necessary for the conservation of the whole life that a leg or arm or other member be amputated? The response is affirmative when this can happen without great pain; the reason is that no one is held to take care of his life by extremely troublesome means nor by extremely torturous ones as neither by extremely costly means. Hence, I said that a certain nun was not obliged to reveal to a surgeon a disease which she had in the more secret parts of her body, because of the excessive modesty ("verecundia") which appeared to her to be more serious than death itself.¹⁴⁰

2.3 FROM THE TIME OF CARDINAL DE LUGO TO THE NINETEENTH CENTURY

The first section of *Cardinal De Lugo's* († 1660) tenth disputation in his *De justitia et jure* has for its title: «Whether it is licit for a man to kill or mutilate himself.»,¹⁴¹ Throughout this section the Cardinal treats the many problems that concern suicide, mutilation and the conservation of one's life. In the first chapter we have made mention of De Lugo's approach to the question of suicide. Here what is of interest is his treatment of the obligation that an individual has to conserve his own life and the necessity of using the means thereto. In the course of this section, De Lugo discusses a good number of particular cases. His solutions enable one to gather his teaching on the obligation of using the ordinary means of conserving life and the lawfulness of not employing the extraordinary means.

pretiosissimis. Ratio est: quod praeceptum servandi vitam affirmativum sit, non omni tempore ac modo obligans.—P. Laymann, *Theologica Monialis*, Lib. III, Tract. 3, p. 3, cap. 1, n. 4.

¹⁴⁰Quaeres 7 an teneatur quis, parere medico, vel chirurgo judicanti necessarium esse pro totius vitae conservatione, quod crus, vel brachium, aut aliud membrum amputetur? Resp. affirmative, quando id fieri potest sine magno dolore, ratio est, quia nullus tenetur tueri vitam per media valde laboriosa, nec valde cruciativa, sicut neque per media vlde pretoisa. hinc dixi non fuisse obligatam quandam monilemostendere chirurgo quandam morbum, quem habebat in partibus secretioribus ratione maximae verecundiae quae sibi gravior apparebat quam esset mores ipsa.—Gabrielis a S. Vincentio, *De Justitia et Jure*, Disp. 6, de restitutione, q. 6, n. 86.

¹⁴¹"Utrum liceat homini seipsum interficere, vel mutilare." J. De Lugo, *op. cit.*, Disp. 10, Sect.

¹³⁷ . . . mulieres, praesertim virgines, non teneri huiusmodi genus medicandi in locis secretioribus a viris admittere . . . Ratio est, quia nemo tenetur admittere curationem, a qua non minus abhorret quam ab ipso morbo, vel morte: at multae virgines pudicae malunt tolerare morbum, vel mortem quam a viris contingi. Deinde nemo tenetur admittere id, cui conjunctum est periculum turpis motus, aut delectationis carnalis: imo ad heroicum castitatis gradum pertinet malle, more quam permittere in se turpes imagines aut sensum ullum libidinis.—Ibid., Lib. IV, Cap. 3, dub. 8, n. 60.

¹³⁸Licetum est sibi amputare membrum, vel membri partem, quando illius amputatio necessaria est ad salutem totius corporis. Imo, in tali eventu extat obligatio amputandi si dolores sint exigui, ita judicante medico. Ratio est quia homo tenetur vitae suae periditanti opitulari remediis ordinariis nonn valde difficilibus, quando igitur membrum aliquod est toti corpori perniciosum jus naturae dictat abscindendum esse, ut bitae opitulemus . . . Bonacina, *Morales Theologica*, Tom. II, Disp. 2, Quaest. Ultim., Sect. 1, Punct. 6, n. 2.

¹³⁹Resolvitur secundo: Quod propriam vitam a morbo vel extrinseca violentia plerumque liberare non tenemur per medium valde difficile at insolitum; v.g. pedum sectione, medicamentis

In number twenty-one the Cardinal reviews the malice of mutilation. Just as a man does not possess full dominion over his life, so also he lacks complete power over his members. Therefore any mutilation that is not justified by the necessity of his body's health is illicit. Here too, he explains what he understands by mutilation: to take away a member from one's self." Since the necessity of mutilation for the conservation of life can render the mutilation licit, is it ever obligatory to suffer it? (Here again is evidence of the traditional approach. First an author will treat of suicide and the necessity of self-conservation. Then almost automatically, the next question is mutilation and the conditions which make it not only licit but obligatory.) De Lugo answers that an individual is obliged to permit a mutilation as a means of cure when the doctors judge this necessary and when it can be performed without intense pain. If, on the other hand, the mutilation is accompanied by very intense pain, then of course, it ceases to be obligatory because it becomes an extraordinary means of conserving life.

. . . he must permit this cure when the doctors judge it necessary, and when it can happen without intense pain; not, if it is accompanied by very bitter pain; because a man is not bound to employ extraordinary and difficult means to conserve his life."

Therefore, De Lugo exempts an individual from employing the extraordinary means of conserving his life. However, it could happen that some individual because of certain circumstances would be bound to employ the extraordinary means. For instance, in De Lugo's own words, this would apply to one « whose life is very necessary for the public good. »¹⁴²

It has been seen even thus far, that a discussion of mutilation among the authors of this age usually included some speculation on whether a religious, or for that matter, any person could be forced by the proper authority to submit to a mutilation in order to conserve his life. De Lugo mentions it too. He mentions the religious who is bound by a vow to obey his Superior. Now, supposing that an amputation of some limb is necessary for the health of that religious and his Superior orders him to undergo it, must he do so? De Lugo cites the fact that some hold that the religious is bound to submit, even in this

¹⁴² membrum aliquod sibi auferre.—Ibid., n.21.

¹⁴³ . . . debere eam curationem permittere, quando medici necessarium judicarent, et absque intenso dolore fieri posset; secus si acerbissimo dolore fieret; quia non tenetur homo media extraordinaria et difficillima adhibere ad vitae conservationem . . . *—J. De Lugo, *De Justitia et Jure*, Disp. 10, Sect. I, n. 21.

¹⁴⁴ . . . cuius vita bono publico sit valde necessaria." *Loc. cit.*

case, to the will of his Superior. However, the Cardinal judges that the opposite opinion is more probable:

Some except also the religious obliged to obey his Superior who commands that he undergo the necessary amputation of a limb. Others, and more probably, deny this because such difficult things seem beyond the items of the rule in which religious are bound to obey."

Then De Lugo interjects a thought of great importance. He states that this religious however, would be held to undergo the amputation if he were necessary to the State or the Community,—to which he adds: *and the remedy were entirely secure and certain w.¹⁶ Notice that this last element was mentioned also by Lessius when he taught that «no one is obliged to conserve his life under such torture with an uncertain result*." Even Vitoria, much earlier, had insinuated the same when he demanded that there be a hope of life which rightly interpreted, would seem to mean a hope of recovery.'

In succeeding numbers, De Lugo treats different problems regarding the unlawfulness of certain types of mutilation and suicide." Not all of this is to the point here. However, in number twenty-eight, he outlines the distinction between the positive and negative influences that an individual can have on his own death." There are two ways in which a man sins against the obligation of conserving his life. The first is in a positive way by performing something that will bring on death. The second is in a negative manner; that is, by not fleeing the danger of death when this can be accomplished easily:

. . . note that a man sins against the obligation of conserving his life, first in a positive way, by doing something that is inductive of death, as for example, to pierce one's self with a sword, to cast

¹⁴⁵ Aliqui excipiunt etiam religiosum, qui obedire debet praelato praecipienti, quod eiusmodi membri sectionem necessariam sustineat. Alii probabilius id negant, quia res adeo difficiles videntur esse extra res contentas in regula, in quibus religiosi obedire tenentur.—loc. cit.

¹⁴⁶ . . . nisi religiosus necessarius esset reipublicae, vel communitati, et remedium esset omnino securum et certum.—Loc. cit.

¹⁴⁷ . . . non tenetur quisquam cum tanto cruciatu vitam incerto eventu conservare».—Lessius, op. cit., Lib. II, Cap. 9, cub. 14, n. 96.

¹⁴⁸ . . . si aegrotus potest sumere cibum vel alimentum cum aliqua spe vitae, tenetur sumere cibum . . . *Rellectio de Temp*, n. 1.

¹⁴⁹ De Lugo, op. cit., nn. 22-27.

¹⁵⁰ Ibid., n. 28 has this title in the edition cited, «Alius est concursus positivus ad propriam mortem, alius negativus.*

one's self into a fire or a river etc. Secondly, in a negative manner, by not fleeing the dangers of death, as when seeing a raging lion coming to devour him, an individual wills to wait unmoved although he could turn away and flee; or when seeing a fire already approaching him, he does not will to move from his place but awaits the flames . . . ¹⁵¹

De Lugo admits that in this latter situation a man can not be said to bring about his death in a positive manner; that is, by exerting some positive influence himself. Nonetheless, because the individual does not flee the cause of death when this is possible «in an ordinary and easy way », " his behavior is « against the common obligation of caring for one's own life »."

Now, in which category should the individual be placed who abstains from food necessary to sustain his life? De Lugo answers that « to abstain from food necessary for the sustenance of life when a person can sustain his life by ordinary means, would pertain to the first genus*." Hence, for De Lugo, the refusal to employ the ordinary means (in this case, food) when this can be accomplished easily and in a normal manner is equivalent to performing an act which has a positive influence in bringing about one's own death.

Another important distinction is next outlined by De Lugo. He points out that danger of death can come from two different types of causes. The first is a natural and purely necessary cause; for example, a flood or a fire. Danger of death arising from such a cause, one must attempt to escape. It would not be lawful to await its eventual destructive force. The second is a free cause; for example, the situation in which one knows that an individual is intent on killing him. In this case the person concerned would not always be bound to flee but for a proportionately grave reason could await possible death. In other words, the obligation of fleeing the danger is greater in the first instance:

Again it seems that a distinction has to be made concerning this obligation of conserving life. For, sometimes the danger comes from natural and purely necessary causes; sometimes from free causes. In the first case the obligation is greater: v.g., if a flood from a river or sea, or a fire approaches you, you can now await it but you must flee lest it encompass you . . . In the second case however, there is not so great an obligation: v.g., if you know that someone is seeking to kill you . . . you are not held always to flee, but for a grave reason you can patiently await the death inflicted or to be inflicted by another."

De Lugo offers a reason for his reply. In the first case, the natural and necessary cause is determined in itself and does not operate with any indifference. Therefore, the one who wills the necessary cause would seem to will its effect also. Such being the case, a man could really be called the author of his own death since he wills the set of causes from which death necessarily arises. Certainly, he does not will to impede it when he easily could. The second case is different because there is a question of a free cause. Since an effect follows a free cause contingently and not of necessity, it is not necessarily true that a person who would not flee such a cause would will its effect. Rather, he only permits this effect, if it should occur. In such a case, he would not be the author of his own death:

The point of difference in the two cases seems to be that in the first case, he who wills the necessary cause, seems to will the effect since a natural and necessary cause is determined in itself and does not operate with indifference: therefore, a man seems to be the author of his death when he wills the complexity of causes from which death arises; or certainly, he does not will to impede it when he easily could. In the second case however, since a free cause intervenes from which an effect follows contingently, it is not necessary that he will the effect when he does not flee this cause,

¹⁵¹. . . adverte, dupliciter posse hominem pecare contra obligationem conservandi vitam, primo positive aliquid faciendo inductivum mortis, ut si ferro se percutiat, si in ignem se coniciat vel in flumen, etc. Secundo negative, hoc est, non figiendo pericula mortis, ut si videns leonem furiosum ad ipsum devorandum venire, et potens facile decinare et fugere, velit immobilis expectare: vel si videns incendium jam ad ipsum appropinquare, nolit loc moveri, sed flammam expectare . . .—*ibid.*, n. 28.

¹⁵². . . ipsum tamen non fugere et dedinare modo ordinario et facili mortem advenientem . . .—*Loc. cit.*

¹⁵³. . . est contra obligationem communem tuendi propriam vitam.—*Loc. cit.*

¹⁵⁴.Ad hoc autem primum genus pertineret abstinere a cibo necessario ad vitam sustentandam quando facile potest mediis ordinariis illam sustentare.—*Loc. cit.*

¹⁵⁵.] Rursus circa hanc obligationem conservandi vitam distinguendum videtur. Aliquando enim periculum provenit ex causis naturalibus et mere necessariis: aliquando vero ex causis liberis. in primo casu obligatio est major: si v.g. inundatio fluminis vel mans, aut incendium ad te appropinquat, non potes illud expectare, sed debes fugere ne te comprehendat . . . In secundo autem casu non est tanta obligatio v.g. si scis aliquem te ad necem quaerere . . . non teneris semper fugere, sed potes ex causa gravi patienter mortem ab alio illatam vel inferendam expectare.—*ibid.*, n. 29.

but he holds himself permissive in relation to it . . . Hence, the man is not the author of his death¹⁵⁶

The point of main concern in the foregoing discussion is the emphasis which De Lugo places on the necessity of conserving one's life. It will also prove helpful later on to have the clear distinction between natural and free causes in mind. So often in the disputations in theology, confusion arises because of the lack of clear-cut distinctions. This is true also in the matter of ordinary and extraordinary means.

For De Lugo then, the necessity of conserving one's life by ordinary means is beyond dispute. Not to use the ordinary means is the same as to inflict death on one's self.

I said, however, that a man must guard his life by ordinary means against dangers and death coming from natural causes . . . because the one who neglects the ordinary means seems to neglect his life and therefore to act negligently in the administration of it, and he who does not employ the ordinary means which nature has provided for the ordinary conservation of life is considered morally to will his death . . .¹⁵⁷

Such is not the case however, with the extraordinary means of conserving life. In this paragraph, De Lugo gives a minor discussion on the nature of extraordinary means and the reason why they are not obligatory. However brief this discussion is, his teaching is of great importance and assistance to one trying to determine the nature of the extraordinary means of conserving life. First of all, De Lugo rules out the necessity of any extraordinary diligence in accomplishing the conservation of life. For him, there is a clear distinction between the blameworthy neglect of one's life and the necessary

¹⁵⁶ -Ratio differentia inter utrumque casum haec videtur esse, quod in primo casu, qui vult causam necessariam, videtur velle effectum ipsum, cum causa naturalis et necessaria determinata sit ex se, et non operetur cum indifferentia: quare tunc homo videtur auctor esse suae mortis, cum velit earn complexionem causarum, ex qua necessario mors oritur, vel certe non vult Mann impedire, cum facile possit. In secundo autem casu, cum interveniat causa libera, ex qua contingenter sequitur effectus, non est necesse quod velit affectum qui non fugit illam causam, sed solum permissive se habet respectu illius . . .
cit.

tamen, contra pericula, et mortem ex causis naturalibus provenientem debere hominem mediis ordinariis, vitam tueri . . . quia qui media ordinaria negligit, videtur negligere vitam, atque ideo negligentem se in ejus gubernatione gerere, et moraliter censetur velle mortem, qui mediis ordinariis non utitur, quae natura providit ad ordinariam vitae conservationem . . .
cit.

care of it by very extraordinary means. The reason which De Lugo gives is that the « bonum* of a man's life is not so tremendously important that it demands conservation by all possible means. Perhaps this statement may appear a bit shocking at first. Rightly interpreted however, its meaning is clear. The affirmative precept of the natural law obliging conservation of one's life does not bind in the presence of a proportionately grave difficulty. Not every possible means must be employed but only those which ordinary diligence requires. If in using ordinary means death occurs, his death nevertheless can not be imputed to the individual as morally culpable:

. . . he is not held to the extraordinary and difficult means . . . the 'bonum' of his life is not of such great moment, however, that its conservation must be effected with extraordinary diligence: it is one thing not to neglect and rashly throw it away, to which a man is bound: it is another however, to seek after it and retain it by exquisite means as it is escaping away from him, to which he is not held; neither is he on that account considered morally to will or seek his death.'

De Lugo applies the principle again and says that in a situation where life is being taken away by another man, « you are not held to the ordinary means of fleeing death, except per accidens in a particular case on account of the inconveniences which will follow from your death.»¹⁵⁸ The reason is that as far as the individual is concerned, he is conserving his life and the responsibility for death lies with the other person.'

A teaching of momentous importance is found under number thirty in De Lugo's treatment of ordinary and extraordinary means. He supposes a situation in which a person is condemned to death by fire. While surrounded by the flames, he notices that he has sufficient water to extinguish some of the fire but not all of it. Must he use this water? De Lugo says no, and gives his reason:

¹⁵⁸ . . . nec etiam tunc tenetur ad media extraordinaria et difficilia . . . non tamen est tanti momenti hoc vitae bonum ut extraordinaria diligentia procuranda sit ejus conservatio: aliud est earn non negligere et temere projicere, ad quod homo tenetur: aliud vero est earn quaerere et fugientem ex se retinere mediis exquisitis, ad quod non tenetur, nec ideo censetur moraliter mortem velle aut quaerere.—Iac. cit.

¹⁵⁹ . . . nec ad ordinaria media teneris ut mortem fugias, nisi per accidens in aliquo casto propter inconvenientia quae ex tua morte sequuntur
¹⁶⁰ . . . quia tunc jam quantam ex te est, vitam conservas, nec ex te provenit ejus amissio, sed ex alio quad tibi non imputatur, sed illi." Loc. cit.

... if a man condemned to fire, while he is surrounded by the flames, were to have at hand water with which he could extinguish the fire and prolong his life, while at the same time other wood is being carried forward and burned, he would not be held to use this means to conserve his life for such a brief time because the obligation of conserving life by ordinary means is not an obligation of using means for such a brief conservation—which is morally considered nothing at all¹⁶¹

However, if he could put the fire out once and for all, and thus escape death, it would seem that the use of the water would be obligatory because then his death could not be considered as coming absolutely from an extrinsic source « since there would be left to him the free ability of defending himself from the fire by ordinary means . . . ».¹⁶² In other words, here again the element of benefit is introduced. The means and remedies employed, even though in themselves common and ordinary, must offer some hope of benefit or help to the conservation of life before they become obligatory. Furthermore, this benefit must be of some considerable duration—in other words, proportionate. Otherwise, if the profit from using these means is only brief, then for De Lugo, it must be considered of no value morally and thus not obligatory. « Parum pro nihilo reputatur*.

De Lugo also treats the opinion already reviewed here that a man is not bound to effect a prolongation of his life by using choice and delicate foods. In similar fashion, neither is he bound to abstain from wine in order to live longer. He expresses it as follows:

Whence, much less is a man bound to effect a lengthening of his life by choice and delicate foods, for just as one is not held to abstain from wine in order to live longer, so neither is he bound to drink wine for the same purpose: because just as a man is not bound to seek a more healthful and wholesome locality and air in

order to prolong his life, so neither is he held to eat better or more healthful food."

The reader has taken note without doubt, that the theologians cited thus far, when discussing ordinary means, have constantly referred to a comparison with the manner in which men « commonly live. An interesting application of this principle occurs in De Lugo. He repeats the difference between bringing about one's own death in a positive manner and omitting the use of certain means of conserving life. The first is never licit; the second can be licit in certain circumstances. In harmony with this principle therefore, 41 according to the common opinion of the Doctors, there is no obligation of using choice and costly medicine to avoid death.»¹⁶³ This omission does not imply a direct killing of one's self but rather, the person concerned permits his death and rests content with using only the ordinary and common means by which men commonly live."¹⁶⁴ Hence, the person does not positively influence his death, but dies on account of old-age or the weakness of his own life."¹⁶⁵ With this in mind therefore, we may conclude that a religious novice would not be bound to return to the world to eat better and seek other conveniences for the sake of his health when those in religion do not commonly live in that manner."¹⁶⁶ Here is the interesting application made by De Lugo because he is obviously taking the measure of comparison from the surroundings which are required by the individual's state in life. Hence, although strictly speaking given the common food for common men living in the world may, the religious ordinary means for them, nevertheless, it remains extraordinary for religious who in his cloister would not ordinarily eat in the manner ordinary or customary in the world.

Unde multo minus tenetur homo vitae elongationem procurare cibis exquisitis et delicatis, sicut enim non tenetur quis abstinere a vino, ut longius vivat, sic nec vinum libere ad eundem finem: quia sicut non tenetur homo salubriorem locum, et aerem quaerere ad vitam prolongandam, sic nec meliorem et salubriorem victum sumere.—*ibid.*, n. 32.
juxta communem doctorum sententiam, non est obligatio utendi medicina exquisita et pretiosa ad vitandum mortem n. 36.
haec enim omittere non est se occidere, sed permittere mortem ex se obvientem, et relinquere se ordinariis et conunibus mediis, quibus alii homines communiter vivunt . . .

Loc. cit. neque enim hic se occidit, sed moritur propter aegritudinem, vet infirmitatem suae naturae
*—Loc. cit.
Cur ergo novit tenebitur sub peccato redire in saeculum, ut quaerat delicias, delicatos cibos, et luxum, nec satisfaciet utendo victu, et mediis quibus alii communiter in religion utuntur et vitam conservant? »—Loc. cit.

¹⁶¹« si enim quis ad ignem damnatus, dum jam flamma circumdatus est haberet ad manum aquam, qua posset ignem extinguere et vitam protrahere, quamdiu alia ligna afferuntur et accenduntur; non ideo teneretur ei medio uti, ut vitam illo brevi tempore conservaret: quia obligatio conservandi vitam per media ordinaria, non est obligatio utendi mediis ad illam brevem conservationem quae moraliter pro nihilo reputatur . . . *—*ibid.*, n. 30.

¹⁶²« . . . cum relinqueretur ei facultas libera defendendi se ab igne per media ordinaria . . . »
Loc. cit.

The foregoing report on the teaching of De Lugo reveals his strict adherence to the traditional doctrine in these matters. Likewise, it shows the clever and precise explanations and applications of the principles involved which the Cardinal makes—all of which will be of assistance further on in this dissertation.

It is the same doctrine that is given by *Anthony Diana* (1663). Citing *Vitoria* he admits that a sick person for whose health there is no hope, can refuse to buy a costly drug that will prolong his life for some days, even though he is able to buy it." *Diana* also follows previous teaching in the matter of mutilation. Even though an amputation is necessary for the health of the individual, he need not feel obliged to suffer it when it is accompanied by intense pain and torture." Actually *Diana* is more forthright than his predecessors when he includes in this exception the religious bound by obedience. He says categorically that the religious is not bound to the amputation and can not be forced to it, «even if . . . the Superior commands this (surgery) to him*,"

Each theologian makes a contribution in his writings. Many in the matter of the ordinary and extraordinary means of conserving life, have perhaps served only to reflect the teachings prevalent in their age. Others carry on the existing tradition and add a different approach or solve a different case. Some perhaps even point out a new problem. Others relate the old teaching in a more precise manner.

Tournely in his *Theologia Moralis* reiterates much of what went before him. For instance, he excludes the necessity of using very costly medications which would consume a considerable amount of one's resources. Neither is it obligatory to undergo very intense pain such as in the amputation of feet or arms." *Tournely* not only excludes the necessity of using these means but he also assigns the reason: 44 Means of this type are morally impossible ».¹²

Interestingly enough, this author next discusses the person who does not agree to suffer even moderate pain in order to conserve his life. Can he be forced to submit to an amputation if it involves only moderate pain? *Tournely's* answer is that this individual can be forced by those who are entrusted with his care, or even by someone acting in virtue of a mandate from such persons. *Tournely* is hesitant about enlarging the circle of those who have the authority to command such a procedure." However, what is of importance is the fact that *Tournely* recognizes and teaches that moderate pain does not constitute moral impossibility and hence, generally speaking, does not make a means extraordinary.

The Carmelite Fathers of Salamanca, known as the *Salmanticenses*, have this precise wording of the doctrine on the ordinary and extraordinary means of conserving life:

. . . also, in order to conserve his life, one is not bound to use all possible remedies, even extraordinary ones, really choice medicines, costly foods, a transfer to more healthful territory, so that he will live longer: he is not held to give over all his wealth in order to avoid death which is threatened by another person, whether justly or unjustly: neither is a sick individual in desperate condition bound to employ very costly remedies, even though he should know that with these remedies his life would be extended for some hours, or days or even years."

The intense pains of amputation excuse a person from the obligation of employing such a remedy for the further conservation of his life. In this, the *Salmanticenses* adhere to previous teachings. Likewise, they make only one exception and state that a person who is necessary for the common good, should submit to such a procedure in order to save his life. Furthermore, the

¹⁶⁸⁴ Et idem *Victoria* ait, licet aegrotus, di cuius salute desperature, posset aliquot dies pharmaco protrahere vitam, non teneri illud emere . . .—*A. Diana, Coordinatus*, per R. P. Martinum de Alcolea (Lugduni, 1667) Tom. VIII, Tract. V, Resol. 53., (ex *Diana*, p. 5, tr. 4, res. 33).

¹⁶⁹ . . . hominem teneri permittere sibi membrum secari, si medici id iudicent necessarium, nec magni dolores sint perferendi, si tamen ingentes essent cruciatus tolerandi . . . non tenetur permittere, neque potest ad hoc cogi . . .—*Ibid.*, Res. 57.

etiam si Religiosus et Superior id ei praeciperet.—*Loc. cit.*

¹⁷¹ Sic non habetur ut homicida sui, qui abstinet a pretiosissimis medicamentis, in quibus profundi deberent opes patrimonii; item qui non vult gravissimos cruciatus pedum v.g. vel brachiorum sectionem pati, ut vitam diutius protrahat . . .—*H. Tournely, Theologica Moralis* (Venetiis, 1756), Tom. III, Tract. de Decalogo, cap. 2, de Quinto Praec., Art. I, conc. 2.

cum huiusmodi media moraliter impossibilia sint.—*Loc. cit.*

¹⁷³ Sed quid si homo ne moderatos quidem dolores pati velit, ut vitam servet, poteritne invitus abscindi? Poterit ab its aut de mandato eorum, qui curam ejus gerunt, ut pater, tutor, Superior, et similes: an autem et ab aliis mutilari possit, non ita constat.—*Loc. cit.*

¹⁷⁴ Nec etiam tenetur aliquis ad conservandam vitam ut omnibus possibilibus remediis, etiam extraordinariis, nimirum exquisitis medicinis, cibis pretiosis, ire ad terras salubriores ad amplius vivendum: nec dare omnes suos divitias pro evitanda morte juste vel injuste ab alio minata: nec tenetur infirmus desperatus uti remediis pretiosissimis, tametsi cum illis sciret vitam per aliquas horas, vel dies, vel etiam annos fore extendendam . . .—*Salmanticenses, Cursees Theologia Moral.*, Tom III, Tract. XIII, de restit., Cap. II, Punct. 2, Sect. 2, n. 26.

proper authority can command him to submit." However, they add « if the remedy is entirely certain for the conservation of his life*!." No one, ordinarily then, is bound to permit an amputation « because, as the Roman said, the opening up of whose leg caused him intense pain, health is not worth such pain,—for no one is held to conserve his life by extraordinary and horrible means *!."

The doctrine on the ordinary and extraordinary means of conserving life as found in the *Medulla Theologiae Moralis* of H. Busenbaum is merely a collection of all that has been reported here so far. It is known that the first edition of *St. Alphonsus' Moral Theology* in 1748 actually was the *Medulla Theologiae Moralis* of Busenbaum to which Alphonsus added certain notes.¹⁷⁵ Even in succeeding editions, Busenbaum's *Medulla* was the basis for Alphonsus' noted work. Especially, in the matter of the ordinary and extraordinary means of conserving life, this is true. Hence it seems well to treat merely the writings of both these authors together.

In point of fact, nothing new is added by either of these authors in this matter. However, for future reference, it will be profitable here to outline the elements and conditions which these authors feel render a means of conserving life extraordinary. First of all, there is no obligation of using any costly and uncommon medicine.¹⁷⁶ There is no need of changing one's place of residence in order to get a more healthful climate outside one's native land.¹⁷⁷ No one is held to employ extraordinary and very difficult means such as an amputation of a leg in order to conserve his life.¹⁷⁸ True, the obligation of taking an expensive medicine does not exist but if it is an ordinary medica-

¹⁷⁵ «. . . nec tenetur infirmus earn patio ob conservationem vitae nec posses hoc Respublica, aut Praelatus illis praecipere, nisi esset persona multum necessaria bono communi . . .—Ibid., Punct. 3, n. 50.

¹⁷⁶ . . . si remedium esset omnino certum ad illius vitae conservationem.—Loc. cit.

¹⁷⁷ . . . quia, ut dicebat ille Romanus, cui crus cum ingenti dolore aperiebatur; `non est tanto dolore digna salus'—non enim quis tenetur per media extraordinaria, et horrenda vitam conservare . . . *—Loc. cit.

¹⁷⁸Cf. S. Alphonus, *Theologia Moralis*, praefatio editoris, for historical study on the editions of St. Alphonsus' *Theologia Moralis* and the influence that the *Medulla* of Busenbaum exerted on St. Alphonsus.

¹⁷⁹ -Ideoque non teneri . . . nec aliquem alium uti pretiosa et exquisita medicina ad mortem vitandam . . .—H. Busenbaum, *Medulla theologise mania* (Romae, 1757), Lib. III, 'Duct. IV, de Quinto-Sexto Praecepto, cap. 1, n. 371; S. Alphonsus, *Theologia Moralis*, Lib. HI, Tract. IV, cap. 1, n. 371.

¹⁸⁰ . . . nec secularem, relicto domicilio, quaerere salubriorem aerem extra patriam . . .—Busenbaum, loc. cit.; S. Alphonsus, loc. cit.

¹⁸¹ . . . non teneri quemquam mediis extraordinariis, et nimis duris, v. gr. abscissione crucis, etc. vitam conservare . . . *—Busenbaum, *ibid.*, n. 372; S. Alphonsus, *ibid.*, n. 372.

tion, one would be bound to employ this means of conserving his life provided that some hope of future health could be foreseen.' The abhorrence that a sick woman, particularly a maiden, might have for medical treatment by a male doctor or surgeon would seem to be sufficient, ordinarily speaking, to excuse her from this treatment.' However, if the services of a woman doctor or surgeon are available, certainly this treatment would be obligatory."¹⁸²

As can be seen, both Busenbaum and Alphonsus adhered strictly to the traditional teaching on this subject. No doubt, it has become obvious to the reader by now that the moralists at this period are merely repeating the very same phrases and examples which their predecessors used. Perhaps the reason is that at this time there were other, more important, problems confronting the moral theologians. Perhaps also, the reason is that progress in the medical field had not actually reached such a degree as to initiate any speculation on whether a particular remedy should be considered obligatory or not. Evidently an amputation, at this period in history, was the perfect example of a terrible torture which no one ordinarily could be held to undergo. When, evidently, an interpretation of the obligations imposed by religious obedience presented a problem in this matter, the theologians solved it. Had doctors and other scientists created doubts or difficulties by advancing new and secure methods of health and cure, no doubt these very moralists would have settled them, as they did in so many other instances. The absence of speculation therefore seems due to the fact that difficulties in the matter were not presented to the moralists, rather than to any want of appreciation of the problem itself.

Anthony de Escobar (Cr 1669) took from Vitoria much of his teaching on the necessity of using the ordinary means of conserving life. He uses Vitoria's example of the man who, according to the judgment of a doctor, would be able to prolong his life ten years if he would drink wine. Escobar with Vitoria answers that this individual « can nevertheless abstain from the wine.)"¹⁸³

¹⁸² . . . infirmum in periculo mortis, si sit spes salutis non posse medicamina respuere*.—Busenbaum, loc. cit.; S. Alphonsus, loc. cit.

¹⁸³ Non videtur tamen virgo aegrotans (per se loquendo) teneri subire manus medici vel chirurgi quando id ei gravissimum est, et magis quam mortem ipsam horret*.—Busenbaum, loc. cit., S. Alphonsus, loc. cit.

¹⁸⁴ Posset tamen virgo permittere tangi; immo teneretur sinere, ut ab alia femina curetur . . .—S. Alphonsus, loc. cit.

¹⁸⁵ . . . posse nihilominus a vino abstinere*.—A. de Escobar, *Universae Theologiae Moralis, Receptiores absque Lite Sententiae nec-non Controversae Disquisitiones* (Lugduni, 1663), IV, Lib. 32, Sect. *, Cap. V, Prob. XXIV, n. 128.

This very same doctrine is taught by *Thomas Tamburini* (t 1675) in his *Explicatio Decalogi*.¹⁸⁶ This author also lists great pain as a cause excusing a man from undergoing an amputation because « charity in regard to your own life is not demanded with such great inconveniences. ¹⁸⁷ For that very reason, medication that can be obtained only at a high price is not obligatory. ¹⁸⁸ Interestingly enough, Tamburini is quite realistic in his treatment of the necessity of undergoing an amputation. As has just been said, he teaches that it is not obligatory, but he takes notes of the fact that many previous authors have excepted the individual who is necessary for the common good. Then Tamburini adds that this at least practically, does not apply because ordinarily you can prudently consider that when you die, another just as capable will take your place. ¹⁸⁹)

The necessity of suffering a surgical intervention in order to conserve one's life is also excluded by *Holzmann*. For this author also, the obligation of conserving one's life does not require the use of extraordinary and very difficult means. Since a surgical section would involve pain and be in fact extraordinary, it can not be said to be obligatory

Sporer in his *Theologia Moralis* has the following very concise treatment. It is worthy of quote, since he gives in this excerpt most of the conditions which the moralists of his time considered as the identification marks of extraordinary means:

It is for this reason that they sin mortally who have a gravely dangerous or deadly disease and are not willing to employ the ordinary and conveniently procurable remedies, and thus having neglected these remedies, permit their death when it can be very conveniently and reasonably impeded; for, since we are not the

¹⁸⁶. • • qui te non obligat ad utendum vino, vel caribus; etiamsi Medicus dicat te victurum cum illis amplius decem annis quam si utaris aqua et piscibus . . . Tamburini, *Explicatio Decalogi* (Venetiis, 1719), Lib. Vi, Cap. II, Sect. II, n. 11.

¹⁸⁷ «. . . cum tanto incommodo non urget charitas in tuam ipsammet vitam».—*Ibid.*, Sect. III, n. 3.

¹⁸⁸ Nam propter eandem rationem modo diximus, non obligari nos medicamentis magno pretio acquisitis et extraordinariis vitam annosque protrahere».—*Loc. cit.*

¹⁸⁹ A . . . saltem practice non urget, quia regulariter potes prodenter existimare, tibi morienti alterum non minus aptum successurum».—*Loc. cit.*

¹⁹¹ Ratio est quia nemo per se loquendo, tenetur suam vitam conservare per media extraordinaria et admodum difficilia; cum non sit tanto digna dolore salus, juxta commune adagium: sed sectio est medium extraordinarium et admodum difficile—ergo. *—A. Holzmann, *Theologia Moralis* (Benevento, 1743), Vol. I, Pars II, Tkact. II, Disp. V, Cap. III, Cas. II.

masters of our lives, but the guardians only, we are bound to conserve our life only by means which are ordinary and per se directed to the conservation of life; not, in like manner, by means which are extraordinary, unusual and very difficult either because of suffering v.g., in the amputation of a member, arm or leg, or because of price v.g., a medicine which is too expensive considering one's position . . . The reason is because the precept of conserving life is affirmative, and therefore does not bind pro semper but only at certain times and in a certain manner.¹⁹¹

Among the conditions which could render a means extraordinary, there are three that *Reiffenstuel* (t 1703) seems to emphasize. He gives a very precise discussion of the matter in his *Theologia Moralis*.¹⁹² First of all, no one is obliged to conserve his life except by means which are ordinary, considering his position or status. Secondly, there must be a considerable hope of recovery from the illness by using these means. Thirdly, Reiffenstuel requires that the individual be able to employ the means without tremendous difficulty. All three of these conditions must be fulfilled simultaneously in the same individual, otherwise the means is an extraordinary means of conserving life. These three conditions are not listed numerically in Reiffenstuel, as they have been here. Rather, they have been gathered from the elements included in a difficulty which he presents and answers in the negative:

. . . no one is bound to conserve his life except by means which are ordinary in respect to his status . . . Do not say: if no one is bound to conserve his life, except by ordinary means, then a sick man without being accused of indirectly killing himself, can in good conscience refuse medicines when in danger of death even though these medicines are not too costly and furthermore, even

¹⁹¹ Quando nimirum commode et rationabiliter impediri potest: qua ratione peccant mortaliter, qui in gravi periculoso aut lethali morbo nolunt adhibere remedia ordinaria, et commodo parabilia, iisque neglectis mortem permittunt; cum enim non simus domini sed custodes tantum vitae nostrae, tenemur vitam nostram conservare mediis ordinariis, et per se ordinatis ad vitam conservandam tantum; non item mediis extraordinariis insolitis, multumque difficilibus, aut ob cruciatum, v.g. abscissione membri, brachii, vel tibiae aut ob pretium v.g. medicina nimium sumptuosa comparatione sui status: . . . Ratio est quia praeceptum servandi vitam affirmativum est, ideoque non pro semper sed certo tantum tempore et modo Sporer, *Theologia Moralis*, Tom. I, Tract. V, Cap. III, SEct. I, n. 13.

¹⁹² A. Reiffenstuel, *Theologia Moralis* (Mutinae, 1740), 'Duct. IX, Distinc. III, Quaes II, n. 14.

though there would be a great hope of recovery if he took the medicines, which he could do without tremendous difficulty."¹⁹³

Reiffenstuel, quite significantly, finds no trouble in stating that the sick individual in the circumstances just outlined must accept the medicines because they are ordinary means of conserving his life and therefore obligatory."¹⁹⁴

In his treatment of this problem, *La Croix Cr* 1714) repeats much of what was written by the moralists before him. This is especially true since this author is basing his work on that of Busenbaum. La Croix acknowledges his debt to such authors as Vitoria, Lessius, De Lugo, Laymann etc."¹⁹⁵ For example, he mentions costly and choice medicines and voluntary exile from one's native land as examples of means which are not of obligation. One of the conditions that this moralist also requires before any means can be termed ordinary is the hope of deriving some good from the use of a remedy.

In a sort of postscript to this whole discussion, La Croix has some speculation on just how great the obligation of conserving or prolonging one's life can be said to be.¹⁹⁶ First of all, he indicates that the obligation of prolonging one's own life is not the same as the obligation of conserving it. The reason is that «the prolongation of life implies a singular assiduity to which we are not held, whereas the non-abbreviation or the conservation of life implies only a common diligence to which we are obliged"¹⁹⁷

Later on, La Croix cites a dispute regarding the necessity of undergoing a surgical section or amputation of a leg when one foresees that the neglect of such a procedure could result in his death. As to the obligation entailed, he writes: « some say yes because you are not the master of your life; others say

¹⁹³ . . . quia nemo tenetur suam vitam servare nisi mediis respectu sui status ordinariis . . . non dicas: Si nemo tenetur suam vitam servare, nisi mediis ordinariis, tunc aegrotus, quin dicatur se ipsum indirecte occidere, potent bona conscientia respuere medicinas in periculo mortisi, quamvis illae medicinae non sint nimium pretiosae et caeteroquin foret magna spes reconvalescentiae, si easdem, quas asque ingenti difficultate posset, etiam summeret.—A. Reiffenstuel, *Theologia Month's, Tract.* IX, Distinc. III, Quaest. II, n. 14.

¹⁹⁴ Respond. enim negando illatum et eiusdem suppositum, quasi nimirum medicinae respectu status infirmorum essent quid extraordinarium: etenim hae, praesertim non nimis pretiosae . . . non sunt extraordinaria sed potius ordinaria remedia.—Loc. cit.

¹⁹⁵ Cf. C. La Croix, *Theologia Moralis* (Ravennae, 1761), Vol. I, Lib. III, Pars I, Tkact. IV, Cap. I, dub. I.

¹⁹⁶ Ibid., addenda.

¹⁹⁷*Ratio est *them prolongare* importat singulare studium, ad quod non tenemur, e contra non *abbreviare et conservare* importat commune tantum studium ad quod tenemur.—Ibid., n. 3.

no because no one is held to employ extraordinary and very difficult means to conserve his life. *1

Finally, it is well to note that this moralist considers the notion of incertitude when determining a means as ordinary or extraordinary. Giving reference to Vitoria, La Croix says a man is not held to conserve his life by medicines because it is uncertain whether the effects of the medicine will be good or bad. Actually we do not know whether medicines will prolong one's life or shorten it."¹⁹⁸

Roncaglia's (t 1737) teaching follows the general outline of that of his predecessors. Ordinary means are obligatory, and extraordinary means are not usually of obligation. An individual can not be said to be negligent in caring for his life if he employs the ordinary means. This is true because one could never be called negligent in this mode of acting « if he uses all those means which ordinarily are in use in any project to be undertaken. »²⁰⁰ However, one would not be obliged to use means which are very costly, very painful or means which cause great shame."¹⁹⁹

This theologian agrees with the moralists before him that an amputation of a diseased member of the body would not usually be obligatory if it involves tremendous suffering. However, his teaching is not quite so unconditional in this matter as was the case with earlier authors. Regularly, the moralists cite an amputation as an example of extraordinary means. Roncaglia agrees with this if unbearable pain accompanies the cutting away of a limb. Whenever, however, from the amputation, future pains of notable proportion will not arise but only moderate pains, then one is bound to suffer the abscission; for everyone is held to conserve his life by ordinary means and it is an ordinary means to suffer something to conserve this same life. *202

Naturally enough, Roncaglia excludes the necessity of undergoing tremendous torments in order to conserve one's life. It is significant, however, that he is willing to distinguish surgical procedures into the type involving extraordinary pain and difficulty and the type involving only a moderate pain. All previous theologians have recognized the distinction in theory. The

aliqui affirmant quia non es dominus vitae tuae; alii negant quia nemo tenetur media extraordinaria et valde difficilia adhibere ad conservandam vitam . . . n. 16.

¹⁹⁹Cfr. *ibid.*, n. 6.

²⁰⁰ . . . si utatur its omnibus, quae ordinarie sunt in usu in aliqua re peragenda . . . —C. Roncaglia, *Theologia Moralis* (Lucae, 1730), Vol. I, Tract. XI, Cap. I, Q. III

²⁰¹ . . . non vero extraordinariis et valde pretoisis sicut etiam valde doloriferis, seu magnam afferentibus erubescentiarn.—Loc. cit.

²⁰² . . . ex abscissione non sint futuri dolores ingentes, sed moderati, tunc tenetur mediis ordinariis vitam conservare et medium ordinarium est aliquid pati pro eadem vita conservanda.—Ibid., Q. IV.

application of it, however, to a surgical section or abscission is noteworthy and important. Roncaglia also underlines the necessity of suffering a moderate difficulty for the conservation of one's life. This too is of considerable import. Pain of itself does not render a means extraordinary. It must be a pain that will involve intense torment in such a way as to constitute a certain impossibility or unproportionate difficulty. All this was recognized by previous moralists, but it certainly is stated more precisely in Roncaglia.

In discussing the question whether a sick man is bound to take means to gain his health again, *Mazzotta* (1746) gives certain elements that would render a means extraordinary and thus not obligatory. First of all, if there is no hope of recovery, a means need not be employed. Secondly, great horror or torment or extraordinary expenditure of money would excuse an individual from employing these means. The reason is that *duty* requires only ordinary diligence and expense. The use of extraordinary means is considered to involve some sort of impossibility. This teaching is found in his *Theologia Morals*.⁴³

The traditional doctrine is also taught by *Benjamin Elbel* (1756) in his work on Moral Theology.⁴⁴ Likewise, *Billuart* (1757) states that 4(they are guilty who, while they are sick, refuse common remedies which will certainly or more probably be of benefit and not harmful, if from the lack of these death results. On the other hand, remedies which are unusual, very difficult or very expensive considering the person's status are not of obligation because we are held to conserve our life only by ordinary means. Furthermore, «God does not command that we be solicitous of a longer life.»²¹⁶

Vincent Patuzzi (1769) agrees in general with the teaching of his predecessors in the matter of the ordinary and extraordinary means of conserving

life. He holds that a sick person would not be bound to employ the extraordinary means. As examples of extraordinary means, he gives the abscission of a member, choice and more costly medicines, a long journey or absence from one's native land undertaken for the sake of a better climate, and finally grave expense.' The reason assigned by Patuzzi is that most of the remedies involve a difficulty which is too burdensome and even produce harm. Furthermore, their results are uncertain and very often useless.⁴⁵ Even if, however, one would have a morally certain hope that the recovery of health would eventuate from the use of these means, an individual would not have to use them because the law of charity and the natural law do not demand that one employs such extraordinary, harsh and violent remedies in order to conserve his life.' The question is impractical anyway, according to Patuzzi, because people usually sin by being too solicitous of conserving their lives rather than the other way around.⁴⁶

However, there is one notable departure from tradition in the writings of Patuzzi. He holds a stricter view regarding the maiden's obligation to accept treatment from a surgeon even at the price of great embarrassment and shame. Actually, it is not surprising to find that in this matter, one of his views is stricter than that of other moralists because Patuzzi has somewhat of a reputation for being rigorous in his opinions.⁴⁷ It will be well though, to quote the passage in question because it reveals a different approach, an approach which Patuzzi borrowed from Franjoja:²¹⁷

I agree, however with Franjoja when he teaches well that it is not licit for a girl to refuse the healing hand of a surgeon and thus undergo death, because her shame or foolishness deem it something most grave and even more painful than death; since this is

²⁰⁹ - - - hinc tenetur cibum vel medicamentum sumere etc. si inde affulgeat spes vitae. Caeterum, si non possit ea sumere sine magna consternatione, cruciatu etc. non peccat, quia tunc reputatur impossibilitas quaedam. item nec peccat, qui, etiamsi possit, non facit expensas extraordinarias pro medicis, medicamentis, etc. etiamsi prudenter timeatur mors; quia sufficit adhibere expensas et diligentiam ordinariam.—N. Mazzotta, *Theologies Moralis* (Venetiis, 1760), libm. I, Tkact. II, Disp. H, Quaest. I, Cap. I.

²⁰⁴Cf. B. Elbel, *77teologia Moralis per modum Conferentiarum*, ed. I Bierbaum (Paderbornae, 1891-1892), II, n. 25 and n. 27, and particularly . . . etiamsi quilibet teneatur conservare vitam suam mediis ordinariis secundum dicta, nullus tamen (per se, nisi scilicet bonum publicum, charitas erga Deum aut proximum aliud suadeat) teneatur in hunc finem uti mediis nimis difficilibus vel medicamentis extraordinariis seu etiam nimis sumptuosis*.—Ibid., n. 28.

²⁰²Rei aut qui dum aegrotant recusant remedia communia, certo seu probabilius profutura et non nocitura, si ex earum defectu more sequatur.—C. Billuart, *Summa S. Thorium* (Parisiis, 1852), Thin. VI, Dissert. X, Art. III, Consect. n. 3.

. . . neque jubet Deus ut de vita longiore ita simul solliciti*.—Loc. cit.

²⁰⁷ Non tenetur infirmus salutis suae providere extraordinariis remediis, puta abscissione membri, exquisitis et pretioribus medicinis, longa a patria peregrinatione et absentia ob aeris mutationem, vel gravioribus expensis.—V. Patuzzi, *Ethica Christiana sine Theologia Moralis* (Bassani, 1770), libm. III, Tkact. V, Pars V, Cap. X, Consect. sept.

208. . . quia haec remedia plurimum incommodi et damni afferunt, graviora et incerta aut ac plerumque inutilia . . .*—Loc. cit.

²⁰⁶non ergo legem naturae et caritatis violabit qui recto fine justaque de causa remediis extraordinariis, acerbioribus et violentis vitam conservare recusarent*.—Loc. cit.

²¹⁰Cf. loc. cit.

²Lehmkuhl says of him, «. . . in re morali rigidus, S. Alphonsi adversarius erat quem scriptis impugnavit—Op. cit., II, p. 838.

²¹¹Regarding Franjoja, Lehmkuhl writes «paravit editionem theologiae Lacroix et Zaccariae corn notis in quibus rigidissimum se ostendit*.—Ibid., p. 831.

not in itself troublesome, harsh or difficult, but arises only from the imprudent and inane idea of the patient which she ought to subject to the law of charity and the law of nature; especially since the doctor's hand is not an extraordinary remedy but a common one, in itself simple and easily procurable; furthermore, one which by the law of nature and charity should be employed when necessity demands it."²¹

2.4 THE NINETEENTH CENTURY TILL THE PRESENT TIME

After St. Alphonsus and in the nineteenth century, the characteristics of the treatments given this problem of the ordinary and extraordinary means of conserving life were fairly well standardized. St. Alphonsus had emerged as a recognized authority and leader in the field of Moral Theology. What he had learned from the previous theologians was now to be passed down by the authors who followed him. This is particularly true regarding the problem of the ordinary and extraordinary means of conserving life. Here and there different speculation is discovered, but for the most part, the authors are content to paraphrase Alphonsus.

For example, writing his Moral Theology according to the teaching of St. Alphonsus, *Scavini* says:

But one is not held to the extraordinary (means), namely when the remedy is very hard; or very repugnant to modesty: unless his life is entirely connected with the common good. Hence, one is not held to conserve his life by the amputation of a leg or another operation of the same genus which involves pains

entirely too intense since this is beyond human endurance. In this case, the common estimation of men, he is thought only to permit his death for a just cause.'

Another author of great importance is *John Gury*. Gury mentions in his *Compendium Theologiae Moralis* that severe pain²¹⁵ would render a means extraordinary and as an example, he cites the amputation of a leg or arm, or an incision into the abdomen. Another element influencing the determination of means as ordinary or extraordinary is the question of expense in relation to the individual's status.²¹⁶ This author also holds the opinion that a maiden is excused from submitting to the treatment of a male doctor when her modesty causes her to fear this more than death itself.'

The teaching of Gury in the matter of the ordinary and extraordinary means of conserving life has been repeated substantially and most often verbatim by the authors who have produced editions of his work on Moral Theology.' However, there is a discussion in the *Ballerini-Palmieri* edition which is of considerable interest and significance. Relating the traditional teaching that intense pain would render a means extraordinary, and thus, such operations as an amputation or incision into the abdomen would not be of obligation, the writer then goes on to speculate a bit. If by some artificial means, it would be possible to induce sleep and thus relieve the pain, would the individual be bound to accept this type of sleep and submit to the operation. The answer is * as long as such inducing of sleep is a dangerous thing, certainly it is an extraordinary means: really, the very loss for some time of the use of

²¹⁴ Sed non tenetur ad extraordinaria, nempe quoties remedium durissimum est; vel pudori valde repugnans: nisi ejus vita bono communi sit omnino conducens. hinc non tenetur quis abscissione cruris, vel alia ejusdem generis operatione dolores nimis atroces afferente, vitam sibi servare; cum id sit extra communes vires positum. Eo in casu in communi aestimatione censetur justa de causa mortem tantummodo permittere.—P. Scavini, *Theologia Moralis, II*, n. 649.

²¹⁵ . . . remediis extraordinariis, quaeque maximum dolorem afferant . . . Gury, *Compendium Theologiae Moralis* (ed. 17; Romae, 1866), I, n. 391.

²¹⁶ Ordinary means . . . nec sumptus pro varia cuiusque conditione ingentes exposcunt . . . w—Loc. cit.

²¹⁷ Non tenetur virgo operationem pati per manus medici, licet eius vita periclitetur, quando ea in re verecundia aequare potest aut etiam superare manum, quod morte pertimescitur.—Loc. cit.

²¹⁸ Cf. J. Gury-A. Ballerini—D. Palmieri, *Compendium Theologiae Moralis* (ed. 14; Romae, 1907), I, nn. 389-391; J. Ferreres, *Compendium Theologiae Moralis* (ed. 16; Subirana, Barcinonae, 1940), I, n. 489; T. Jorio, *Theologia Moralis* (ed. 4; Neapoli, D'Auria, 1954), II, n. 165.

²¹⁴ Assentior tamen Franzoae optime docenti, non licere puellae recusare medicam Chirurgi manum ac proinde mortem subire, quia eius sive verecundiae, sive imbecillitati id gravissimum et etiam ipsa morte acerbius videtur cum hoc non in se molestum, asperum, arduumque sit, sed ex sola patientis imprudenti et inani apprehensione oritur, quam legi caritatis et naturae subjicere debet; praesertim cum medica manus non extraordinarium remedium sit, sed commune & in se facile ac obvium; proinde necessitate urgente lege naturae et caritatis adhibendum*.—V. Partuzzi, *Ethica Christiana sive Theologia Mardis*, Tom. III, Thact. V, Pars V, Cap. X, Consect. sept.

reason and the mastery of his acts, such as occurs in this hypothesis seems an extraordinary thing. ^{*2,9}

It is very interesting to note this discussion because it does not occur in the edition of Gury's *Compendium Theologiae Moralis* which was published with the help of Ballerini in 1866, the last year of Gury's life, and yet a somewhat similar discussion is found in the *Opus Theologicum Morale of Ballerini*, published posthumously by Palmieri. In a footnote in this latter work, the following is found:

Theologians speak of the very bitter pains which an amputation produces. What if there is no pain because the senses have been put to sleep? Would it not be that the grave disadvantage of living with a mutilated body would just as readily excuse a sick man from undergoing the abscission as would the very harsh pains which last only a short while. This I leave for the learned to decide. ²²⁰

In this period one begins to find reference to the new discovery of anaesthesia. Anaesthesia had been somewhat known. As regards its medical use, for all practical purposes, it was first successfully demonstrated in Boston, Massachusetts in 1846. ²²¹ The growing use of anaesthesia did not have any world-shaking effect on the writings of the moralists. After a while, they began to acknowledge its advent and use but they commented on it in terms which are obviously reserved and hesitant. The constant tradition of many years among so many great theologians had forced the moralists of this age to proceed carefully when faced with the numerous advances being made in the medical field.

In the two excerpts already cited, it can be seen that although there is recognition of the existence of anaesthesia, doubt remains as to its safety. Furthermore, even supposing that the use of anaesthesia will be successful,

²¹³ «Quamdiu talis immissio soporis sit res periculosa, certe este medium extra-ordinarium: verum vel ipsa amissio per aliquod tempus, usus rationis et dominii suorum actuum, qualis in hac hypothesis occurrit, res extraordinaria videtur».—Gury-Ballerini-Palmieri, op. cit., n. 391.

²²⁰ "Theologi de acerbissimis doloribus, quos gignit amputatio, loquuntur. Quid, si nullus sit dolor propter sopitos sensus? Nonne grave imconunodum ducendi vitam cum corpore mutilato, tantumdem valet ad excusandum aegrum, ne abscissionem subeat, ac valent acerbissimi dolores brevi desituri? Id relinquo doctis definiendum." A. Ballerini, *Opus Theologicum Morale* in Basenbaum medullam (absolvit et edidit D. Palmieri, Prati, 1899), II, p. 645, n. 868, footnote "b".

²²² Cf. D. Guthrie, *A History of Medicine* (London, Nelson & Sons, 1947). The History of Anaesthesia, pp. 301-306.

the added difficulty of the temporary loss of the use of reason is mentioned. In the *Opus Theologicum Morale*, no doubt is left regarding the hesitancy insinuated there, even though it is disguised in question form. To submit to an amputation, whether it be performed painlessly or not, is too much to expect of any man and therefore such surgery should not be classed as an ordinary means. ²²² Except for this treatment, the work of Ballerini-Palmieri follows the traditional outline and in fact, represents substantially the teaching of Busenbaum.

Dr. Capellmann, in his famous *Medicina Pastoralis*, has a section entitled «De Operationibus Vitae Periculum Afferentibus». ²²³ In this section, he discusses the lawfulness of dangerous operations, and also, mentions the obligation of conserving one's life by these operations. He recalls the traditional teaching in the matter; namely, that the actual danger of surgical intervention renders these means extraordinary and therefore not obligatory. His source is St. Alphonsus. To this Capellmann replies:

In this matter, I think one should note however, that this opinion seems perhaps less appropriate because of the present standing of medicine and surgery, since difficult operations are performed now in circumstances entirely different and for the most part with greater success than before. ²²⁴

Here full recognition of the progress of medical science is noted and Capellmann is trying to apply the principles of Moral Theology to changed conditions. Immediately then, he cites Gury and Scavini to show that the traditional teaching is that the excessive pain involved in a surgical operation renders such a means of conserving one's life extraordinary. Again Capellmann wonders whether anaesthesia might put a different light on the subject. He asks:

Does this resolve of probably escaping death, which otherwise would be certain, through an operation not painful in itself, exceed the ordinary strength of men? It is sufficiently known even to the unskilled man that when chloroform is used, an operation can

²²² Ballerini-Palmieri, loc. cit.

²²³ Cf. C. Capellmann, *Medicina Rutoralis* (ed. 13; Aquisgrana, 1901), pp. 24 ss.

²²⁴ Qua in re advertendum tamen esse puto, hanc sententiam pro praesenti medicinae et chirurgiae stitu ideirco forte jam minus convenientem videri, quia operationes difficiles nunc circumstantiis plane mutatis ac plerumque meliori successu peraguntur quam p. 25.

be performed without pain and it can do much to lessen the anxiety and fear of a more difficult operation."²²⁹

Anticipating then an objection that even though anaesthesia lessens, even eliminates pain during the operation, nonetheless there will be pain after the anaesthesia loses its effect. Capellmann answers that the post-operative pains generally are not as intense as those during the operation and for the most part are less than the pains arising from the disease which makes the operation necessary in the first place and which the individual will still have to suffer if he does not submit to the operation."²²⁹ The deformity left by an operation is not as cogent an excuse these days from undergoing the operation as in earlier times because now technical remedies for the loss of a member are more advanced and offer a means of substitution."²²⁹ However, as advanced as Capellmann was in his thinking, he still was quite hesitant about being dogmatic in this matter—perhaps because of the long tradition to the contrary—and he ends the discussion with these words: « Therefore it seems that the opinion of theologians published up to now on this subject either could be or perhaps should be moderated. Certainly, however, I by no means intend to pass judgment on the matter. »²²⁸ The fact remains however, that Capellmann was very impressed with the new use of anaesthesia and for him, at least, the whole moral aspect of surgical interventions had changed.²²⁹ The next change that he could envision was the new application of the standard moral principles to the situation brought about by medical progress.

Lehmkuhl discusses the problem of the ordinary and extraordinary means of conserving life. This moralist mentions the traditional teaching in the matter and includes all the elements of extraordinary means which had been given by the preceding theologians. He cites the example of an amputation

²²⁹ -Haecine voluntas, cum aliqua probabilitate mortem certam operatione in se minime dolorosa effugiendi, communes hominum vires superat? Adhibito chloroformio operationem sine dolore perfici posse, etiam imperito jam satis compertum est, multumque valet ad demineundam anxietatem timoremque operationis p. 26.

²²⁶Cf. 10C. cit.

²²⁷ «Etiam huic malo ars technica huius aetatis valde emendata levamen, atque saepius verum remedium praebet.—Loc. cit.

²²⁹ -Quapropter sententia theologorum de hac re hucusque vulgata videtur vel posse vel forte debere temperari. Equidem tamen rem diiudicare minime intendo.—Loc. cit.

²²⁹ -Nunc vero quomodo mutata sunt omnia! En Aegrotum prorsus tranquillum sopore chloroformii, carentem dolore, libero voluntatis exercitio atque renisu. Perfecta cum quiete operatio firmiter ac diligenter perfici potest, aegrotus autem expergefactus, quum dolor pro rerum circumstantiis sit exiguus, non laborat nisi ex effectibus soporis chloroformii raro molestioribus. Quod sane miseris aegrotis magni est momenti magnumque beneficium.—Ibid., p. 41.

and recalls that the common teaching is that such an operation is not obligatory. *Lehmkuhl* admits that this teaching does not now enjoy the same favor with doctors and men of medicine as it once did, precisely because anaesthesia can eliminate much of the pain previously connected with the procedure. However, *Lehmkuhl* insists that it is still not of obligation because, even if the element of pain be removed, the horror which would cause one to refuse the operation, would still excuse from sin.

. . . even now, I think scarcely is a mortal sin committed by the one who, terrified of an amputation, refuses to submit to it . . . one should not omit the fact that not the torments alone, which partly can be deadened now, but also great horror can be the reason why it would be licit to refuse a great operation—I am not speaking now v.g. of cutting off a finger and its joint.²⁵⁰

It is the opinion of *Lehmkuhl*, therefore, that the advent of anaesthesia has not eliminated all the elements of extraordinary means and therefore one should proceed carefully before imposing under moral obligation a procedure which under one aspect or another has enjoyed considerable progress, even success, in the medical field.

The writings of *Cardinal Vines* and *Canon Pighi* adhere closely to tradition. These authors list as examples of extraordinary means, the amputation of a leg and the surgical operation which appears to a virgin more terrifying than death itself."²⁵¹

Waffelaert follows De Lugo quite closely in his treatment of the ordinary and extraordinary means of conserving life.²⁵² The ordinary means are of obligation and the extraordinary means are not. What are the ordinary means? *Waffelaert* replies that « they do not consist 'in indivisibili' but must be determined from the various considerations indicated in the proposition

250. mortale peccatum etiam nunc vix committi puto ab eo, qui amputationem multum horrens eam pati detrectet . . . tamen omitti non debet, non cruciatus solos, qui ex parte sopiri nunc possunt, sed etiam horrorem magnum pro ratione haberi posse, cur magna operationem non enim loquor v. g. de digito ejusque articulo abscindendo—detrectari liceat.—Op. cit., I, p. 345.

²⁵¹Cf. J. Vim, *Compendium Theologiae Moralis* (ed. 9; Romae, Pustet, 1909), n. 308; J. Pighi, *Cursus Theologiae Moralis* (Veronae, 1901), III, n. 180. Cf. also in this matter: C. Marc-F. X. Gestermann, *Institutiones Morales Alphonsianae*, recog. a J. Raus (ed. 18; Lugduni, 1927), I, n. 754; J. Aertnys-C. Damen, *Theologia Moralis* (ed. 16; Marietti, 1950), I, n. 566.

²⁵²Cf. G. Waffelaert, *De Virtutibus Cardinalibus* (Brugis, Beyaert-Storie, 1886), Vol. II, De Justitia, nn. 39 ss.

and finally, the matter must be settled in a determined event from moral judgment. *733

Bucceroni says that extraordinary means lie outside the limits of common endurance. "Therefore, a sick person must take only ordinary medications and need not spend great sums of money or employ unusual remedies." Likewise, A. Vander Heeren writes that an individual is bound «to make use of all the ordinary means which are indicated in the usual course of things . . . *." However, one is not bound «to employ remedies which, considering one's condition, are regarded as extraordinary and involving extraordinary expenditure . . . *237

Vermeersch does not depart from tradition either. He is content with mentioning the usual examples of extraordinary means. "This is, in general, true also of Joseph Ubach, although he is inclined to go a bit further. For example, Ubach² lists vehement pain, danger of death, extraordinary expenditure of money and great fear as elements which make a surgical operation an extraordinary means. Pain, he says, is generally removed by anaesthesia; extraordinary cost is often absent because a surgical operation is usually performed in a public hospital. Fear frequently is not present and if it should be, one should try to eliminate it, if it is irrational. However, if considerable fear of the operation remains, then this would be a legitimate excuse from undergoing it. Ubach, when treating danger of death, however, is quite reserved. Much has been said, he feels, to extoll the progress made in the medical field but he emphasizes that one must never forget that an element of danger still exists and this can render such an operation extraordinary, and thus, not obligatory. He then makes the statement that ⁴(since some one of these reasons is not usually lacking, ordinarily a major surgical operation is not obligatory. *240

The treatment found in *Noldin-Schmitt*⁴¹ is quite good. It is precise and to the point. After stating that extraordinary means are not usually of obligation, these authors then note that extraordinary means should be determined from the common estimate of men. Those who are gravely sick and refuse to employ the services of a doctor and abide by his advice, when this can be done easily and when there is hope of recovery, are guilty of sin. Any remedy however, that is very costly considering one's status, or very painful and thus difficult is not obligatory. Since a remedy that is very costly is not of obligation, would a rich man be bound to employ this remedy even though he can afford to pay for it? Noldin-Schmitt answer that not even a rich man would be bound to employ the services of very skilled doctors or to leave his home in order to seek a better climate. This is true because «all these means are extraordinary. *747 Hence, it can be seen that these authors feel that there is a definite limit beyond which a remedy should be considered extraordinary, absolutely speaking."

Regarding major surgical operations or a major amputation, Noldin-Schmitt are rather definite. "They recognize that the older moralists excused an individual from submitting to these operations. However, since many of the elements on which these moralists based their reasoning have now been eliminated, it seems as though such operations should be called obligatory. Anaesthesia has removed pain. Operations now enjoy much greater success and artificial substitutes for natural limbs have been perfected. Two conditions however are posited by these authors before such an operation can be called obligatory. First there must be a great probability that certain danger of death will be avoided. Secondly, there should not be any intense subjective horror of the operation present.'

A somewhat similar treatment of surgical operations is found in *Genicot-Salsmans*.²⁴⁶ They state that even when a major surgical operation can be performed without tremendous pain or great danger, it would be difficult to say that *per se* such an operation is obligatory even when vehement subjective

²³ 4 . . media ilia ordinaria non consistant in individibili, sed ex variis considerationibus in propositione indicatis sint dimetienda et denique tandem ex morali iudicio sit in determinato eventu res n. 43.

²³⁴ «Et sane media extraordinaria extra communes vires posita sunt . . . Bucceroni, *Institutiones Theologiae Moralis* (ed. 6; Romae, 1914-1915), I, n. 715.

²³⁵ *Ibid.*, n. 716.

²³⁶ A. Vander Heeren, «Suicide», *The Catholic Encyclopedia* (New York, Appleton Co., 1912), XIV, p. 327. Cf. also *Dictionnaire de Theologie Catholique* (Letouzey et Ane, 1941), Tom. 14, col. 2748.

²³⁷ A. Vander Heeren, loc. cit.

²³⁸ Cf. A. Vermeersch, *Theologia Moralis*, II, n. 300.

²³⁹ Cf. J. Ubach, *Theologia Moralis* (Bonis Auris, Sociedad San Miguel, 1935), I, n. 488.

²⁴⁰ «Quare, cum aliqua ex his causis conserverit non deesse, ordinarie magna operatio chirurgica non est obligatoria . . . *—Loc. cit.

²⁴¹ Cf. Noldin-Schmitt, op. cit., II, pp. 307-308.

242. quia haec omnia extraordinaria sunt».—*Ibid.*, p. 308.

²⁴³ Cf. E. Healy, op. cit., p. 162. In an example, Father Healy suggests \$2,000 as an absolute norm—an amount that even a rich man would not be obliged to spend. Extraordinary means for this author, are those means which «exceed the normal strength of men in general. * Cf. also Genicot-Salsmans, *Institution's Theologiae Moralis* (ed. 17; Bruxelles, L'Edition Universelle, 1951), I, n. 364, where one reads: «. . . vim pecuniae ingentem expendere, nemo, etiam ditissimus, tenetur, etiamsi aliter vitam protrahere nequeat.»

²⁴⁴ Noldin-Schmitt, loc. cit.

²⁴⁵ Loc. cit.

246cf. Genicot-Salsmans, op. cit., n. 364.

horror is present. Certainly this horror would produce an extraordinary difficulty.²⁴⁷ Furthermore, they feel that often a prudent doubt remains especially in regard to the enduring success of major operations. These authors do suggest, however, that an individual should rid himself of any exaggerated fear of operations and generally speaking, consent to them when it is necessary for the conservation of his life.²⁴⁸

Merkelbach excuses a man from employing « extraordinary, choice, unusual, more costly and very difficult means,²⁴⁹ in order to recover his health. These, he says, are not obligatory because the law demanding one to « protract²⁵⁰ his life does not oblige him at the cost of « such great trouble.²⁵¹ Today, however, the author notes, many operations which in days gone by were quite difficult and dangerous, are now performed very easily and safely. Therefore, it can be said that « they have now become ordinary means.²⁵²

In treating this very point, *Fanfani* uses the same words as *Merkelbach* except that he concludes this way « therefore operations of this type can not always be called extraordinary means.²⁵³ It is interesting to note this because the very same idea is expressed in just slightly different terms; different enough however, to make one realize that *Fanfani* is a bit more hesitant about stating categorically that a modern surgical operation is now an ordinary means.

In his *Moral and Pastoral Theology*, *Henry Davis* is content to say that a man must preserve his life by the use of ordinary means. He is not bound however, to employ « extraordinary expensive methods, nor methods that would inflict on him almost intolerable pain or shame.²⁵⁴

Bert Cunningham, in his doctoral dissertation, *The Morality of Organic Transplantation*, says: 4(Man's custody of his own body demands that he conserve his life by every reasonable means, for that is in agreement with his position as custodian of the life given to him by God . . .²⁵⁵

²⁴⁷140C. cit.

²⁴⁸1.0C. cit.

²⁴⁹ . . . media extraordinaria, exquisita, inusitata, pretiosiora, valde difficilia . . .
Merkelbach, *Summa Theologiae Moralis* (Parisiis, Desclee, 1935), II, n. 353.

²⁵⁰« protrahendi.—loc. cit.

²⁵¹ «cum tanto incommodo*—loc.

²⁵² . . . ac ita jam facta sunt media ordinaria.—Loc. cit.

²⁵³ . . . ideoque huiusmodi operationes nequeunt semper dici media extraordinaria.—
Fanfani, op. cit., II, n. 225, dubium I. Cf. also *Fanfani's* other references to ordinary and extraordinary means.—*Ibid.*, nn. 88 and 169.

²⁵⁴**H.** *Davis*, *Moral and Pastoral Theology* (ed. 3; London, Sheed and Ward, 1938), II, p. 141.

²⁵⁵**B.** *Cunningham*, *The Morality of Organic Transplantation* (Washington, Catholic University Press, 1944), pp. 95-96.

M Zalba requires a man to use only congruous and common means and ordinary diligence.²⁵⁶ There is no obligation to use extraordinary means or extraordinary diligence except per accidens.²⁵⁷ In applying the principle, *Zalba* feels that one would not be bound «to undergo a very dangerous operation or a very troublesome convalescence.²⁵⁸ Neither is a person bound to suffer the extraordinary pain of a surgical operation * if however, this case ever occurs supposing modern methods.²⁵⁹ It is interesting to take cognizance of the fact that *Zalba* recognizes that a period of recovery can be very harsh and thus be an extraordinary means. His opinion about the moral obligations involved in modern operations is guarded, as the reader can see. Perhaps, he does not want to state definitively that many major operations today are ordinary means, as *Merkelbach* did.

In the latest edition of *Lanza-Palazzini's Theologia Moralis*, one reads that «what at another time was held to be an extraordinary means, today on account of the progress of science, perhaps has become ordinary *²⁶⁰ What means are extraordinary? This should be decided in individual cases. However, it must be kept in mind that in ordinary circumstances, no one is obliged to undergo a « grave inconvenience* to conserve his life."²⁶¹

The shorter manuals of Moral Theology are in great measure synopses of the teaching already recorded here as regards the doctrine on the ordinary and extraordinary means of conserving life. *Tanquerey* mentions that one need not prolong his life with great inconvenience.²⁶² Neither is an individual bound to undergo a dangerous or very painful or greatly displeasing operation.²⁶³ *Arregui* gives the same doctrine.²⁶⁴

²⁵⁶ . . . media congrua; sed per se solum conununia . . . et per ordinariam diligentiam . . . *—*Regatillo-Zalba*, op. cit., II, n. 254.

²⁵⁷ per accidens tamen potest aliquis teneri ad media extraordinaria applicanda vet ad extraordinariam diligentiam adhibendam . . . *—Loc. cit.

²⁵⁸ . . . neque operationi valde periculosae vel convalescentiae molestissimae se submittere . . . a—*Ibid.*, n. 254, applicatio 3.

²⁵⁹ . . . si tamen casus iste eveniat unquam suppositis mediis hodiernis . . . cit.

²⁶⁰ . . . quad alias ut medium extraordinarium habebatur, hodie, ob scientiae progressum, forte ordinarium factum est.—*A. Lanza-P. Palazzini*, *Theologia Moralis* (Taurini-Romae, Marietti, 1955), II, n. 125.

²⁶¹ . . . obligatio subeundi grave incommodum ad ipsum servandum non probatura.—Loc. cit.

²⁶² . . . lex enim diu vitam protrahendi non obligat cum tanto incommodo.—*A. Tanquerey*, *Synopsis Theologiae Moralis et Iristoralis* (Parisiis, Desclee & Socii, 1953), III, p. 248.

²⁶³ . . . nec quisquam obligatur periculosam aut valde dolorosam vel maxime displicentem operationem subire . . .—Loc. cit.

²⁶⁴ . . . non autem necessario mediis extraordinariis, sc. pro sua condicione valde sumptuosis, vel dolore aut pudore nimis arduis.—*A. Arregui*, *Summarium Theologiae moralis* (ed. 18; Bilbao, 1948), n. 234.

However, *Jane-Adelman* are inclined to be a little more specific. They exempt even wealthy people from the necessity of going to a far-distant place or health resort. Even the wealthy would not be obliged to summon the best known physicians. It is the opinion of these authors also that no one is gravely obliged to undergo a major surgical operation except per accidens and even then, the success of the operation must be morally certain."²⁶⁵

One of the few modern theologians to afford any special treatment of the problem of the ordinary and extraordinary means of conserving life is *Gerald Kelly*, S. J. His writings will be seen more closely in succeeding chapters of this dissertation. Suffice it to say now that these writings are of definite importance because of the author's experience and skill in treating medico-moral problems, and secondly, because of his realization of the practical import of the problem of the ordinary and extraordinary means of conserving life in modern medical procedure.²⁶⁶

This chapter has included the opinions of the most noteworthy moral theologians regarding the means of conserving life. It is with this teaching in mind that in the next chapter an attempt will be made to study more closely the nature of the ordinary and extraordinary means. In this way, it is hoped that the entire study will be based on traditional teaching. While it is true that theologians of past ages perhaps never imagined the almost miraculous progress of medical science which is so well known today, nonetheless, they left behind them the basic principles whereby even the moral problems of modern day medicine can be solved correctly.

²⁶⁵Cf. H. Jone-U. Adelman, *Moral Theology* (Westminster, Newman Press, 1948), n. 210.

²⁶⁶Cf. G. Kelly, The Duty of Using Artificial Means of Preserving Life*, *Theological Studies*, XI (1950), pp. 203-220; «The Duty to Preserve Life*, *ibid.*, XII (1951), pp. 550-556; *MEDICO-Moral Problems* (St. Louis, The Catholic Hospital Association of the U. S. and Canada, 1954), V. pp. 6-15. Another treatment of considerable import, which has been published is J. Paquin, *Mamie et Médecine* (Montreal, Immaculee-Conception, 1955), pp. 398-403.

CHAPTER III

The Nature of the Ordinary and Extraordinary Means of Conserving Life and the Moral Obligation of Using These Means

In the previous chapters, we have presented a discussion of the basic duty of conserving one's life and a report of the opinions of the most noteworthy moral theologians in regard to the ordinary and extraordinary means of conserving life.

The nature of the ordinary and extraordinary means of conserving life, and the moral obligation of using these means are the subjects of the present chapter. In determining the nature of these means, of necessity we shall see more closely the opinions already presented in Chapter Two. An analysis of the writings of the theologians will give the elements by which we can determine more precisely the nature of the ordinary and extraordinary means of conserving life. These theologians, as a rule, did not define the terms ordi-

nary and extraordinary means of conserving life, but they did describe them and they did underline the elements which constitute these means.

Once we have determined the nature of the ordinary and extraordinary means of conserving life, we shall discuss in the second section of this chapter the moral obligation of using them and the extent to which this obligation binds.

3.1 THE NATURE OF THE ORDINARY AND EXTRAORDINARY MEANS OF CONSERVING LIFE

In this section, we intend to gather from the writings of the moralists the elements which they consider essential to the concept of the ordinary and extraordinary means of conserving life. We shall then study the implications in these elements and thus be able to determine the nature of ordinary and extraordinary means. However, prior to this, it will be profitable to discuss some preliminary notions.

A. PRELIMINARY NOTIONS

1) Natural and Artificial Means of Conserving Life

One of the first distinctions which we find made in this matter by the moralists is the one in which the natural means of conserving life are distinguished from the artificial means. In this present discussion, we are using the word *artificial* to designate a means which is devised and made by man for the conservation of his life. A *natural means* is a means which nature itself provides for the conservation of man's life. The older moralists used the term *natural means*. They did not, however, use the term *artificial means* but usually they described an artificial means in a negative way by pointing out that such a means is not a natural means. We have seen this already in the writings of Vitoria: « . . . a similar case does not exist between food and drugs. For food is per se a means ordered to the life of the animal and it is natural, drugs are not . . . »²⁶⁷ Vitoria wants to emphasize that a man is not obliged to use every

possible means of conserving his life but that, basically, his obligation begins only with those means that are natural and intended by nature for the conservation of man's life: « . . . man is not held to employ all the possible means of conserving his life, but the means which are per se intended for that purpose . . . »²⁶⁸ Fundamentally, there is a clear distinction in the mind of Vitoria between natural means of conserving life and artificial means. It would seem, also, that he would say that natural means are obligatory and artificial means are not obligatory. In any event, he definitely assigns a stricter moral obligation of employing natural means than of employing artificial means of conserving life.

Reading further on in this same section of Vitoria's writings, we note an apparent contradiction to what has just been stated. Vitoria proposes the situation in which a person would have moral certitude that if he should take a certain medicine, he would regain his health; if he refuses to take the medicine, he will die. Is he obliged to take the medicine? Vitoria seems to reply that he is bound to use the medicine, and that if he does not take it, « he really does not seem to be excused from mortal sin . . . ».²⁶⁹ The reasons for this answer are first of all, that this same person would be required to give the medicine to a sick neighbor, otherwise he would be guilty of sin. Secondly, Vitoria says « . . . medicine per se also is intended by nature for health . . . ».²⁷⁰

Hence, we see that Vitoria apparently is saying that drugs and medicines are not obligatory because they are not natural means intended by nature for the conservation of man's life and saying also in the same section that drugs and medicines are per se intended by nature for health and are obligatory. There is no doubt that an apparent contradiction exists. However, it would seem that a correct understanding of Vitoria's words can come only from an understanding of the entire context. Recall that he said that the case existing between food and drugs is not a similar one. This is true. Food is primarily intended by nature for the basic sustenance of animal life. Food for man is basically and fundamentally necessary from the very beginning of his temporal existence. It is basically required by his human life and nature intends food for this purpose. That is why man has the right to grow food and kill animals. Furthermore, because it is a law of nature that man sustain himself by food, it is a duty for man to nourish himself by food. In the case of drugs and medicines, the same is not true. Drugs and medicines are intended per se

²⁶⁷ . . . quod non est simile de pharmaco et alimento. Alimentum enim per se est medium ordinatum ad vitam animalis et naturale, non autem pharmacum . . . —F. A Vitoria, O.P., Relectio IX, de Temp., n. 1.

²⁶⁸ . . . nec tenetur homo adhibere omnia media possibilis ad conservandam vitam. sed media per se ad hoc ordinata.—loc. cit.

²⁶⁹ . . . non videtur profecto excusari a mortali . . . *—loc. cit.

²⁷⁰ . . . medicina per se etiam ordinata est ad salutem a natura . . . cit.

by nature to help man conserve his life. However, this is by way of exception. Drugs and medicines are not the basic way by which man is to nourish his life. They are intended by nature to aid man in the conservation of his life when he is sick or in pain or unable to sustain himself by natural means. These artificial means are not natural means but they are intended by nature to help man protect, sustain and conserve his life. If man were never to be sick, he would never need medicines. If he is sick, however, it is quite *natural* for him to make use of *artificial* means of *conserving* his life.

Vitoria is correct therefore, in making a clear distinction between natural means of conserving life and artificial means of conserving life. He is also correct when he explains that natural means, such as food, are intended per se by nature for the conservation of man's life, whereas artificial means are intended per se by nature for this same purpose but as a means of supplementing the natural means when this becomes necessary.

In regard to the obligation of using natural means of conserving life, Vitoria clearly states that the natural means are obligatory. With regard to the obligation of employing the artificial means of conserving life, his teaching again appears contradictory. In one place he seems to say that artificial means are not obligatory; in another place, he clearly states that there is a moral obligation to employ them when necessary for the conservation of one's life. In this particular matter also, an understanding of what Vitoria means to imply will render his actual words more understandable.

Vitoria's statement that an artificial means is per se intended by nature for the health of a person is quite understandable. It is also clear that Vitoria makes the use of artificial means a matter of obligation when the physical condition of the individual requires it. We must recall however that Vitoria is positing a condition in this matter. He states in his proposed case that the individual concerned has moral certitude that a medicine will bring him health. Further on in the same discussion, he actually admits that the possession beforehand of moral certitude of benefit deriving from the use of medicines is not obligatory. His words are: « . . . but since this rarely can be certain, therefore they are not to be condemned with mortal sin who have declared universally an abstinence from drugs . . . w.271

We can see, therefore, that the teaching of Vitoria in this matter is that medicines and drugs—in fact artificial means in general—are intended by nature to supplement the natural means of conserving life. They are intended to help man to conserve his life when the use of merely natural means, such as food, sunshine, rest etc. are not sufficient because of the individual's physi-

cal condition. As such, therefore, the artificial means are obligatory. However, in Vitoria's time, the development and progress of medical helps to conserving life had not reached the point where their use would give any sure hope of benefit. One could not have moral certitude of benefit. Hence, Vitoria is quite logical and quite correct in not demanding a person under obligation to use these artificial means.

To summarize Vitoria's teaching in this matter, we may say that natural means of conserving life are per se intended by nature as the means whereby man is to conserve his life and ordinarily these are strictly obligatory. Furthermore, artificial means of conserving life are per se intended by nature as a means whereby man can supplement the natural means of conserving life when these natural means are lacking or insufficient etc. Ordinarily, these artificial means are obligatory too if they can be obtained and used conveniently and with some certitude of benefit.

Sayrus makes the very same distinction. In fact, it is interesting to note that he uses Vitoria's very words in this section.²⁷² Actually, all he has done has been to repeat verbatim Vitoria's argument. One notion however, is his own. He adds the term ⁴«naturally produced» to the expression, «common foods»: « . . . no one in order to prolong his life is bound to use the best and more delicate foods, even though he be able; he need use only the common ones, naturally produced ».²⁷³ Here again, the same reasoning that motivated Vitoria in this matter is apparent in the writings of Sayrus. Basically, he feels that only what is a natural means of conserving life is obligatory. He repeats the case, which was proposed by Vitoria, about the necessary use of medicine, and we can see that Sayrus also is influenced by the condition of the medical science of his day. One can not be sure of success in the use of medicines, therefore, they can hardly be called obligatory. However, the use of these medicines would be obligatory if one could be sure that they would benefit him.

Sanchez also says that one would not be bound to use medicines to prolong his life, such as taking a drug for many years to avoid fevers.²⁷⁴ He also uses the expression: « means directed by nature for sustenance.»²⁷⁵ It would seem that Sanchez does not oblige a person to make use of a drug for many

²⁷²Sayrus, op. cit., Lib. VII, Cap. IX, n. 28.

²⁷³⁴ . . . nemo ad vitam prolongandam, cibis optimis et delicatioribus uti tenetur, etiamsi possit, sed communibus naturaliter productis*.—loc. cit.

²⁷⁴, . . . non tenetur quis uti medicinis ad prolongandam vitam . . . ut quotannis sumere pharmacum ad vitandas febres etc. *—Sanchez, op. cit., Tom. II, Lib. V, Cap. I, dub. 33.

²⁷⁵, . . . mediis ordinatis a natura ad sustentationem . . .*—ibid., n. 11.

²⁷¹. . . sed quia hoc vix potest esse certum, ideo non sunt damnandi de mortali, qui in universum decreverunt abstinere a pharnacis . . .*—loc. cit.

years in order to avoid a fever not because the use of a drug could never be obligatory but because the use of a drug *for many years* is not obligatory.

When one reads the writings of these older moralists in the whole context, one understands rather easily why they are eager on the one hand to term medicines a means of conserving life directly intended by nature for the purpose of conserving life, and therefore obligatory when necessary, and why then, on the other hand, these same authors seem willing to contradict themselves. As the success of medicine became more certain, the authors wrote differently. For example, Tamburini writes that one is bound to use only « ordinary foods per se intended to conserve life». ²⁷⁶ Then he says in the same section that one is not obliged to take very costly and extraordinary medicines « since it is sufficient to use common medicines ». ²⁷⁷ Here we can see clearly that while the term *per se intended* is used for ordinary foods and these are obligatory, yet in the same section Tamburini calls common medicines obligatory. In the writings of the previous authors there is hesitancy about stating any obligation even in regard to the use of common medicines. Hence, we can appreciate that the moral teaching of the older moralists in this matter is quite solid even though in their writings they would seem to confuse principle and practice. In *principle*, artificial means of conserving life are obligatory; but for these authors, *in practice*, these means are not obligatory because of some circumstance which eliminates the duty of using them. For example, the medicines are too costly or they do not provide any serious hope of benefit. This seems to be the reason why in one and the same context an author will require the use of artificial means, and then say that these means are not of obligation.

Actually what these older moralists were saying can be well explained by the terms ordinary and extraordinary means of conserving life. When these moralists were living, artificial means of conserving life were extraordinary means because they were too costly or did not offer any hope of benefit. When, however, medicines became useful and offered some hope of success, these means became ordinary means and the moralists then called them obligatory. It does not seem, therefore, that the writings of the older moralists provide any argument for the opinion that artificial means of conserving life are never obligatory. When one understands the meaning in these writings, he will see that these moralists in principle do oblige a person to make use of artificial means of conserving life when these means are truly ordinary means. They seem to make the distinction between natural and artificial

²⁷⁶ * . . . non tenetur quis uti cibus nisi ordinariis per se ordinatis ad vitam conservandam . . . —Tamburini, op. cit., Lib. VI, Cap. II, Sect. II, n. 11.

²⁷⁷ . . . cum sates sit medicinis uti communibus.—loc. cit.

means because natural means generally were ordinary means and thus obligatory, whereas artificial means in this period of history were usually for one reason or another extraordinary means.

God intends the development of science for the good of man. When science can provide a means of conserving man's life which can be a supplement to a natural means, then this artificial means would seem to be obligatory. It is true, however, that whereas natural means in general are ordinary means, artificial means of conserving life can quite often be extraordinary means and thus not obligatory. When artificial means are ordinary means, then they are obligatory. We will see more closely, as this chapter progresses, the conditions required in determining a means as ordinary or extraordinary. The object of this discussion so far has been to show that the terms *artificial means* and *extraordinary means* are not coextensive. An artificial means can be an ordinary means of conserving life.

As a final point, we may point out that an artificial means of conserving life can be either a cure for a disease, such as a medicine, or it can be a means of supplanting a natural means of sustaining life, such as intravenous feeding. This distinction would not seem to change either in theory or in practice the teaching mentioned here. If the artificial means, whether a cure or a substitution for a natural means of conserving life, is an ordinary means it is obligatory. It is for this reason that in mentioning the artificial means, we have referred to them as means of supplementing the natural means of conserving life, intending thereby to include in the term artificial means both the means of curing a disease and means which supplant a natural function.

2) Ordinary means of conserving life and Ordinary medical procedures

The distinction existing between the expressions *ordinary means of conserving life* and *ordinary medical procedures* is a very interesting and important one. It is particularly important in any practical question concerning the duty of employing an artificial means, because there is danger of confusing the terms. In point of fact, an ordinary medical procedure is not necessarily an ordinary means of conserving life. What is an ordinary treatment in medical procedure can easily be a means of conserving life which the moralist will not term either ordinary or obligatory. ²⁷⁸ The moralists of past ages had no need of

²⁷⁸* La difficulté consiste à préciser le sens de ces deux expressions: remèdes ou traitements ordinaires, remèdes ou traitements extraordinaires. Le langage médical appellera traitements ordinaires ceux qui sont habituellement employés pour telle ou telle maladie; mais, au point de vue théologique, de tels traitements peuvent parfois être extraordinaires.—Paquin, op. cit., p. 398.

making this distinction because most medical and surgical procedures were admittedly extraordinary means. Today, however, men are more conscious of the wonders of medical progress and they are more accustomed to employing medical and surgical remedies. Therefore, it is easy to imagine that what is surely ordinary as a medical procedure might appear ordinary also as a morally obligatory means of conserving life. However, such a case is not necessarily true. For example, a surgical intervention is an ordinary medical procedure today in case of acute appendicitis. It probably is also morally an ordinary means of conserving life in most instances. However, for some individuals, it still could be an extraordinary means due to some unusual set of circumstances. Thus it would not be obligatory. The expense involved in the operation or the lack of proper medical and surgical facilities could easily render the operation an extraordinary means for a particular individual. It is true that usually an extraordinary medical procedure will also be an extraordinary means of conserving life. However, it is well to understand from the beginning of this discussion that an ordinary medical remedy is not necessarily an obligatory ordinary means of conserving life.

B.

THE ELEMENTS INVOLVED IN THE TERMS ORDINARY AND EXTRAORDINARY MEANS OF CONSERVING LIFE

We have noted above that this study of the nature of the ordinary means of conserving life will be founded on the elements derived from an analysis of the writings of the moral theologians. This will be true also of the study of the nature of the extraordinary means of conserving life, which will be found in a succeeding section of this chapter.

In order that the elements involved in these terms may be seen more clearly, a list of moral theologians and the elements which they include in their discussions of the means of conserving life can be consulted in the preceding outline. [The letter (X) * signifies that the appropriate element was mentioned by the author under whose name the letter (X) * occurs.] This outline is by no means exhaustive, but it is representative and can be of assistance in appreciating the frequency with which some elements are mentioned in the theological discussions of the ordinary and extraordinary means of conserving life. There are other elements mentioned by the moralists which have not been cited in this outline because they have not been common to many authors. Where, however, there is need of mentioning such elements, proper citation will be made in the text itself. It is also well to note that in this outline the terms have been kept in Latin. Usually this exact expression is

common to all the designated authors. Occasionally, however, an author may have used a different expression or a different language to connote the same idea. He is marked, nonetheless, as having used the more common phrase.

The reader will note that we are going to discuss separately the nature of the ordinary means of conserving life and the nature of the extraordinary means. Although this method is not common in the treatises found in the Moral Theology books, we feel that to separate the two discussions will emphasize more the difference involved in the two terms.

1) The nature of the ordinary means of conserving life a) *Spes salutis*

It is clear from the writings of the moralists that a means of conserving life must offer some *hope of a beneficial result* before such a means can be termed ordinary and obligatory. Vitoria speaks of the obligation that a sick man has to take food or nourishment if he can take it . . . with a certain hope of life . . . *²¹⁹ Further on in the same writing, he says that a man who has moral certitude that he can regain his health by the use of a drug is bound to use the drug.' After Vitoria, this notion of a hope of benefit in the question of the ordinary means of conserving life was repeated by many moral theologians.

The teaching that an ordinary means of conserving life must offer a hope of benefit is certainly in harmony with common sense. It would be unreasonable to bind an individual with a moral obligation of employing a remedy or cure which offers no hope of benefit. All theologians agree to this, although not all moralists actually mention it in their discussions of the ordinary and extraordinary means of conserving life. No one, however, writes in opposition to this teaching.

The question of more practical import is how much hope of benefit must a means offer before it can be called an ordinary means. We have mentioned in Chapter Two the case cited by De Lugo, in which a man is condemned to death by fire.²²⁰ Surrounded by flames, the man notices that he has sufficient water to extinguish some of the fire, but not all of it. De Lugo notes that the man concerned is not morally obligated to use the water because he can not extinguish the flames once and for all, and thus escape death. If he could extinguish the fire, he would be obliged to do so. However, he is not obliged

²¹⁹ . . . cum aliqua spe vitae . . .—Victoria, *Relectio de Temp.*, n. 1.

²²⁰Loc. cit.

²²¹De Lugo, op. cit., *De Justitia et Jure*, Disp. X, Sect. I, N. 30.

merely to postpone his death by extinguishing part of the fire. In other words, the element of benefit is introduced. The means and remedies employed, even though in themselves common means, must offer some hope of benefit or help to the conservation of life before they become obligatory ordinary means. The benefit to be derived from the use of these means must be worthwhile. It must be worthwhile in quality and duration. Furthermore, it must be worthwhile in consideration of the effort expended in using the means. In a word, the use of a means must offer a *proportionate* hope of benefit or else it is not an ordinary means.

Hence, we can see that a means of conserving life, even though it be a very common remedy, can not be termed an ordinary means if it offers little or no hope of benefit. The fact that a means very definitely gives hope of some benefit but not a hope of proportionate benefit in no way changes the case. A hope of little benefit is to be considered morally as nothing. De Lugo phrases this doctrine in the following manner: « . . . the obligation of conserving life by ordinary means is not an obligation of using these means for such a brief conservation—which is morally considered as nothing at all ».²⁸²

De Lugo clearly states that any means which is to be employed for the conservation of one's life must give definite hope of being proportionately useful and beneficial before it can be called obligatory. It is noteworthy also that De Lugo applies this doctrine even to the taking of food²⁸³ which is a purely natural means of conserving life. In other words, for De Lugo, any means whether natural or artificial, must give proportionate hope of success and benefit, otherwise it is not an ordinary means and thus not obligatory. G. Kelly, S. J. commenting on these words of De Lugo writes: It may be that the principle, *parum pro nihilo reputatur*, is really contained in the preceding principle, *nemo ad inutile tenetur*. Yet there seems to be a slight difference. Furthermore, De Lugo applies his principle even to the taking of food, which is a purely natural means of preserving life, whereas the other authors were speaking only of remedies for illness.²⁸⁴

Closely allied to this notion of proportionate hope of benefit is the element of danger which many recent authors mention in connection with their discussion of modern remedies and treatments. The earlier moralists were cognizant of the same element of danger and that is why they spoke so clearly

on the notion of proportionate benefit. In other words, a remedy or treatment must give definite and proportionate hope of success. If a procedure does not offer this proportionate hope of success it is clearly not an ordinary means. It is true that as medical science has progressed, many surgical operations and medical treatments that were dangerous and offered no proportionate hope of success, today have been perfected. Since they are not usually dangerous now, and do give hope of success and benefit, they have become ordinary means, at least in regard to the element of success and benefit.

If a medical procedure involves risk or danger and does not at the same time offer proportionate hope of success, the procedure is not morally obligatory. This teaching is an application of the principle *nemo ad inutile tenetur*. Oftentimes even though medical science has technically perfected a treatment or surgical procedure, the hope of success and benefit does not outweigh the risk involved. Hence, even though there be hope of benefit, it is not a hope of sufficient proportion to make a procedure obligatory. In an article reprinted in the *Liraacre Quarterly* in November, 1955, Raber Taylor speaks of risks involved in some modern treatments.²⁸⁵ He relates the case of a man who has a swollen hand. The case was diagnosed as Dupuytren's contracture and the doctor recommended corrective surgery without disclosing, however, to the patient the considerable risk involved. Actually, the operation was unsuccessful. Taylor says: « The operation was skillfully performed, but failed to achieve the expected result. The patient was left with greater disability than he had originally. »²⁸⁶ The author relates this incident in order to note that the doctor in question was legally prosecuted in the civil courts for his failure to disclose properly to the patient the risk involved in the recommended surgery before obtaining the patient's consent. Furthermore, he writes: « The skillful performance of the operation did not, ruled the Supreme Court, excuse the doctor who had breached his duty to make a full disclosure of the surgical risk ».²⁸⁷

What is of interest in this case is the fact that even the civil laws recognize the element of danger and risk in many modern medical techniques. Hence they protect the patient's right to know this fact before any consent is given. How much more important it is, therefore, for the moralists to take cognizance of the possible risk or danger involved in a means of conserving life prior to imposing it as an obligatory ordinary means. If a procedure, whether

²⁸²« . . . obligatio conservandi vitam per media ordinaria, non est obligatio utendi mediis ad illam brevem conservationem, quae moraliter pro nihilo reputatur . . . ».—loc. cit.

²⁸³Loc. cit.

at Kelly, «The Duty of Using Artificial Means of Preserving Life», p. 208.

²⁸⁵R. Taylor, «Consent for Treatment», *The Liraacre Quarterly*, Nov., 1955, pp. 131-135, (reprinted from *The Rocky Mountain Medical Journal*, May, 1955).

²⁸⁶Ibid., p. 133.

²⁸⁷Loc. cit.

medical or not, does not offer proportionate hope of success and benefit in the conservation of one's life, it is hardly an ordinary means.

Absolute and relative norms in determining the ordinary and extraordinary means of conserving life

Another point to understand clearly is the fact that in determining whether a means offers proportionate hope of success and benefit, one must consider some relative factors. It is hardly possible to establish categorically that a particular means of conserving life will always offer proportionate benefit under all circumstances and to all people. In other words, it is difficult to establish an absolute norm when determining the required hope of success and benefit in any procedure designed to conserve life. In point of fact, it is difficult to apply an absolute norm to any of the elements of ordinary means. Therefore it is well to call attention to that fact here.

It does seem that an absolute norm can be established regarding clearly extraordinary means. Certainly, there are means of conserving life that are not binding morally to anyone. We have already referred to the suggestion of E. Healy, S. J. that \$2,000 is an amount that no one, even a rich man, is bound to expend for the sake of conserving his life.²⁸⁴ It would be difficult to dispute the fact that an absolute norm exists in regard to extraordinary means and we shall see this more closely in the discussion of moral impossibility in the next section of this chapter. Suffice it to say now that since an extraordinary means is one that exceeds the strength of men in general, any means that exceeds the strength of men in general is obviously not binding on any man and therefore, is an extraordinary means absolutely speaking.

The question of an absolute norm in regard to ordinary means, however, is more intricate. It does not seem that one can successfully establish such a norm because even the older moralists²⁸⁵ teach that such a purely ordinary and common means of conserving life as food, admits of relative inconvenience and difficulty. Furthermore, they point out that this very common means, food, sometimes can offer no proportionate hope of success relative to a particular individual.

There are many factors in this notion of relativity. For example, the age of an individual can be a determining factor. The person's physical and psychological condition enters the question. His financial status also can weigh heavily in determining a means as ordinary or extraordinary for him. This

doctrine on the relative nature of ordinary means should be kept in mind, therefore, in regard to all the elements involved in ordinary means, not only in regard to the hope of proportionate success and benefit.

There is one last point in this connection which is worthy of mention. We have stated that it seems difficult to establish the presence of an absolute norm in regard to ordinary means. We are not denying thereby that there are many means of conserving life which are certainly common means or remedies and which usually do not exceed the strength of men in general. It would be allowable, therefore, to make a *general* norm in regard to these means, by which they are characterized as ordinary for most men. To make this norm absolute, however, it is to imply that these means are obligatory for all men because ordinary means are obligatory means. It is in this sense that we say that it seems difficult to establish a norm which would be absolute in determining the nature of ordinary means.

Hope of success and benefit and the relative norm

An application of the relative norm can be made in reference to the element of proportionate hope of success and benefit. G. Kelly, S. J.²⁹¹ uses the example of the use of oxygen in tiding a patient over a pneumonia crisis. The oxygen is easy to obtain and easy to use and generally is quite inexpensive for short periods of use. If the patient overcomes the pneumonia crisis, he usually will recover from his illness. Fr. Kelly writes: «I would say that under these conditions the patient is obliged to use the oxygen if there is any solid hope of getting through the crisis.»²⁹¹ This author then remarks that any change in either the cost or use of the oxygen which would make its use more difficult, would also effect the need of an increase of hope of recovery as a basis for obligation.²⁹² There is therefore a definite relation between the notion of proportionate hope of benefit and the nature of ordinary means. The more a means involves difficulty, the more definite must be the hope of proportionate success and benefit. Kelly suggests this principle and it seems quite valid:

. . . a remedy, which includes rather great difficulty, though not moral impossibility, is hardly obligatory unless the hope of success is more probable, whereas a remedy which is easily obtained and used seems obligatory as long as it offers any solid probability of success.²⁹³ This seems to be a precise interpretation of the notion, proportionate hope of success and benefit.

²⁸⁴Kelly, «The Duty of Using Artificial Means of Preserving Life», —p. 214.

²⁹¹Loc. cit.

²⁹²Loc. cit.

²⁹³Ibid., pp. 214-215.

²⁸⁴Healy, op. cit., p. 162.

²⁸⁵Cf. e. g., a Victoria, *Relectio de Temp.*, n. 1; De Lugo, op. cit., *De Justitia et Jure*, Disp. X, Sect. I, n. 30.

In summary, therefore, we may say that the notion of proportionate hope of success and benefit is an essential part of the nature of ordinary means. Without this hope of benefit, a means is hardly an ordinary means and therefore it is not obligatory. In determining the presence of this hope of success and benefit, one must consider not only the nature of the particular remedy or means involved, but also the relative condition of the person who is to use this means. Then, and then only, can the moral obligation of using such a means be properly determined.

b) Media Communia

The next element that is frequently mentioned in referring to ordinary means of conserving life is the notion of being *common*. We have seen this in the writings of Vitoria: * . . . foods which men commonly use and in the quantity which customarily suffices for the conservation of strength . . . *²⁹⁴, Sayrus also refers to the need of employing only the means in common use.²⁹⁵ We note the same in the writings of Sanchez.²⁹⁶ In similar manner, De Lugo writes that a man would be guilty of suicide not only if he were to kill himself with a sword, but also if he did not conserve his life by common means.²⁹⁷

Although the moralists use many expressions to describe the nature of ordinary means, the notion of being common seems to be basic. Even when the expression *common* is not used, it is presumed, and from the whole context, the reader is aware of the presumption. For the moralists, the duty of conserving one's life does not demand a diligence or a solicitude that exceeds the usual care that most men normally give their lives. Any means of conserving life that is not the normal or usual course of action adopted by men in general is out of the ordinary—extraordinary—and therefore per se not obligatory. Recall Vander Heeren's phrase that an individual is only bound to make use of all the ordinary means which are indicated in the usual course of things . . . *²⁹⁸.

Common diligence, therefore, requires the use of common means only. The ordinary conservation of one's life does not imply the singular assiduity

²⁹⁴, alimentis, quibus homines communiter utuntur et in quantitate quae solet sufficere ad valetudinem conservandam . . . Victoria, *Relectio de Temp.*, n. 12. Cf. Also Vitoria, *Comentarios a la Secundae*, q. 147, art. 1.

²⁹⁵Sayrus, *op. cit.*, Lib. VII, Cap. IX, n. 28.

²⁹⁶Sanchez, *op. cit.*, Tom. II, Lib. V, Cap. I, dub. 33.

²⁹⁷* . . . non solum dicitur se interimere homo, quando ferro se occidit, sed etiam quando mediis communibus vitam non Conservat . . .—De Lugo, *op. cit.*, *De Justitia et Jure*, Disp. X, Sect. I, n. 27.

²⁹⁸A. Vander Heeren, «Suicide», *Catholic Encyclopedia*, XIV, p. 327.

involved in prolonging life by unusual and uncommon means. In determining, however, whether or not a means is common, it is necessary, of course, to consider the relative factors involved. For this reason, the moralists frequently mention in their writings the next element of ordinary means, viz., *secundum proportionem status*.

c) Secundum proportionem status

The element of comparison with one's social position or particular status in life is frequently mentioned by the moralists not only in connection with the notion of common means but also with the notion of the cost involved in using a certain means of conserving life. De Lugo calls attention to it relative to common means.²⁹⁹ Banez mentions it in connection with cost.³⁰⁰ Very often however, the notion of one's status is introduced into the very concept of ordinary means. Reiffenstuel, for example, uses such a method.³⁰¹

De Lugo's example of the comparison with one's status is very interesting and helps to accentuate the principle involved.³⁰² He notes that Vitoria had taught long before that one who cares for his life by means which other men commonly use certainly is satisfying the obligation of caring for his life. De Lugo then applies this same principle to the religious novice who is advised to return to the world in order to obtain food and surroundings which are more healthful for him. The supposition is that ordinary life in religion is having an ill effect on the novice's life and health. De Lugo prefers to ignore the fact that the novice can licitly be given permission to return to the world. That fact is obvious for De Lugo, but beside the point. The question is whether the novice has the *obligation to return* to the world in order to conserve his life. In other words, must the religious novice who is in ill health exchange the ordinary life of religion for the ordinary life of the world in order to conserve his health? Does the duty of self-conservation require that such a novice relinquish the life men commonly live in the monastery for the life that men commonly live in the world? Is the accent, therefore, only on the expression to make use of all the ordinary means which are indicated in the usual course of things (common, * or must consideration also be given to the particular status that a man has in life?

De Lugo replies that the obligation of conserving one's life and health does not require the novice to return to the world. This author indicates that the novice satisfies his obligation by using food and means which *other men in*

²⁹⁹De Lugo, *op. cit.*, *De Justitia et Jure*, Disp. X, Sect. I, n. 36.

³⁰⁰Banez, *op. cit.*, in II: II, q. 65, art. 1.

³⁰¹Reiffenstuel, *op. cit.*, Tract. IX, Distinc. III, Quaest. II, n. 14.

³⁰²De Lugo, *op. cit.*, *De Justitia et Jure*, Disp. X, Sect. I, n. 36.

religion commonly use to conserve their lives.' As a matter of fact, further on, De Lugo completely denies any moral obligation in this regard, which binds the novice to leave the monastery.³⁰⁴

We have cited this case to emphasize De Lugo's teaching that very often one must take into consideration an individual's particular status before a means can be properly determined as ordinary for him. Furthermore, this principle applies not only to the determination of ordinary means in general but actually each element of ordinary means must be considered in the light of one's conditions or status. The elements of extraordinary means also are subject to a comparison with one's status in life and this must be kept in mind too.

It may appear that this element of comparison with one's status is merely the relative norm that we mentioned earlier. The notion of comparison with one's status is contained in that relative norm. Our treatment of it here, however, is no mere repetition of what we have already said. When the author's refer to a comparison with one's status they seem to be implying a relation with one's social or financial condition. Hence, they speak in terms of means being common or ordinary with respect to one's status. They also mention that a means must not be too costly in consideration of an individual's position. The relative norm, however, which we discussed before, is broader than that. It considers not only the financial or social position of an individual but also his physical condition. The relative norm clearly encompasses also the psychological outlook that an individual possesses in regard to the use of a particular means of conserving life. Our task here has been to discuss the elements which the moralists mention and in the light of the discussions which they give. That is the reason that we have allotted separate treatment to the element of comparison with one's status.

d) *Media non difficilia*

Many of the moralists show a very definite preference for describing in a negative way the ordinary means of conserving life. They seem to reason that if the elements which make a means extraordinary can be shown to be lacking in a certain means, then the means is clearly an ordinary means of conserving life. Since the difficulty involved in an extraordinary means is usually easier to describe, they seem content to show what an extraordinary means is, and

then say that an ordinary means is one which does not entail such difficulty. Hence, we note that very often in their writings, they use the phrase *media non*

d cilia.

Not all authors refrain from a positive expression in this regard. Soto notes that a « . . . prelate could indeed force a subject, on account of a singular obedience promised to him, to take medicines which he can conveniently accept. »³⁰⁵ Sayrus too remarks that « . . . by the natural law each one is bound to employ for the conservation of his body those licit means which he can conveniently undertake . . . ».³⁰⁶

More often however, the authors prefer to say that one is bound to employ only the means which are not too difficult. For example, Lessius teaches that a man is held to care for his health by ordinary means « which are not extremely difficult. »³⁰⁷ Bonacina uses practically the same words. 'Laymann also excludes means which are very difficult.'"

Does any amount of difficulty at all cause a means to be extraordinary? It is essential to the nature of an ordinary means that the means be entirely free of difficulty? From a study of the writings of the moral theologians, one can not help but realize that these authors certainly require an *excessive* difficulty before terming a means *extraordinary*. They clearly state however, that a *moderate* difficulty does not constitute an extraordinary means. Furthermore, from a study of their writings, one can not say that the moralists teach that the terms « difficulty* and ordinary means » are mutually exclusive.

In order to make their teaching clearer, the moralists usually give examples of the elements which they are discussing. When the notion of excessive difficulty is treated, very often the authors use the example of an amputation. These authors consider an amputation an example of excessive difficulty which all will recognize and appreciate. We shall mention the example of an amputation again when we treat the nature of extraordinary means. Here, however, it is worthwhile to call attention to the teaching of Roncaglia in regard to amputation. Roncaglia mentions an amputation as an extraordi-

³⁰⁵ . . . praelatus vero cogere posset subditum propter singularem obedientiam illi promissam, ut medicamina admittat quae commode recipere potest.—Soto, op. cit., Lib. V, Quaest.

II, art. 5.

³⁰⁶ « . . . jure naturali media licita, quae commode sumi possunt ad sui corporis conservationem ponere tenetur . . . »—Sayrus, op. cit., Lib. VIII, Cap. IX, n. 38.

³⁰⁷ « . . . mediis ordinariis non admodum difficilibus . . . »—Lessius, op. cit., Lib. II, Cap. IX, Dub. 14, n. 96.

³⁰⁸ . . . remediis ordinariis non valde difficilibus . . . —Bonacina, op. cit., Tom. II, Disp. II, Quaest. ultim. Sect. I, punct. 6, n. 2.

³⁰⁹ « . . . non tenemur per medium valde difficile . . . »—Laymann, op. cit., Lib. III, Tract. III, P. 3, Cap. I, n. 4.

³⁰⁴ Cur ergo novitius . . . nec satisfaciet utendo victu, et mediis quibus alii communiter in religione utuntur et vitam conservant?—loc. cit.

³⁰⁴ Propter haec itaque existimavi, medicorum illud consilium de obligatione novitii rejiciendum omnino esse . . . cit.

nary means because of the tremendous pain involved. But he also remarks that whenever 4(from the amputation, future pains of notable proportion will not arise but only moderate pains, then one is bound to suffer the abscission; for everyone is held to conserve his life by ordinary means and it is an ordinary means to suffer something to conserve this same life. »³¹⁰

Roncaglia's phrasing is very clear. It is an ordinary means to suffer moderate pain for the conservation of one's life. Hence, we can say that for Roncaglia, if a means of conserving life involves only moderate difficulty, it is an ordinary means.

Even in the time of Tournely this fact was recognized. Tournely teaches that the proper care of one's life and health can involve difficulty which is only moderate and not excessive." This author, therefore, holds that an individual has the duty of undergoing moderate pain in order to conserve his life. Furthermore, if the individual concerned refuses to suffer such pain, he can be forced to submit to it for the conservation of his life."

The difficulty connected with employing a particular means of conserving life can arise not only from pain, but also from many other elements such as cost, danger to life, fear etc. The notion of difficulty is generic. Therefore, in a solution of a practical case, consideration should be taken of the possible factors which constitute a difficulty.

The theologians require that an individual exert definite effort in conserving his life, but they do not demand any endeavor which could not be expected of men in general. Certainly a means whose use, absolutely speaking, entails a difficulty which exceeds the strength of men in general is not an ordinary means. Furthermore, if a means involves great difficulty for a particular individual, even though men in general do not find any great difficulty in its use, it ceases to be ordinary for this individual. In other words, even if the great difficulty is only relative, not absolute, it is still sufficient to render a means extraordinary for a particular individual. We have mentioned earlier in this chapter that Vitoria applied the relative norm even to food, a very common means of conserving life. It will be profitable now, however, to note the words with which he describes this relative difficulty. Vitoria writes: « . . . if the depression of spirit is so low and there is present such consternation of spirit in the appetitive power that only with the greatest of effort and as

³¹⁴ . . . *ex* abscissione non sint futuri dolores ingentes, sed moderati, tunc tenetur pati abscissione; nam unusquisque tenetur mediis ordinariis vitam conservare et medium ordinarium est aliquid pati pro eadem vita conservanda».—Roncaglia, op. cit., Vol. I, Tkact. XI, Cap. I, Q. IV.

³¹¹ Cf. Tournely, op. cit., Tom. III, Tract. de Decalogo, Cap. II, de Quinto Praec., Art. I, conc. 2.

³¹² Loc. cit.

though by means of a certain torture can the sick man take food, right away that is reckoned a certain impossibility and therefore he is excused . . . JP."

The dictate of the natural law that requires a man to conserve his own life is a serious one. It is based on the double importance of man's human life. His life is important as a divine gift over which God retains the ultimate dominion. Secondly, it is important as the means whereby man can merit his eternal salvation. Hence, self-conservation is no mere heroic act, which although laudable, is not obligatory. The conservation of one's own life is not just a desirable thing which entails no serious duty. In reality, the natural law imposes self-conservation as a very definite obligation from which the individual is excused only when such conservation is impossible for him either physically or morally.

The natural law therefore requires that definite effort be expended in the conservation of one's life even if this involves difficulty. The difficulty however must be proportionate. If self-conservation involves excessive difficulty or proportionately grave inconvenience, then certainly the individual is excused. The reason is that the obligation of conserving one's life is a positive precept and as such does not bind with such grave inconvenience and difficulty. We have explained this in Chapter One.

St. Thomas refers to law as an « *ordinatio rationis* »—an ordinance of reason.³¹⁴ A law, to be a true law, commands only what is within reason. Furthermore, the fulfillment of a law need be accomplished only in a reasonable way. Hence, while it is true that one is excused from fulfilling a positive precept when this fulfillment involves grave inconvenience or moral impossibility, he is not excused when he can fulfill it reasonably. Therefore, it is not beyond the bounds of moral obligation to suffer reasonable difficulty in the use of the means of conserving life.

In determining whether a means is reasonable or not, many factors must be considered. One must take into consideration the means contemplated, the objective difficulty involved and his own ability to make use of the means. But he must also weigh the importance of the dictate of the natural law which requires his self-conservation. Any decisions to be made in this matter should be products of a consideration of both the gravity of the law and the difficulty involved in the fulfillment of the law. To ignore the gravity of the law prepares the way for neglect of duty. To ignore the difficulty involved in fulfilling the law fosters scrupulosity.

³¹⁴ . . . quod si animi dejectio tanta est et appetitivae virtutis tanta consternatio, ut non nisi per summum laborem et quasi cruciatum quendam, aegrotus possit sumere cibum, jam reputatur quaedam impossibilitas et ideo excusatur—Victoria, *Relectio de Temp.*, n. 1.

³¹⁴ Summa Theologica, I: II, q. 90, art. 4.

In our discussions of the element of moral impossibility which we shall treat in the section concerning the nature of extraordinary means, we will refer to the element of difficulty again. The main point to emphasize here, however, is that the nature of ordinary means does not exclude the concept of reasonable difficulty. Hence, we say that an ordinary means is one that an individual can reasonably employ in the conservation of his own life.

e) Media facilia

The reader can notice from the outline of elements presented earlier in this chapter that it is not a common practice of the moralists to include the notion of *easiness* in their discussions of the ordinary means of conserving life. Patuzzi,⁹¹⁵ Waffelaert,⁹¹⁶ and Noldin-Schmitt⁹¹⁷ do mention it. However, in context, the writings of these authors indicate that they did not intend to require a complete lack of difficulty before terming a means ordinary. They seem to mean that ordinary means must be means that one can employ conveniently—in other words, reasonably.

To say that an ordinary means must be easy to use is an expression that can be open to misunderstanding. One might easily imagine that the concept of ordinary means must of necessity exclude any type of difficulty. In the light of the discussion given in the previous section, however, it would seem correct to say that the proper expression is *reasonable*, not, *easy*. Ordinary means are reasonable means. They are not necessarily easy means because they can entail moderate difficulty.

2) The nature of the extraordinary means of conserving life

In this section, we shall discuss the elements which are included in the concept of the extraordinary means of conserving life. As in the previous section, we have gathered these elements from the writings of the moral theologians concerning the means of conserving life. Very often these writers used more than one phrase in referring to a particular element of extraordinary means. In the outline presented earlier in this chapter, we have given the majority of those phrases. However, in our treatment of them here in this section, it would seem more precise to join the elements into five groups in order that we can accentuate the inconvenience involved in the elements, rather than the expression used to describe the inconvenience. Therefore, we

shall discuss the elements in the following order: 1.) Quaedam impossibilitas, 2.) Summus labor and Media nimis dura, 3.) Quidam cruciatus and Ingens dolor, 4.) Sumptus extraordinarius, Media pretiosa and Media exquisita, 5.) Vehemens horror.

a) Quaedam impossibilitas

The moral theologians are quite conscious of the distinction between avoiding evil and doing good. They understand clearly that a man is always bound to avoid evil but he is not always bound to do positive good. There is a limit to the duty of doing good. To the theologians this is a distinction of major importance. Hence, when the theologians discuss the problem of conserving life, they apply the distinction between avoiding evil and doing good to this problem. A man is always bound to avoid suicide because it is intrinsically evil. However, there is a limit to his obligation of conserving his life in a positive manner. The obligation of conserving one's life in a positive way certainly does not include using any possible means but rather, it would seem to extend itself to the use of reasonable or moderate means. Hence, the theologians apply the term « ordinary* » to those means which are reasonable and the term « extraordinary* » to those means which a man is not obliged to use in conserving his life. The reason that the extraordinary means are not obligatory is the fact that there is a *certain impossibility* connected with either obtaining or using them. Hence, the individual concerned is excused from employing such means.

We have seen clearly in Chapter Two, section seven of this dissertation that the excusing cause of impossibility can be licitly applied in regard to the precept of the natural law which binds a person to conserve his life. When an individual is unable to fulfill the law, he is not bound to fulfill it. This inability can be of a physical nature. If, for example, the means of conserving life are certainly unattainable or if the individual is physically unfit to make use of these means, he is excused from conserving his life, on the grounds of *physical impossibility*. On the other hand, the individual may be physically capable of fulfilling the law, but unable to, here and now, because of some circumstance of fear, danger or grave inconvenience which renders the observance of the law extremely difficult for him. It is then said to be *morally impossible* for him to fulfill the law. Hence, if the means of conserving life are excessively difficult or gravely inconvenient to obtain or use, then the use of these means is morally impossible.

It is obvious that physical impossibility excuses from the precept which obliges a man to conserve his life. Everyone understands that no one is bound to use a thing which he can neither obtain nor use. *Nemo ad impossibile tenetur*

⁹¹⁵Patuzzi, op. cit., Tom. III, Tract. V, Pars V, Cap. X, Consec. 7.

⁹¹⁶Waffelaert, op. cit., Tract. H, Vol. H, n. 40.

⁹¹⁷Noldin-Schmitt, op. cit., II, p. 308.

However, in connection with the term moral impossibility, it is necessary to recall that theologians distinguish the negative and affirmative precepts of the natural law. Negative precepts, such as the prohibition of suicide, are always binding because they forbid something that is intrinsically evil. The application of the excusing cause of moral impossibility therefore, is illicit. It is only in regard to the affirmative precepts of the natural law that one can use the excusing cause of moral impossibility.

Self-conservation is an affirmative precept of the natural law and as such, binds *semper* but not *pm serape*.: When, therefore, a means of self-conservation involves a proportionately grave inconvenience, it is not obligatory and the individual is excused from the present observance of the precept.

In their discussions of the means of conserving life, the moralists use the terms «certain type of impossibility,* «moral impossibility,* and «grave inconvenience. * For example, Vitoria³¹⁸ and Sayrus³¹⁹ employ the term «a certain type of impossibility.* Mazzotta uses the same expression.³²⁰ On the other hand, Tournely³²¹ and more recently Marc-Gestermann,³²² Aertnys-Damen³²³ and Kelly.³²⁴ make use of the term *moral impossibility*. Finally, the term *grave inconvenience* is used, for example, by Lehmkühl,³²⁵ Kell?³²⁶ and Paquin.³²⁷

We know from the accepted axiom that an affirmative precept is not binding in the presence of a proportionately grave inconvenience. Whether or not the terms *proportionately grave inconvenience* and *moral impossibility* are synonymous is perhaps open to dispute. Most authors however, define moral impossibility as a proportionately grave inconvenience which excuses from the present observance of the law. For example, Rodrigo defines moral impossibility as a proportionately grave inconvenience extrinsic to the observance of a law, but accompanying that observance.³²⁹ Priimmer says that moral impossibility is present when «the prescribed undertaking can not be accomplished

except through very extraordinary effort.³²⁹ Zalba refers to the «inconvenience . . . which implies great difficulty and lack of proportion in relation to the law concerning which there is question.³³⁰ Lehmkühl writes that an affirmative law does not bind in the presence of inconvenience, but he notes that the gravity of the law will determine the required gravity of the inconvenience.³³¹

The authors, when writing in regard to the extraordinary means of conserving life, seem to use interchangeably the terms *moral impossibility* and *proportionately grave inconvenience*. It is difficult to determine whether or not they consider them equivalent terms, or whether the expression *proportionately grave inconvenience* implies a difficulty of less magnitude than *moral impossibility*. Whatever be the term they use, the fact remains that these authors insist that the difficulty involved in using a means of conserving life must be of sufficient proportion to constitute an excusing cause before the means can be called extraordinary. It would seem allowable therefore, to use the terms interchangeably when referring to extraordinary means. Father Kelly writing in *Theological Studies*, says that «an extraordinary means is one which prudent men would consider at least morally impossible with reference to the duty of preserving one's life.³³² Then in *Medico-Moral Problems*, the same author writes:

If the inconvenience involved in preserving life was excessive . . . then this particular means of preserving life was called *extraordinary*.³³³ Therefore, it is in keeping with the tradition of theological writing in this matter to say that an extraordinary means is a means which is morally impossible because it involves a grave inconvenience not in proportion to the gravity of the precept demanding self-conservation.

We have referred to the words of St. Thomas in regard to law—«ordinatio rationis*. Merkelbach commenting on these words, notes that the term *war:alio* signifies a «dispositio ad finem per media proportionata . . .³³⁴ He further explains that *rations* means that the «will of the superior, in order that there can be

³¹⁸a Victoria, *Relectio* de Temp., n. 1.

³¹⁹Sayrus, op. cit., Lib. VII, Cap. IX, n. 31.

³²⁰Mazzotta, op. cit., Tom. I, Tract. II, Disp. II, Quaest. I, Cap. I.

³²¹Tournely, op. cit., Tom. III, Tract. de Decalogo, Cap. II, de Quinto Praec., Art. I, conc. 2.

³²²Marc-Gestermann, op. cit., I, p. 491.

³²³Aertnys-Damen, op. cit., I, n. 566.

³²⁴Kelly, *The Duty of Using Artificial Means of Preserving Life*, p. 206.

³²⁵Lehmkühl, op. cit., I, p. 344.

³²⁶Kelly, *Medico-Moral Problems*, V, pp. 8-9.

³²⁷Paquin, op. cit., p. 399.

³²⁹incommodum proportionate grave et legis observationi extrinsecum, eidem observationi adnexum.—L. Rodrigo, *Praeleaiones 7th theologico-Morales Comillenses* (Santander, Sal Terrae, 1944), Series I, Theologia Moralis Fundamentalis, II, n. 430.

³²⁹. . . quando opus praescriptum fieri nequit, nisi adhibendo labores prorsus extraordinarios.—D. Priimmer, *Manuale Theologiae Moralis* (Friburgi Brisgoviae, Herder, 1933), I, n. 235.

³³⁰. . . incommodum . . . quod magnam difficultatem et improportionem implicat relate ad legem de qua est questio.—Regatillo-Zalba, op. cit., I, n. 555.

³³¹Lehmkühl, op. cit., I, p. 108.

³³²Kelly, *The Duty of Using Artificial Means of Preserving Life*, p. 204.

³³³Kelly, *Medico-Moral Problems*, V, p. 9.

³³⁴Merkelbach, op. cit., I, n. 222.

a law, must be regulated by reason or in conformity with reason, otherwise wickedness would result rather than law . . . ».³³⁵

A true law is in conformity with reason, and the means employed to fulfill the law must be in conformity with reason. Since the dictate of the natural law which commands a man to conserve his life is obviously a reasonable law, the means employed to fulfill it need only be within reason. Hence any inconvenience or difficulty that is unreasonable is not obligatory. We may ask how great must be the difficulty or inconvenience involved in self-conservation in order to be unreasonable. Merkelbach says: « How great a difficulty is required to be an excuse must be judged from the importance of the law, the quality of the persons and circumstances of places and times etc. ».³³⁶

The inconvenience involved in using a particular means of conserving life is not just reasonable difficulty. It must be an inconvenience extrinsic to the observance of the law and of sufficient magnitude to be out of proportion to the gravity of the law. A means of conserving life that involves only moderate difficulty and inconvenience is certainly not an extraordinary means. When one has to decide whether or not a means is extraordinary by reason of proportionately grave inconvenience, he must consider both the gravity of the law and the factors involved in establishing the inconvenience. Noldin-Schmitt say that the question of which means are extraordinary must be decided from the common estimation of men." Fr. Kelly phrases it best of all: « In concrete cases it is not always easy to determine when a given procedure is an *extraordinary* means. It is not computed according to a mathematical formula, but according to the reasonable judgment of prudent and conscientious men ».³³⁸

One further point in this matter of moral impossibility concerns the relative norm. Are means to be considered extraordinary only if they involve moral impossibility for men, absolutely speaking, or will relative moral impossibility suffice? A means of conserving life which involves relative moral impossibility must be considered extraordinary. This would be true even if the cause of moral impossibility were unfounded, e.g., irrational fear. Fr. Kelly writes: « My general impression is that there is common agreement that a relative estimate *suffices*. In other words, if any individual would experience

the inconvenience sufficient to constitute a moral impossibility in the use of any means, that means would be extraordinary for him w.³³⁹

We have seen in this discussion that an essential element of extraordinary means is moral impossibility. An extraordinary means of conserving life is one which is morally impossible due to some grave inconvenience out of proportion with the gravity of the law. The elements which we shall discuss in the following sections are actually the possible causes of moral impossibility in a particular means of conserving life. The elements will not always be present in a given means of conserving life. If they are present and render a means extraordinary, it is because they have been the cause of moral impossibility.

b) Summus labor and Media nimis dura

In our discussion of the moral teaching concerning the ordinary and extraordinary means of conserving life, we have noticed that the natural law requires a man to expend definite effort in order to conserve his life. Any effort which constitutes a moral impossibility however, is an extraordinary means. Hence, the moralists use such expressions as the *greatest of effort* or *too difficult* when they are describing an extraordinary means.

Tamburini notes that a man is not held to make use of extraordinary foods when this requires tremendous effort, because « . . . love of one's self does not demand such effort ».³⁴⁰

Patuzzi recalls that Franzoja would oblige a man to employ means which are harsh and difficult and which would require great effort to use. Patuzzi says that this reply came from Franzoja because of Aristotle's teaching that a brave and strong man does not flee difficulty. However, Patuzzi is quick to note that Aristotle is speaking of those who commit suicide in order to flee difficulty and trouble, not about « those who refuse to avoid death at the cost of harsh and severe remedies . . . ».³⁴¹ He adds then further on that « . . . an individual does not violate the natural law when for a good end and just cause he refuses to conserve his life by extraordinary, rather harsh and violent remedies*." "

A means therefore which requires excessive effort involves a moral impossibility and thus, is an extraordinary means. There are many factors in con-

³³⁵ Kelly, *The Duty of Using Artificial Means of Preserving Life*, p. 206.

³³⁶ . . . voluntas superioris, ut lex esse possit, debet esse ratione regulata sue rationi conformis, secus esset magis iniquitas quam lex . . .—loc. cit.

³³⁷ Quanta autem difficultas requiratur ut excuset, moraliter aestimandum est ex legis momento, personarum qualitate, circumstantiis locorum, temporum, etc.—*ibid.*, n. 377.

³³⁸ Noldin-Schmitt, *op. cit.*, II, p. 308.

³³⁹ . . . quia cum tanto labore, nequaquam propria charitas obstringit.—Tamburini, *op. cit.*, Lib. VI, Cap. II, Sect. II, n. 3.

³⁴⁰ . . . non vero de illis qui vitare mortem recusant mediis acerbis et aerumnosis . . .—Patuzzi, *op. cit.*, Tom. III, Tract. V, Pars V, Cap. X, Consect. sept.

³⁴¹ Non ergo legem naturae et caritatis violabit qui recto fine justaque de causa remediis extraordinariis, acerbioribus, et violentis vitam conservare recusarent.—loc. cit.

³⁴² Kelly, *Medico-Moral Problems*, V, p. 11.

...serving one's life which could cause this effort. In the writings of the earlier moralists, one of the examples of a non-obligatory effort is the example of a long journey to a more healthful land."³⁴³ Many of the authors repeat this example. However, a modern example is given by Zalba. He notes that a man is not bound « to submit himself to a very dangerous operation or to a very burdensome convalescence ».³⁴⁴ Many modern medical and surgical remedies do not give any moral assurance of proportionate benefit. Thus they are extraordinary means. However, even where the technique involved in these procedures has been perfected so that they give definite hope of proportionate benefit, nonetheless, the very harsh or very troublesome convalescence which follows such procedures could render the remedy itself an extraordinary means. Any means of conserving life which involves the excessive expenditure of effort on the part of the individual concerned is an extraordinary means. Here again, the relative norm suffices. If the means involves effort which constitutes a grave inconvenience for the individual concerned, even though most men would find the means reasonable, the means is nevertheless, an extraordinary means for this individual.

c) *Quidam cruciatus and Ingens dolor*

One can readily understand that the element of pain can render a means of conserving life extraordinary. Very often, pain is involved in the remedies employed to cure sickness or disease. This is true with modern medical procedure but it was even more true before the days of anaesthesia. Hence, we note that pain is almost universally mentioned by the moralists as an element which can cause a means to be extraordinary. The pain involved in particular remedies can constitute a moral impossibility and therefore, the remedy is an extraordinary means of conserving life, even if the hope of benefit is certain.

The older moralists were very conscious of this fact. They all mention the element of pain. The common example which they give to emphasize this point is an amputation. Whenever they write concerning extraordinary means, invariably they mention pain and almost in the same line, cite the example of an amputation. This is not without reason. These authors were writing in the pre-anaesthetic days when the pain involved in an amputation must have been excruciating. The abscission was painful enough but this was

³⁴³Cf. e. g., Sayrus, op. cit., Lib. VII, Cap. IX, n. 28. Paquin however, says: «... mais cet exemple, dans notre monde moderne, n's peut-etre deja plus une valeur absolue'..—op. cit., p. 400.

³⁴⁴neque operationi valde periculosae vel convalescentiae molestissimae se submittere . . . Regatillo-Zalba, op. cit., II, p. 269.

followed by cauterizing with hot irons in order to stop the bleeding. For example, the German surgeon Wilhelm of Fabry (1560-1624) is said to have used «a red hot knife for amputation in order to check bleeding!».³⁴⁵

Besides the fact that amputation without anaesthesia is so obvious as an example of intense pain, perhaps the older moralists cited this example so often because in those days amputation was the remedy for almost all compound fractures. The following lines from Guthrie's *History of Medicine* will help in understanding the conditions of surgical procedures at that time and also why the example of amputation is so constant in the writings of the moralists:

These were the days in which hospital gangrene assumed epidemic proportions, and sepsis was an inevitable sequence of operations. Compound fractures were treated by amputation, with a mortality of at least twenty-five percent, while the surgeon wore an old blood-stained coat with a bunch of silk ligatures threaded through one of the buttonholes, ready for use . . . Small wonder, then, that a considerable degree of heroism was demanded from the unfortunate patient who, having endured the tortures of operation without anaesthesia, was still obliged to face the pains and dangers of a septic wound.³⁴⁶

Science has progressed since the days when there was no remedy for pain. In the Providence of God, the discovery of anaesthesia eventually came and brought with it an entirely new outlook in regard to surgical interventions. Contemporaneously, the great scientist Lister discovered « the principle involving the prevention and cure of sepsis in wounds* ».³⁴⁷ In the course of years, as the antiseptic system was adopted in surgical procedure, the great danger of infection in operations was also eliminated, hence, surgical procedures in general today are not as painful or dangerous as they were in former times. Therefore many of the procedures which were extraordinary means, may possibly be ordinary means now. Consideration, however, must certainly be given to each individual case before determining a means as ordinary or extraordinary. It is true that pain is removed during operations by anaesthesia and it is somewhat lessened in convalescence by sedatives. However, pain and discomfort are still involved in many procedures and if these elements constitute a proportionately grave inconvenience, then the means is an extraordi-

³⁴⁵Guthrie, op. cit., p. 150.
p. 307.
p. 324.

nary means. Anaesthesia has lessened the influence of pain as a factor in causing a means to be an extraordinary means, but it has not eliminated the necessity of considering this element when judging whether or not a means is ordinary or extraordinary.

Furthermore, we must keep the relative norm in mind. The same pain that does not render a means extraordinary for one individual, could render it extraordinary for another individual. Hence, prudent judgment above all is necessary.

One must consider not only the pain involved in any surgical intervention—which these days can usually be eliminated—but also the post-operative pain, which usually can be lessened, if not eliminated. In this regard, however, the words of Capellmann are significant:

Although the cure of wounds effected by an operation will bring post-operative pain, this pain is usually not more intense, and most often less intense, than the pain which the sickness which has caused the operation brings and which the patient would have to suffer even if he did not submit to the operation."

It is well therefore, to remember that the element of pain must definitely be considered when determining whether a means is ordinary or extraordinary. The effect of anaesthesia should be considered. The operative and post-operative pain should be considered. The pain in relation to the individual concerned should be considered. If the pain involved would not exceed the strength of men in general, and does not constitute excessive inconvenience for this particular individual, the procedure is an ordinary means. Otherwise, it is an extraordinary means.

One further point in this regard refers to an opinion found in the Ballerini-Palmieri edition of Gury's *Compendium Theologiae Moralis*. The opinion suggests that one would not be bound to accept an artificial means of inducing sleep, « as long as such inducing of sleep is a dangerous thing . . . because . . . certainly it is an extraordinary means: really, the very loss for some time of the use of reason and of the mastery of his acts, such as occurs in this hypothesis seems an extraordinary thing».³⁴⁹ One must readily

³⁴⁸*Quamvis deinde curatio vulnerum operatione effectorum postea dolores afferat, hi tamen generatim non atrociores, pleurumque minus sunt atroces, quam illi quod morbus ipse, quo operatio necessaria fiebat, excitavit, quosque aegrotus etiam sine operatione perferre debuit.—Capellmann, op. cit., p. 26.

³⁴⁹Gury-Ballerini-Palmieri, op. cit., n. 391. Cf. supra Chap. II, footnote 117 of this dissertation for the original text of this quotation.

admit that any excessive danger involved in the use of anaesthesia in a particular case would certainly render a procedure an extraordinary means. We have already treated this point when speaking of proportionate benefit. However, it does not seem that one could establish that the use of anaesthesia is always an extraordinary means on account of the loss of the use of reason and mastery of one's acts. We have stated that the inconvenience involved in a procedure must be out of proportion with the gravity of the law. Since we are discussing at this time, a means which is to be employed for the conservation of one's life, it does not seem that the inconvenience involved in the temporary loss of the use of reason would be out of proportion to the duty of self-conservation. Anaesthesia is hardly an extraordinary means on that account. A case is possible, though, in which a person would have an excessive fear of losing the use of reason. Then, the means might become extraordinary, not because of the loss of the use of reason however, but because of the excessive fear. We shall discuss this element of fear in another section of this chapter.

d) Sumptus extraordinarius, Media pretiosa and Media exquisita

The moral theologians have always taken into account the element of expense when discussing the ordinary and extraordinary means of conserving life. They have constantly taught that any means of conserving life which imposes an excessive hardship on an individual because of cost is an extraordinary means. In other words, unreasonable expense can constitute a moral impossibility and thus render a means extraordinary. To describe this excessive cost involved in conserving one's life, the moralists use such general terms as *sumptus extraordinarius*, *media pretiosa* and *media exquisita*.^m We have noted earlier in this chapter that the authors speak very frequently of the relative norm in regard to expense. It is apparent from their writings that any expense which causes a grave inconvenience for a particular individual renders a means of conserving life an extraordinary means. We have noted also in this chapter that when the moralists speak of cost, they frequently use the expression *secundum proportionem status*. Hence, the relative norm in this matter suffices.

It is not the practice of these authors, even the recent ones, to establish a definite expense beyond which an individual is no longer obliged." However, there is nothing in their writings which is opposed to establishing an absolute

³⁵⁰Banez, however, writes that 3,000 ducats is an extraordinary means, cf. op. cit., in II: II, q. 65, art. 1.

³⁵Cf. supra, footnote 22 for reference to the suggestion of E. Healy, S. J. in this regard.

norm. In fact, if anything, their writings favor an absolute norm." But one will not find the practice of stipulating a definite amount as an example of expense which is an extraordinary means, absolutely speaking. No doubt, the theologians are mindful that monetary values change and that the income of individuals changes. Furthermore, the amount of money that constitutes a moral impossibility, absolutely speaking, for people of one country might easily be reasonable for people of another country. Hence the authors leave the determination of absolute expense in this matter of extraordinary means to the contemporary and native moralists.

The history of the problem of the ordinary and extraordinary means of conserving life shows that expense has always been considered an essential factor in determining a means ordinary or extraordinary. This is no less true these days. The progress of science has brought about substantial improvements in medical procedures and technique. The cure of ills and the conservation of life has been greatly advanced. However, the question of expense is still a very real problem and in reality, is perhaps even a greater problem than before. Robert Cunningham, writing about an American private health insurance plan, says:

The constantly growing complexity of medicine has made medical care increasingly expensive. Diagnosis today is far more exact than it was even twenty years ago, but it often requires many expensive laboratory tests. And many modern treatments also are costly . . . Other studies have shown that one fifth of the nation's families are in debt for hospital or medical bills, and that medical care commonly takes from 4 to 7 per cent of family income and, in a few cases, as much as 40 per cent."

The cost of medical and surgical treatments which require hospitalization vary. Some treatments are not too expensive. For example, one hospital estimates \$133.00 as the cost of hospitalization for a case of acute appendicitis

³⁵²For example: «On the other hand, no one not even a very wealthy person is obliged, *per se*, to call in a very expensive physician . . . There is an absolute norm beyond which means are *per se* extraordinary.—J. Sullivan, *Catholic Teaching on the Morality of Euthanasia* (Washington, University of America Press, 1949), p. 64.

³⁵³R. Cunningham, *The Slog of Blue Shield* (The Public Affairs Committee, 1954), p. 2.

**Cf. part II of this book (on *Feeding the Hopeless and the Helpless*, pp. 55, 56) for observations on the extent of medical and hospital insurance coverage in contemporary America.

with no complications." The price includes the cost of the operating room, anaesthesia, medication and hospital ward accommodations for eight days. On the other hand, the cost of hospitalization for diabetes mellitus involving a gangrenous ulcer of the right foot and a low tibial amputation is estimated at \$892.10." The ward accommodations in this case are for sixty-one days. The price is broken down in the following way:

Operating Room	\$ 17.50
Anaesthesia	30.00
Laboratory	257.50
Medication	154.10
Medical & Surgical Supplies	6.00
Board-61 days a \$7.00 a day	427.00
	\$892.10"

The reader will note that in both cases the cost is only for hospitalization and does not include the fees of either the doctor or surgeon.

We can see therefore that expense is involved even now in the conservation of one's life. However, there are additional factors in the question of cost that must be considered. Today, public hospitals exist and very often the cost of medical treatment, at least in full, does not have to be paid by the patient.' Secondly, some countries, such as England, have a Health Service plan whereby medical treatment is paid for from public funds. Thirdly, there are private insurance plans, as for instance in the United States. With such insurance, a patient is greatly aided in meeting a medical bill which would otherwise be impossible for him to pay. We can understand therefore, that medical expense must be considered in the light of the individual's financial condition.

³⁵⁴St. Joseph's Hospital, Reading Pennsylvania. The cost sheet was prepared by Sister M. Fridoline, O.S.F. and submitted to me for use in this dissertation.

³⁵⁵Loc. cit.

³⁵⁶Cf. Ubach, *op. cit.*, I, n. 488 where he notes that extraordinary cost is often absent because a surgical operation is usually performed in a public hospital.

'Hospital charges today (1988) are based on Diagnostic Related Groups (or DRG's). Through the kindness of John W. Logue, President of Carney Hospital, Boston, MA, the following figures have been made available for comparative purposes. According to the data base presently in effect at Carney Hospital, the average charge for an appendectomy without complications (DRG 167) would be \$3,050.00 (3.7 days average length of stay). For any operation on the cranium for an individual under age 17—no trauma (DRG 001) the average charge would be \$24,874.00 (36 days average length of stay).

The tradition of moral teaching in regard to the means of conserving life shows that consideration must be given to the question of expense. The cost involved will render the means an extraordinary means if it is excessive, at least for the individual concerned. Here again however, prudent judgment must be had in making the decision and consideration must be given not only to the expense but also to the gravity of the duty of self-conservation.

e) Vehemens horror

The final element which the moralists consider in their discussions of extraordinary means is *vehemens horror*. There are two main emotions to which the authors give attention. One is intense fear. The other is very strong repugnance.

The emotion of *fear* helps a man to protect his life. It is because of fear that a man withdraws from what is harmful or injurious. Fear causes a man to escape from danger. Yet, ⁴ fear is sometimes so intense that it paralyzes the subject and leaves him unable to move.³⁵⁷ Fear, being a natural emotion, quite obviously is present when certain means of conserving life come into question. When an individual considers the pain or other inconveniences involved in a particular procedure, fear can cause him to shun this means of conserving life. In certain cases, the fear of a particular procedure can be so intense that it constitutes a moral impossibility. Thus, the procedure becomes an extraordinary means. There are medical procedures which can cause fear, even excessive fear, in most men. However, in any practical decision, one must consider the emotional or psychological condition of the individual concerned. If the fear is excessive and causes a grave inconvenience, the means in question is an extraordinary means.

Sometimes this excessive fear may be unfounded. It may be unwarranted by the objective danger or pain involved in a procedure. In this case, the individual concerned should rid himself of this unnecessary excessive fear. He should consider the matter objectively. Fear that is irrational should be eliminated, if possible, before determining whether or not a means is extraordinary. However, if the excessive fear remains, irrational and unwarranted though it be, it can constitute an extraordinary means. Thus, it provides a legitimate excuse from employing such a means of conserving life."³⁵⁸

Repugnance or distaste for a particular means is also mentioned by the moralists in their writings. Usually, in this connection, they give the example

of a maiden who is unwilling to submit to any medical treatment by a male doctor, when this is repugnant to her sense of modesty."³⁵⁹ This resolve on the part of the maiden whereby she prefers the pains of illness, even death itself, to the inconvenience caused by repugnance to treatment by a male doctor is perhaps unwarranted. The fact remains, nonetheless, that this intense distaste can constitute a moral impossibility. Patuzzi does not agree. He calls this repugnance imprudent and inane. Furthermore, this author says that the maiden ought to subject her emotions to the law of charity and the law of nature."³⁶⁰ However, it seems that most moralists would agree that if the maiden's repugnance causes a moral impossibility, then the treatment by a male doctor is for her an extraordinary means.

One final point in this section concerns another example in regard to the element of repugnance. We have mentioned before that the moralists cite an amputation as an example of an extraordinary means, due to the grave danger and intense pain involved. Science has improved the technique in operations and thus the amputation is no longer as dangerous as it was. Anaesthesia has removed the pain. Yet repugnance to living with a mutilated body could just as readily constitute a grave inconvenience. This point also should be remembered when determining such a procedure as an ordinary and extraordinary means for a particular individual."³⁶¹

We can see therefore that the two factors, fear and repugnance, must be considered when judging whether a procedure is an ordinary or extraordinary means of conserving life. The relative norm is or particular importance in regard to this element. A procedure which causes no fear or repugnance at all for men in general, might easily be a source of grave fear or intense repugnance for another individual. If therefore, the fear or repugnance constitutes a moral impossibility, it renders the procedure an extraordinary means of conserving life.

C. FORMULATION OF A DEFINITION OF THE TERMS ORDINARY AND EXTRAORDINARY MEANS OF CONSERVING LIFE

We have studied up till now the writings of the moral theologians in regard to the ordinary and extraordinary means of conserving life. We have

³⁵⁹For example, Busenbaum and St. Alphonsus. Cf. quotation supra, Chap. II, footnote 81.

³⁶⁰Cf. quotation supra, Chap. II, footnote 111.

³⁶¹Cf. Ballerini-Palmieri, *Opus Theologicum*, II, p. 645, n. 868, footnote b For the quotation of this reference cf. supra, Chap. II, footnote 118.

³⁵⁷T. Gannon, Psychology—The *Unity of Human Behavior* (Boston, Ginn and Company, 1954), p. 254.

³⁵⁸Cf. Ubach, op. cit., I, 488.

noticed that no set definition of these terms has been given, but that the authors simply described these means. From the descriptions and the examples given by these writers, we have been able to gather the essential elements involved in the terms ordinary and extraordinary means. We have collected the elements that are constantly used and have studied what is implied in these elements. Hence, we actually have the essential concepts which the tradition in moral writings requires for ordinary and extraordinary means.

Gerald Kelly, S. J. is one of the very few moralists to attempt a definition of these terms. He restricts it, however, to hospital procedures. This author writes: «As regards hospital procedures, *ordinary means* of preserving life are all medicines, treatments, and operations, which offer a reasonable hope of benefit for the patient and which can be obtained and used without excessive expense, pain or other inconvenience*.³⁶² In reference to extraordinary means, he says: «By these we mean all medicines, treatments, and operations, which cannot be obtained or used without excessive expense, pain or other inconvenience, or which, if used would not offer a reasonable hope of benefit ».³⁶³

Hospital procedures are not the only means of conserving life. Hence, a definition of ordinary and extraordinary means must be broad enough to include any means which is used for conserving life. Furthermore, an ordinary means is one which excludes the notion of moral impossibility, but it does not exclude the notion of reasonable difficulty.

The elements which we have noted to be included in the nature of ordinary means are: definite hope of proportionate benefit, the notion of being common, and reasonable effort. On the contrary, extraordinary means involve the notion of lack of proportionate benefit, and the notion of moral impossibility arising from unreasonable inconvenience in regard to pain, fear or expense etc.

Since all these elements have been shown to be constant in the moral teachings concerning the ordinary and extraordinary means of conserving life, we suggest the following definitions:

Ordinary means of conserving life are those means commonly used in given circumstances, which this individual in his present physical, psychological and economic condition can reasonably employ with definite hope of proportionate benefit.

Extraordinary means of conserving life are those means not commonly used in given circumstances, or those means in common

use which this individual in his present physical, psychological and economic condition can not reasonably employ, or if he can, will not give him definite hope of proportionate benefit.

The reader will note that these definitions are based on the relative norm. In this matter, the relative norm suffices in judging whether a means is ordinary or extraordinary. However, if there is a question of absolute grave inconvenience, then the same definition of extraordinary means is obviously valid. In regard to ordinary means, we have previously eliminated the use of an absolute norm.

3.2 THE OBLIGATION OF USING THE ORDINARY AND EXTRAORDINARY MEANS OF CONSERVING LIFE

Thus far in this chapter, we have been discussing the nature of the ordinary and extraordinary means of conserving life. We now intend to discuss the obligation of using these means. The usual manner of phrasing this obligations in: *per se a man* is obliged to use the ordinary means of conserving his life; *per se* he is not obliged to use extraordinary means, though the use of extraordinary means might be obligatory *per accidens*.³⁶⁴

A—The obligation of using the ordinary means of conserving life

Zalba expresses the obligation of using the ordinary means this way: «Cura vitae conservandae et administrandae imponit obligationem, ex genere suo gravem, positive procurandi et applicandi media congrua...³⁶⁵ There is a grave obligation of employing the ordinary means of conserving one's life. Our life is a precious gift of God, and it provides an essential condition in this economy by which we can merit heaven. Hence, the care of our life is a serious obligation and imposes the duty of employing the ordinary means necessary for such care. Not to employ the ordinary means of conserving life is tantamount to suicide and thus a grave sin. One who refuses to employ the ordinary means of conserving his life, equivalently kills himself.³⁶⁶

³⁶²Kelly, *Medico-Moral Problems*, V, p. 6.

³⁶³Loc. cit.

³⁶⁴Cf. Keuy, «The Duty of Using Artificial Means of Preserving Life *», p. 206.

³⁶⁵Regatillo-Zalba, op. cit., II, p. 268.

³⁶⁶Cf. Genicot-Salsmans, op. cit., I, p. 298.

We have included the notion of utility or proportionate hope of success and benefit as an essential part of our definition of ordinary means. Any means, therefore, that does not give definite hope of benefit is an extraordinary means. This element has been shown to be included constantly by the moralists in the concept of ordinary means. Sometimes, however, confusion on this point can occur. Some authors speak of ordinary means and hope of benefit as two separate entities. Then they join the two notions in order to determine the obligation of using the ordinary means. The implication is that one can determine a means as ordinary apart from the notion of proportionate benefit. For example, Fr. Kelly writes: 4(The patient is *per se* obliged to use only those means which are ordinary and which offer a reasonable hope of success *.367 The same author discussing a practical case, writes concerning a particular means of conserving life: But even granted that it is ordinary, one may not immediately conclude that it is obligatory ».966 Fr. Kelly is actually carefully noting that all attendant circumstances must be weighed before a means of conserving life can be called ordinary and obligatory.

In order to avoid this confusion, we have based our definition on the relative norm. Thus, if a means of conserving life is ordinary in accordance with our definition, it is automatically obligatory. It is precisely because of this possible confusion that we have stated that an absolute norm for ordinary means cannot be admitted. Since the obligation of conserving life rests with the individual primarily, it would seem that the ordinary means should be determined in accordance with the conditions of the individual. Once the means are then determined as ordinary means for this individual, they are obligatory.

Again it is well to recall that this method is in no way opposed to establishing a *general norm* whereby means are characterized as ordinary for most men. But, in the last analysis, the individual's own conditions will determine a means as ordinary or extraordinary. That is the reason we have based our definition on the relative norm; it is also the reason why we can say that ordinary means of conserving life are always obligatory.

B—The obligation of using the extraordinary means of conserving life

All authors admit that reasonable care of one's life does not include the use of extraordinary means. Hence *per se* extraordinary means are not obliga-

tory. The moralists, however, do note that extrinsic circumstances can change a case. They admit that for some reason a person might be bound to take more than ordinary care of his life, particularly when there is question of prolonging one's life. For this reason, they say that an individual might be bound *per accidens* to employ even extraordinary means of conserving his life.³⁶⁷

The usual examples of the obligation *per accidens* of using extraordinary means are: 1) one who is especially necessary to his family or society,³⁶⁸ and 2) one who should prolong his life for his spiritual welfare.³⁶⁹

For example, suppose that the father of a large family is dangerously ill. The doctors give him moral assurance that by means of a surgical intervention he can regain his health. However, the post-operative pain will be very intense and for him will constitute a moral impossibility. In this case the means of conserving life is considered extraordinary. Hence, the individual has *per se* no obligation to use this means to conserve his life. However, the extrinsic circumstance of a large family could change the case. The means of conserving life is still extraordinary; his duty of his own life still does not demand the use of extraordinary means. But his duty to his family could oblige him to make use of a means which he would not otherwise be bound to employ. Hence, in such a situation, the individual is said to have the obligation *per accidens* of using an extraordinary means of conserving his life.

In regard to the second example, we may cite this case. A patient is dying in great pain. Death is certain and inevitable. He is a Catholic but has been away from the Sacraments for twenty years. He is willing to see a priest and receive the Sacraments. A certain drug may prolong his life for another hour or two. Must he take the drug in order to stay alive long enough to receive the Sacraments?³⁷² Our reply is as follows. The drug in question is an extraordinary means because the physical benefit to be derived from its use is negligible. Death is certain. There is no proportionate hope of benefit. Since the drug, therefore, is an extraordinary means, it is not obligatory *per se*. However, the patient has the grave obligation of making his peace with God and receiving the Last Sacraments. Thus, the hour or so that will be given him by using the drug are necessary for him in order to see a priest. From the obligation, therefore, of caring for his soul, the obligation arises *per accidens*

³⁶⁷Cf. Regatillo-Zalba, op. cit., II, pp. 268-269.

³⁶⁸Loc. cit.

³⁶⁹Kelly, «The Duty of Using Artificial Means of Preserving Life», p. 206.

³⁷²This case is a modification of one presented for discussion by Fr. McFadden. Cf. C. McFadden, *Medical Ethics* (Philadelphia, Davis Company, 1955), p. 159, case 11.

³⁶⁷Kelly, *The Duty of Using Artificial Means of Preserving Life*, p. 216.

³⁶⁸Ibid., p. 218. In later writings, Father Kelly includes the notion of usefulness in his definitions of ordinary and extraordinary means; cf. *supra* the definitions cited from *Medico-Moral Problems* and also, «The Duty to Preserve Life», *Theological Studies*, XII (1951), p. 550.

of prolonging his life by using an extraordinary means. Hence, in this case, the patient is bound *per accidens* to use the drug in question.

The principle involved in this matter is very clear, namely: extraordinary means are obligatory only *per accidens*. Applications of this principle however, can be complicated because the circumstances of a case can be involved. Prudent judgment above all is necessary. It must be remembered that the common tendency of most men is to conserve their lives by any possible means. However, their moral obligation extends *per se* only to the use of the ordinary means, and only *per accidens* to the extraordinary means.

In this chapter, we have seen the nature of the ordinary and extraordinary means of conserving life. We have seen that the relative norm suffices in determining a means as ordinary or extraordinary. We have also mentioned that there can be an absolute norm in regard to extraordinary means according to which certain means are not obligatory for any man, *per se*. Furthermore, we stated that a *general norm* can be established whereby certain means are classed as ordinary means for most men, although we emphasized that in the last analysis only the relative norm will determine an ordinary means. Finally, we reviewed the principles involved in the obligation to use the means of conserving life. We noted that means which are ordinary according to our definition are obligatory means. Extraordinary means are not obligatory except *per accidens*.

CHAPTER IV

Practical Considerations in the Matter of the Ordinary and Extraordinary Means of Conserving Life

4.1 CONSIDERATIONS IN REGARD TO THE ELEMENT OF «RISK* IN MODERN OPERATING TECHNIQUE

In the previous chapter, we discussed the nature of the ordinary and extraordinary means of conserving life. In that discussion, we noted that one of the factors which must be considered in determining a means as ordinary or extraordinary is the notion of hope of success. This factor is very important, especially in the determination of modern surgical operations as ordinary or extraordinary means of conserving life. Certainly surgical interventions involve risk. This was true particularly in past ages, but it is also true today. Modern operating technique, with the advances and progress of medical science, has greatly reduced the risk of death, but it has not eliminated risk of death completely.

Traditionally, the moralists have listed amputations and incisions into the abdomen as constant examples of extraordinary means. Published rates of success in such operations today are not sufficiently broad in scope to enable the moralist to render a categorical opinion about the moral problem of «element of risk * in these operations. However, it is interesting to note by way of illustration that in sixty-three recorded cases of leg amputations, five deaths are reported; in 2,454 recorded cases of appendectomy operations, eight deaths are recorded, and finally in 1,382 reported cesarean sections, three deaths are reported."'

The indications of the reported causes of death are that complications extrinsic to the operating technique, as well as the physical condition and age of the patient have been generally the factors responsible for death in the cases cited here. In the report submitted by St. Joseph's Hospital, Reading, Pennsylvania, there is this important observation: the individual patient must be considered with particular emphasis on old age. Mortality for example, listed under hip surgery more often is caused by age rather than the surgery, a. v., surgery is more the occasion than the efficient cause ».³⁷⁴

Another observation from this same report mentions that:

Operating techniques have not changed too radically. Lowering of mortality rates is due more to connected issues. Above all other such issues the one factor most responsible is the science of anaesthesia which has greatly advanced in the past 15 years. It is common practice now to have an M. D. specialist in anaesthesia rather than a nurse as formerly. With this set-up the operating surgeon has a freer mind and hand. Other connected issues are intravenous feedings, blood transfusions (plasma and direct); also antibiotics which greatly reduce danger of infection. Pre-operative

checks especially for the aged also reduce mortality: electrocardiographs, chest x-rays, blood chemistry."'

The element of risk has been greatly reduced due to modern advances. However, every surgical operation contains a certain amount of risk and this should be considered in any classification of surgical procedures as ordinary or extraordinary means.

4.2 MODERN MEDICAL AND SURGICAL PROCEDURES AS ORDINARY OR EXTRAORDINARY MEANS**

The discussion of the element of risk in surgical operations leads directly to the consideration of modern medical and surgical treatments as ordinary or extraordinary means of conserving life. The reader will recall that we noted in Chapter Three that there is no *absolute norm* for designating a means of conserving life as an *ordinary means*. This is true because of the many relative factors involved in the medical treatment of each individual patient. However, we did admit that one could classify certain procedures as ordinary means, according to a *general norm*. In other words, there are some medical treatments which usually are ordinary means of conserving life for men in general, even though certain relative considerations may render them extraordinary means for particular individuals.

Many of the older moralists considered surgical operations extraordinary means because of the pain, expense and risk of death involved. We have mentioned in the previous chapters that anaesthesia has lessened the effect of the element of pain, and that expense also has been diminished because of public hospitals and insurance plans. However, these factors must be considered because there is still an element of danger in the use of anaesthesia and

³⁷³These figures were contained in lists of operations obtained from the following hospitals: Lynn Hospital, Lynn, Massachusetts; St. Joseph's Hospital, Reading, Pennsylvania; St. John's Hospital, St. Louis, Missouri; St. Mary's Hospital, Decatur, Illinois; St. Elizabeth's Hospital, Belleville, Illinois; Sacred Heart Hospital, Eau Claire, Wisconsin. For their generous cooperation in preparing these figures and giving permission for the use of them, I am indebted to the authorities of these hospitals. I have made use also of the following article: C. Sullivan, M. D. and E. Campbell, M. D., «One Thousand Cesarean Sections in the Modern Era of Obstetrics», *Linacre Quarterly*, November 1955, pp. 117-126. In this article, the authors present a study of 1,000 consecutive cesarean sections performed by the staff of St. Elizabeth's Hospital, Brighton, Massachusetts. The authors report that: «In this series of 1,000 consecutive sections, 3 mothers died, a mortality of 0.3% . . . None of the 3 deaths was in any way associated with the technic of cesarean section, and all were emergency procedures". (ibid., p. 123).

³⁷⁴Report prepared by James Diamond, M. D. and R. Impink, M. D. of St. Joseph's Hospital, Reading, Pennsylvania and submitted to me for use in this dissertation.

³⁷⁵Ibid.

'''As a postscript to the publication of his dissertation in 1958, Bishop Cronin mentioned the "Statement on Reanimation" of Pope Pius XII (Nov. 24, 1957) as an "important discussion" which appeared since the writing of his dissertation. That address of Pope Pius XII is presented in Appendix IV of this book and would validate, in general, the discussion in this section 4.2 with regard to the obligation to "use only ordinary means." Cf. also the *Declaration on Euthanasia*, Appendix I of this book, with particular attention to the statement on p. of this book: "It is also permissible to make do with the normal means that medicine can offer. Therefore one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome"

post-operative pain and inconvenience can constitute even now a moral impossibility. Furthermore, the inconvenience of expense has by no means been removed completely; expense can still constitute a moral impossibility.

The element of risk has been lessened also, but it is still present, particularly in operations performed on elderly patients or on those patients who have a relatively weak constitution. It would seem however, that *as regards the operating technique*, most common operations offer sufficient hope of success *in the case of young patients* to be termed ordinary means of conserving life. For example, a leg amputation, from the aspect of *operating technique*, does not involve excessive danger for a young patient in the normal case, and hence from that viewpoint, the procedure would be an ordinary means. On the other hand, the danger involved in this operation in the case of an elderly patient is much greater, and in most circumstances, such a procedure would be an extraordinary means of conserving life.

Furthermore, the circumstances of the operation affect the situation. The risk ordinarily involved in a cesarean section or an appendectomy performed in a modern hospital with all the advantages of skilled surgeons, anaesthesia-specialists, and antiseptic facilities would not be sufficient to render these procedures extraordinary means on that account. However, the same procedures performed in one's home, in a less modern or rural clinic, or by a less capable doctor could easily be an extraordinary means due to the risk involved.

Major surgery of the more radical type still remains today an extraordinary means of conserving life and health because of the danger involved. For example, the various types of neurosurgery are not morally obligatory for the patient.

A practical summary of the classification of modern surgical interventions as *moral* ordinary or extraordinary means, *from the aspect of the operating technique alone*, would be: 1) Common surgery, even though major surgery, performed on patients of relatively young age and relatively strong constitution, and in surroundings which offer the advantages of modern hospital skill, precautions and equipment is *generally* an ordinary means of conserving life. 2) Major surgery, even though common surgery, performed on patients of advanced age or of relatively weak constitution, cannot be classed *generally* as an ordinary means of conserving life. 3) Major surgery, even though common surgery, performed on the young or the old, in surroundings which do not offer the advantages of modern hospital skill, precautions and equipment cannot be classed *generally* as an ordinary means of conserving life. 4) Radical surgery which involves great risk and danger, or which is still insufficiently tested is an extraordinary means of conserving life both for the young and the old.

The above summary is only in regard to the *operating technique*, so that expense, pain and repugnance can still determine a means as ordinary or extraordinary. It is on the basis of repugnance that leg amputations probably still remain extraordinary means of conserving life for most people even in these days. This certainly is true in the case of the amputation of both legs.

From the viewpoint of medical treatment, we may say that the initial visit to or calling of a doctor and the examination by him³⁷⁶ are ordinary means in the case of a person who is seriously ill, as is also ordinary nursing care. However, repeated expense in this matter can render the means extraordinary. The basic medicines, intravenous feedings, insulin, the many types of antibiotics, oxygen masks and tents, preventative medicines and vaccines are ordinary means of conserving life. However, even in these treatments, the relative physical, psychological, and economic condition of an individual can change the case. For example, an extreme horror of needles could easily render repeated injections as extraordinary means for a particular individual. Furthermore, the relative benefit to be derived from an intravenous feeding can be slight in an individual case, and thus the intravenous feeding will be an extraordinary means, as we shall see further on in this chapter.

Blood transfusions *in general* are ordinary means of conserving life unless the expense involved renders them extraordinary means, or unless the condition of the patient provides little hope of benefit in making use of the transfusions. An interesting aspect of blood transfusions is discussed by Father John Ford, S. J. in *Linacre Quarterly*.³⁷⁷ The author studies the refusal of blood transfusions by Jehovah's Witnesses. Jehovah's Witnesses believe that such transfusions involve eating blood, which is contrary to the biblical prohibition found in the Old and New Testaments (Leviticus. 3:17; Acts, 15:29). Hence, they will refuse such treatment. The question arises then as to whether a blood transfusion should be considered an ordinary means of conserving life for the Jehovah's Witness. Father Ford maintains that the mistaken frame of mind which the Jehovah's Witness possesses in this matter makes the blood transfusion for him an extraordinary means of conserving life. Father Ford writes:

With a sincere Jehovah's Witness who is firmly convinced that a transfusion offends God, we are dealing with a case where his conscience absolutely forbids him to allow the procedure. In

³⁷⁶Note, however, the exception made in the case of the maiden whose sense of modesty would render an examination by a male doctor extremely repugnant and hence, for her such an examination could be an extraordinary means.

³⁷⁷ru, Ford, S. J., The Refusal of Blood Transfusions by Jehovah's Witnesses*, *Linacre Quarterly*, February, 1955, pp. 3-10.

this mistaken frame of mind, he would actually commit sin if he went against his conscience and took the transfusion. I see no inconsistency in admitting that this frame of mind is a circumstance which makes the transfusion for him an *extraordinary* means of preserving life."³⁷⁸

In general, however, blood transfusions are to be considered ordinary means of conserving life, in the theological sense, just as they are certainly an ordinary medical procedure.

4.3 PRACTICAL APPLICATIONS IN REGARD TO THE DOCTOR

Up till now, our study of the ordinary and extraordinary means of conserving life has been limited to a consideration of the duty of *each individual* to conserve his own life. In other words, we have prescind, thus far, from any discussion of the extension of this duty to those persons who may be charged with the conservation of another's life, e.g., relatives, physicians and surgeons etc. In this present section, therefore, we shall consider the duty of employing the means of conserving life, as it applies to the *doctor*—(we are including physicians and surgeons under the term « doctor »).

The Obligation of the doctor to Take Care of the Sick

There are many obligations which are binding on the doctor by reason of his professional calling. These obligations begin even in medical school where he has the duty of learning the science of medicine."³⁷⁹ What concerns us here, however, is the doctor's particular duty to heal and cure. We are interested in the *source* of this obligation and the *content* of the obligation.

A—The source of the obligation

The doctor is bound, in general, by the law of God and his professional oath to take care of the sick, although *per se*, he is free to accept or not accept a

³⁷⁸Ibid., p. 6. J. Connery, S. J. prefers to consider the blood transfusion as an ordinary means for the Jehovah's Witness and excuse such a patient from using it on the basis of invincible ignorance—cf. «Notes on Moral Theology *Theological Studies*, XVI (1955), p. 571.

³⁷⁹Cf. A. Bonnar, *The Catholic Doctor* (London, Burns Oates and Washbourne Ltd., 1952), pp. 157-162 for a discussion of «The Doctor in His Practice».

particular person as a patient. This obligation to take care of the sick can stem immediately from the *virtue of charity* and the *virtue of justice*.

1) The virtue of charity

The virtue of charity obliges all men to aid their neighbors who are in need. This need may be spiritual or temporal, and both may be extreme, grave or ordinary. Jone-Adelman describe the obligation this way:

In *extreme spiritual necessity* we must assist our neighbor even at the risk of our life . . . In *extreme temporal necessity* our neighbor must be helped even at our great personal inconvenience, but not at the risk of our life, unless our position or the common welfare demand the safety of the threatened party . . . In *grave spiritual or temporal need* our neighbor must be helped in as far as this is possible without a serious inconvenience to ourselves . . . In *ordinary spiritual or temporal necessity* one is not obliged to help his neighbor in each and every case.'

The virtue of charity, therefore, obliges all men to aid their neighbors who are in need. The doctor's obligation from charity to assist the sick is but a simple application of the general demands of the virtue of charity. Hence, a doctor is bound to take care of a sick man who is ill and needs medical attention, if no other doctor is nearby who can and will aid this sick individual.' The gravity of the obligation depends, naturally enough, on the degree of necessity in which the sick man finds himself. The doctor's obligation, therefore, can be very grave, serious or slight according as the urgency of the sick man's illness is extreme, grave or ordinary.

Since the duty of charity is a positive obligation, it is not binding in the presence of a proportionately grave inconvenience. The proportion can be less rigorous when the demands of charity are less strict. » Hence, only a very grave inconvenience will excuse a doctor from taking care of a sick man in extreme need; only a grave inconvenience will excuse him if the person is in grave need, and any real inconvenience will be sufficient to excuse him from caring for a person in ordinary need.

³⁸⁰Jone-Adelman, op. cit., pp. 85-86, nn. 138-139.

³⁸¹Cf. F. Mirth, S. J., *De Statibus* (Romae, Pont. Universitas Gregoriana, 1946), p. 106.

³⁸²«La proportion peut meme etre ici moins rigoureuse, puisque les exigences de la charite sont moins strictes».— Paquin, op. cit., pp. 102-103.

Furthermore, besides this obligation of charity to our neighbor in general, we are bound in a special way to help the poor. Jone-Adelman describe this obligation in the following way:

In a case of *extreme necessity* one is obliged under grave sin to help the poor even by sacrificing things necessary for our state of life . . . In a case of *grave necessity* one must help the poor if it can be done without sacrificing things necessary for one's state in life . . . In their *ordinary need* one must help the poor in general from one's superfluous possessions . . .³⁸³▼

This obligation obviously enough applies to the doctor too. Hence, the doctor has the very grave duty to assist gratuitously a poor person in extreme need. He also has the grave obligation to assist gratuitously a poor person in grave need; a slight obligation to help a poor man in ordinary need. In these cases also, we suppose that the man in question is the only doctor available who is willing and able to take care of the sick man, and that the doctor can render his services without a proportionately grave inconvenience.

2) The virtue of justice

Besides the obligation which the virtue of charity imposes on the doctor, a duty can also arise from the virtue of justice. The doctor is bound in justice to visit and take care of the sick with whom he has a contract or a quasi-contract.

A contract exists when the services of the doctor are engaged, orally or by writing, for the purpose of caring for a particular person or group of persons."³⁸⁴ A quasi-contract exists when the doctor responds to the 4(call* of a sick person and implicitly agrees, on the promise (at least implicit) of payment, to continue his services as long as the condition of the patient requires them."³⁸⁵ In these instances, the patient has a strict right to the services of the doctor and the doctor is bound in justice to render the services. A proportionately grave inconvenience, however, can excuse a doctor from his obligation, as long as the inconvenience is one which is not inherent in the professional work itself."³⁸⁶ For example, a doctor's own illness will excuse him, even though his obligation in the matter is one of justice. However, the danger of a conta-

gious disease will not excuse him from caring for a person whom he is obliged in justice to assist.

B—The content of the obligation

Since the doctor is bound to take care of the life and health of the sick, he is obliged to employ the means of conserving life. Hence, the next point is in regard to the doctor's obligation to use the *ordinary and extraordinary means of conserving life*.

1) The doctor's obligation of employing the ordinary means of conserving life

Certainly, the doctor has the obligation *per se* of using the ordinary means of conserving life when he treats a patient. Otherwise, he would have no obligation at all. If the doctor were not bound to employ the ordinary means, *a fortiori*, neither would he be bound to employ the extraordinary means. Thus, the question would be closed, and no further discussion would be warranted here. The doctor's basic duty is described very well by Father Connell: « The doctor is bound by the law of God, as well as by his Hippocratic oath, to preserve the life of a patient as long as is reasonably possible. This means that ordinary measures must be employed even in the case of one who will continue to be, naturally speaking, merely an unprofitable burden on society. »³⁸⁷

The moralists recognize this obligation of the doctor, although some phrase it in a manner different from Father Connell's description. For example, Genicot-Salsmans write: « The doctor is bound in justice to furnish the safer or better remedy to a sick person. »³⁸⁸ Implicitly contained in this statement is the obligation of using ordinary means. If the doctor is bound to use the safer or better remedies, *a fortiori*, he is bound to supply the ordinary remedies. There are other moralists, however, who write in a manner similar to Father Connell. For example, Father McFadden says: « It is never permissible to hasten the death of any product of human conception. The degree of deformity does not change the situation . . . the *ordinary* steps to conserve life/

³⁸⁷F. Connell, *Morals in Politics and Professions*, (Westminster, The Newman Press, 1951), p. 121.

³⁸⁸* *Medicus ex justitia tenetur ad remedium tutius seu melius aegroti praebendum*.—Genicot-Salsmans, op. cit., I, n. 701. Similarly, Vermeersch, *Theol. Moralis*, II, n. 492; Aertnys-Damen, op. cit., I, n. 1250; Noldin-Schmitt, op. cit., II, nn. 743-744; Capellmann, op. cit., p. 35; G. Payen, *Diontologie Medicate D'Après Le Droit Naturel, Resurni*, (Zi-ka-wei, Imprimerie de la Mission Catholique, 1928), p. 40.

³⁸³Jone-Adelman, op. cit., pp. 86-87, n. 141.

³⁸⁴Cf. J. Paquin, op. cit., p. 101.

³⁸⁵Loc. cit.

³⁸⁶Ibid., p. 102.

must be taken.³⁸⁹ Father Davis writes that doctors sin seriously if they « . . . do not use reasonable and ordinary precautions, for their duty is to keep patients alive, and they have no privilege of killing them. »³⁹⁰ Father Hürth notes that «even if a doctor has assumed the care of a sick person from charity alone, he is bound in strict justice to ordinary diligence. »³⁹¹

In other words, just as the patient himself is bound to accept the ordinary means of conserving life, so also the doctor is bound to employ the ordinary means of conserving life when he is treating his patient. The patient's refusal to furnish the ordinary measures is equivalent to suicide. The doctor's refusal to furnish the ordinary measures is equivalent to murder. That is why in the *Code of Ethical and Religious Directives for Catholic Hospitals*, one reads: « The failure to supply the *ordinary means* of preserving life is equivalent to euthanasia. »³⁹²

We have stated that a proportionately grave reason will excuse the doctor from administering to a patient. This teaching applies to the use of ordinary means. A proportionately grave inconvenience which is not inherent in the doctor's professional work will excuse him from his obligation in justice to supply the ordinary means of conserving life. (Recall that this applies also to the care of a patient whom the doctor accepts *ex caritate solo*, since the doctor even in this case is bound *in justice* to employ the ordinary means of conserving life.)

The determination of the doctor's obligation to heal and cure is sufficiently clear in the common case in which ordinary means is all that is necessary for the patient's recovery. Obviously, the doctor is obliged to employ the ordinary means in such a case. However, the difficulty arises in the case in which a patient's illness requires treatment by extraordinary means, or in cases of incurable illness or old-age. In cases of this type, one may ask whether the doctor is obliged to go beyond the use of ordinary means and employ also the extraordinary means in order to conserve his patient's life and health. Thus, we come to the doctor's obligation of using the extraordinary means of conserving life when he is treating a patient.

³⁸⁹McFadden, op. cit., p. 151.

³⁹⁰Davis, op. cit., II, p. 127.

³⁹¹«Etsi vero medicus curam aegroti ex sola caritate assumpsit, tamen ad diligentiam ordinariam tenetur ex justitia stricta.»—Hürth, *De Statibus*, p. 107.

³⁹²*Code of Ethical and Religious Directives for Catholic Hospitals* (St. Louis, The Catholic Hospital Association of the United States and Canada, 1949), p. 5. In the current Catholic directives, entitled *Ethical and Religious Directives for Catholic Health Facilities*, as approved by the National Conference of Catholic Bishops as the national code "subject to the approval of the bishop for use in the diocese," November, 1971, the phrase above is found in Directive No. 28.

2) The doctor's obligation of employing the extraordinary means of conserving life

It might appear at first glance that the doctor's obligation of employing the means of conserving life is coextensive with the patient's obligation of using these means. A deeper investigation of this problem, however, reveals that this opinion is not complete. Father Kelly writes in this regard:

It is easy to show that this statement is inaccurate. The patient is *per se* obliged to use only those means which are ordinary and which offer a reasonable hope of success. But he may use other means and if he reasonably wishes to use them the relatives and physicians are strictly obliged to carry out his wish."

The patient and the doctor are bound to use ordinary means. The patient can refuse to use extraordinary means. If, however, the patient chooses to employ the extraordinary means of conserving his life, the doctor has no choice but to follow the patient's wishes. Hence, we can see that in determining the doctor's obligation to employ the extraordinary means, the first step is to ascertain the patient's own desires in this regard. In the last analysis, it is the patient who has the right to say whether or not he intends to use the extraordinary means of conserving life. Therefore, the patient's refusal to accept the extraordinary means immediately releases the doctor from any obligation of employing these means. However, when the patient desires the use of extraordinary means, the situation is different.

Before we attempt to determine the doctor's obligation when the patient desires the use of extraordinary means, it will be helpful to have the following distinctions in mind. 1) *The patient accepted ex caritate and the patient to whom the doctor is bound ex justitia to assist.* This distinction has been sufficiently explained earlier in this chapter. 2) *The expressed request of the patient (explicit or implicit) and his unknown desire.* The patient can expressly request the use of extraordinary means, either explicitly himself or through others, or implicitly by his general attitude in regard to caring for his health. Perhaps, however, his desire of using or not using extraordinary means is entirely unknown. For example, he may be unconscious or delirious. 3) *Absolute extraordinary means and relative extraordinary means.* The absolute extraordinary means are considered morally impossible for all men. The relative extraordinary means are those means

³⁹³Kelly, «The Duty of Using Artificial Means of Preserving Life., p. 216.

which are extraordinary either for the patient alone, or for the patient and doctor both.⁴⁾ *Useful extraordinary means and useless extraordinary, means.* The former give definite hope of proportionate success and benefit, whereas the latter do not.

Case I

The first possibility is the case which involves a patient *ex caritate*, who needs extraordinary means to conserve his life. He requests the doctor to employ these means. In this case, if the extraordinary means are absolute extraordinary means, the doctor is not bound to employ them in order to conserve the life of the patient. There is no obligation in charity to do for others what one is not obliged to do to save his own life." If the extraordinary means is extraordinary relative only to the patient (for example, an operation that is extraordinary by reason of the extreme pain that it causes to the patient), and will be of benefit to the patient, then the doctor is bound to employ such a means. The reason is that charity demands that one assist his neighbor in extreme need even at the cost of serious inconvenience to one's self. However, if this means of conserving life is useless, or if it will be of benefit to the patient but will cause a proportionately grave inconvenience to the doctor, then the doctor is not obliged to supply the means. The doctor need not supply a useless means because no one is bound to use what is useless. The doctor is excused in the second case because we are not bound in charity to employ extraordinary measures to help our neighbor when this is a source of proportionately grave inconvenience to us. This is true, even if the means will be of benefit to our neighbor.

The particular obligation of charity to the poor can present even a more specialized problem for the doctor. Imagine the case of a poor man for whom a necessary medical treatment is an extraordinary means by reason of the expense involved. The poor man requests the treatment. In this case, if the doctor can supply the treatment without a proportionately grave inconvenience to himself, he is obliged to supply it. However, a proportionately grave personal inconvenience would excuse him from his obligation. Hence, * a surgeon need not perform an extraordinary operation gratis.³⁾

³⁹⁴Jone-Adelman, op. cit., p. 87, n. 141.

³⁹⁵Loc. cit.

Case II

The second possibility involves the patient *ex caritate* who needs an extraordinary means to conserve his life. His desires, even implicit, however, in regard to the use of the extraordinary means are unknown. Is the doctor bound to use these extraordinary means?

If the means will not be of benefit to the patient, the doctor's obligation extends only to the use of ordinary means and he need not employ the extraordinary means. However, if the means would be of proportionate benefit to the patient, the doctor should make a reasonable attempt to determine whether or not the patient would desire the use of extraordinary means. After this investigation, if the doctor believes that the patient would want the extraordinary means, then the doctor should follow the norms given in *Case I*. If however, it is entirely unknown what the patient himself would want, and this cannot be determined, then the doctor's duty of charity does not bind him to employ the extraordinary means, even though such means would be of benefit to the patient. We are not bound in charity to force a neighbor to save his life by means which he personally is not bound to use to save his own life. A doctor who would use extraordinary means to save a person's life when the doctor has not ascertained the patient's own wishes, would be in effect forcing the patient to use means which the patient himself is not morally obligated to use.

Case III

The third possibility involves the patient *ex justitia* who reasonably wishes the use of an extraordinary means to conserve his life. In this case, the doctor is strictly obliged to carry out the patient's wish. We may phrase the obligation of the doctor in the case of a patient *ex justitia* this way. The doctor is obliged to supply those means which the patient is bound to use and reasonably wants to use."

Case IV

The fourth possibility involves the patient *ex justitia* who needs an extraor-

³⁹⁶Cf. Paquin, op. cit., p. 402.

dinary means to conserve his life. It is unknown, however, whether or not he wishes to use this extraordinary means.

Since the doctor is unable to ascertain the patient's own wishes in the matter, he should make a reasonable effort to determine what the patient's wish would be if the patient personally could respond. In the event that relatives are present, they should try to make the decision in the name of the patient, and the doctor is obliged to follow their wishes. If there are present no relatives nor persons entrusted with the care of the patient's welfare, then it is up to the doctor to make the decision. His obligation in justice to the patient binds him to take reasonable care of the patient. He must consider the spiritual, physical, financial and social condition of the patient. Perhaps, the doctor will require the aid of others in making this consideration, but in the last analysis, it is the doctor's duty to do what he thinks will bring about the greater good of the patient. If the doctor judges that the use of extraordinary means is not the better course to take, then he should feel free in conscience to follow out his judgment.

Quite often, it is the doctor alone who really can judge the benefit of using an extraordinary means anyway. Even when the patient is able to make the decision, he is not always capable of it either because of lack of knowledge or emotional upset. The relatives and friends may be disturbed; they may lack good judgment; they may shun the responsibility of making the decision. The doctor can be level-headed in a situation where the patient or relatives of the patient may not be. If the patient and relatives rely on the doctor's judgment when they *themselves* are responsible for the decision, then the doctor should make a reasonable judgment and feel free to follow it, when *he alone* is responsible. The failure to use extraordinary means when the doctor judges this the better course of action is not euthanasia. The doctor, having considered the aspects of the problem reasonably and conscientiously, should feel that he has satisfied his duty in charity and justice to his patient. He has satisfied also his oath to « . . . use treatment to help the sick according to my ability and judgment . . . »³⁹⁷

There are cases in which the doctor does not experience too much difficulty in deciding what he should do. The moral issues are clear. For example, Father Connell mentions the following case and gives a solution with which moralists and doctors would agree:

If the child whose physical constitution is so defective that he will grow up to be a drivelling idiot is seriously ill with pneumonia, the physician must employ the most effective remedies he

knows in order to cure him, provided they can be reckoned as ordinary means. There is no obligation to use extraordinary remedies to preserve a life so hampered. Thus, if this child needed a very difficult and delicate operation, which only a specialist could perform, in order to prolong its life, there would be no obligation on the parents or on the doctor to provide such an operation."³⁹⁸

However, the doctor, forced to make a decision personally, can find himself involved in a situation more complicated than the one which Father Connell describes. In his doctoral dissertation, *Catholic Teaching on the Morality of Euthanasia*, Father Sullivan gives the following case."³⁹⁹ A patient is dying of cancer. He is in extreme pain and drugs no longer offer him any extended relief from the pain because he has developed a « toleration* of any drug given him. Since the disease is incurable, and the patient is slowly dying, the doctor wants to stop the intravenous feeding in order to end the suffering. The doctor believes that otherwise, since the patient has a good heart, he will linger on for several weeks in agony. He therefore stops the intravenous feeding and the patient dies. A similar case is presented by Father Donovan in the *Homiletic and Pastoral Review*.⁴⁰⁰ Neither author specifically mentions whether or not the patient is conscious, or whether or not there are relatives who can make the choice. In his reply, Father Sullivan says:

Since the cancer patient is beyond all hope of recovery and suffering extreme pain, intravenous feeding should be considered an extraordinary means of prolonging life. The physician was justified in stopping the intravenous feeding. He should make sure first, however, that the patient is spiritually prepared.'

Contrary to this opinion, Father Donovan writes:

I fear that to neglect intravenous feedings is a form of mercy killing rather than a means of sustaining life that is morally impossible to use. Here is a cancerous person given three months to live, and he cannot be nourished except by intravenous means, is he therefore to be let starve to death, even if he is willing?'

³⁹⁸Connell, op. cit., p. 121.

³⁹⁹Sullivan, op. cit., p. 72.

⁴⁰⁰Donovan, «Question Box», *Homiletic and Pastoral Review*, XLIX (August, 1949), p. 904.

⁴¹Sullivan, loc. cit.

⁴²Donovan, loc. cit.

³⁹⁷Cf. the Hippocratic Oath in McFadden, op. cit., p. 456.

Father Sullivan has carefully mentioned many conditions in his presentation of the case. It would seem, therefore, that the intravenous feeding is an extraordinary means for the cancerous patient concerned. Even in the situation related by Father Donovan, it would be licit to consider the intravenous feeding an extraordinary means of conserving life. However, recall that we based our definition of ordinary and extraordinary means on the relative norm. In the presumption, therefore, that a doctor alone has the responsibility to make a decision in a particular case, he should consider all the conditions of the patient, because intravenous feeding cannot be called an ordinary means of conserving life, *absolutely speaking* even though according to a *general norm*, it may be an ordinary means for most men.

If, after due consideration of the particular case before him, the doctor decides that the intravenous feeding is an extraordinary means for the patient concerned, he should then follow out the norms we have given above for the doctor's use of extraordinary means in the treatment of patients. Cases of this nature must be solved in individual instances after prudent consideration of the condition of the patient concerned. General norms are guides and helps, not the definitive solutions of each similar case. The doctor must use great prudence, but he must also feel free to follow out his considered judgment. Euthanasia is illicit and intrinsically evil. However, prolonging a patient's life by an extraordinary means, when all that the doctor can do to cure the person has been done, is not the only morally justifiable alternative. It is licit *per se* to refrain from using an extraordinary means of conserving life.

Even more intricate than the cases just mentioned is the problem presented by Father Ford, S. J. in his article on the refusal of blood transfusions by Jehovah's Witnesses. We have seen that Father Ford rightly judges blood transfusions as extraordinary means for Jehovah's Witnesses. Since blood transfusions are extraordinary means in such cases, they are not obligatory. Father Ford then makes this application to the doctor's obligation in the matter:

The consequence of this opinion for the physician is obvious. Where the patient is not morally obliged, objectively to make use of a procedure, and actually refuses it, the physician is not morally obliged to give it to him; nor do the hospital administrators have a moral obligation to see that he gets it.⁴⁰³

Father Ford next discusses the doctor's position when faced with the care of child who needs a transfusion, but whose parents are Jehovah's Witnesses.

Must the doctor regard the blood transfusion as an extraordinary means for this child, even as he would consider it such for the child's parents? Is it licit for the doctor to refrain from giving the transfusion in such a case? Or, must the the doctor consider the transfusion as ordinary means, as it is for most men, according to the general norm? Is the doctor, therefore, bound to give the blood transfusion to the child of Jehovah's Witnesses? Father Ford replies:

In this case of a young child, therefore, it would be morally wrong to make an agreement not to administer a transfusion in cases of serious need; and if such an agreement were made, one would have no obligation to honor it. The obligation of physicians and others who have actually undertaken to care for the child would ordinarily be an obligation of justice as well as charity. Others who have not actually undertaken the care of the child might have an obligation of charity to intervene in order to see to it that a neglected child is properly cared for.⁴⁰⁴

Father Ford adds, however, that many factors must be considered which could render quite difficult the possibility of the doctor's carrying out his obligation in this regard. Hence, this author notes further: 4(after all his (the doctor's) legal position is far from clear; and it is no small matter to undertake a surgical procedure on a young child contrary to the express refusal of the parents to allow it)4.⁴⁰⁵

3) Additional Factors to be Considered in Determining the Doctor's Obligation of Employing the Extraordinary Means

Father Ford's consideration of the doctor's legal position leads directly to our next point. Up till now, we have been treating of the doctor's obligation merely from the aspect of his duty in charity or or justice or both to his patient. We have seen his obligation of charity to his neighbor in general, and to the poor in particular. We have also seen his obligation in virtue of the patient-physician contract, namely a duty in justice. However, a question arises as to whether or not the doctor's complete duty in the matter of using the extraordinary means of conserving life is sufficiently explained merely from his moral obligations of charity and justice in regard to his patient. Are the moral obligations of charity and justice to the patient the only obligations that bind a doctor in this matter?

⁴⁰⁴Ibid., p. 8.

⁴⁰⁵Ibid., p. 9, parentheses mine.

⁴⁰³Ford, .The Refusal of Blood Transfusions by Jehovah's Witnesses*, p. 7.

Father Kelly, S. J. in his writings on medical ethics, has emphasized, on more than one occasion, the need of considering the doctor's professional ideal whenever we discuss the doctor's obligation of using the extraordinary means of conserving life when he is treating a patient. Father Kelly first makes reference to this point in his article, ⁴⁰⁶ 'The Duty of Using Artificial Means of Preserving Life*', when he writes:

As for the physicians, there may be another, and perhaps more important difference. I have spoken of this matter occasionally with very conscientious physicians, and I have found that they consistently express a professional ideal to the **effect that they must use all means in their power to sustain life, and that they must use any remedy which offers any hope, even a slight hope, of cure or relief . . . I do not know how common this professional ideal is. But from my own experience with **physicians and from many recent statements of the medical profession against euthanasia I would conclude that it is very common among conscientious physicians.****'

In a later article in *Theological Studies*, 'The Duty to Preserve Life*', Father Kelly writes more at length on the same subject—namely, the suggestion that the physician's professional ideal may create obligations that extend beyond the duties and wishes of the patient." This last article is reprinted substantially in another article written by the same author in *Medico-Moral Problems*, «The Extraordinary Means of Prolonging Life')." The influence of Father Kelly's writing on theological discussions of this subject cannot be denied. He has emphasized the need of investigating the duty that arises for the doctor from his obligations to the common good and his professional ideal and standard.

The subject of the doctor's duty to conserve life **by** extraordinary means was brought up and discussed at the 1952 meeting of the Catholic Theological Society of America in Notre Dame, Indiana. Father John Goodwine, writing in *Proceedings*, reports on the seminar discussion had at that time." He notes that it was generally felt by those present that « the physician-patient contract

alone is not sufficient to explain the obligation which physicians feel is theirs, viz., to do more than use ordinary life-saving means*.⁴¹⁰ **This author then notes that «it is extremely difficult to find a definite and clear statement of the duties physicians owe to their profession ».**⁴¹

In order to obtain some idea of what possible obligations may be binding on the doctor in virtue of his duty to the common good and his profession, Father Kelly has recourse to the medical profession itself. He has examined the ideals which conscientious doctors themselves enunciate. From his findings, Father Kelly has been able to group these ideals under two standards. One he calls the « strict professional standard* and the other, the « moderate standard*.⁴¹² **The first group believes that « the doctor's duty is to preserve life as long as he can, by any means at his disposal, and no matter how hopeless the case seems to be.**⁴¹³ **These doctors think that « . . . insofar as the judgment is left to the doctor himself he must simply keep trying to prolong life right to the very end ».**⁴¹⁴ **The moderate standard is embraced by those doctors who:**

. . . try to effect a cure as long as there is any reasonable hope of doing so; they try to preserve life as long as the patient himself can reap any tangible benefits from the prolongation. But they also think there is a point when such efforts become futile gestures; and they believe that at this point the sole duty of the doctor is to see that the patient gets good nursing care and that his pain is

The strict standard certainly avoids any type of « euthanasia mentality.* However, Father Kelly notes that the moderate standard has many good features: **1) it is** consistent with the policy of the theologians by which they place a reasonable limit on obligations; 2) it is in harmony with the « good Christian attitude* toward life and death; 3) it is less likely to burden the relatives of the patient with excessive strain and expense.'

Since the publication of the above-mentioned articles, a very significant statement has appeared in print. Dr. A. E. Clark-Kennedy delivered the in-

⁴¹⁰Ibid., p. 133.

⁴¹¹Ibid., p. 134.

⁴¹²Kelly, *Medico-Moral Problems*, V, pp. 12-13.

⁴¹³Loc. cit.

⁴¹⁴Ibid., p. 13.

⁴¹⁵Loc. cit.

⁴¹⁶Ibid., pp. 13-14.

⁴⁰⁶Kelly, «The Duty of Using Artificial Means of Preserving Life*', pp. 216-217.

⁴⁰⁷Kelly, 'The Duty to Preserve Life«, pp. 550-556. Fr. Kelly does not state whether he considers this an obligation in the *strict sense* or merely a professional preference.

"Kelly, *Medico-Moral Problems*, V, pp. 11-15.

⁴⁰⁹J. Goodwine, 'The Physician's Duty to Preserve Life by Extraordinary Means«, *Proceedings of the Seventh Annual Convention* (The Catholic Theological Society of America, 1952), pp. 125-138.

augural address at the opening meeting of the 218th Session of the Royal Medical Society of Edinburgh and this address is reprinted under the title, «Medicine in Relation to Society 0, in the British *Medical Journal*. In this address, Dr. Clark-Kennedy says:

Now, it is always easier to perform a palliative operation or put the patient on deep x-ray treatment or chemotherapy; easier, in fact, to do something than to do nothing. Some course of action will probably relieve his immediate symptoms, and often it prolongs his life. It will raise hopes and sometimes clear the bed for the admission of another case for whom more might be done. But what happens to the patient in the end? . . . The Roman Catholic doctor in dealing with his Roman Catholic patient has firm guidance from his Church in these matters, and some may hold the view that it is always our duty to prolong life so far as is possible, but my experience teaches me that most of the non-Catholic laity would, if they knew the truth, wish doctors to exercise more moral courage than in point of fact is, I think, their practice in these situations. If the patient or his relatives really could be told the facts, they would have their doctor withhold treatment when « the game is up*», and let nature take its course . . . It is written « Thou shalt not kill*». But letting nature take its course when nature cannot be stopped is not killing. Nor in my judgment is a patient committing suicide when he refuses palliative or problematical, as opposed to a reasonably certainly curative, medical or surgical treatment. Never before in the history of medicine has it been so important to remember Clough's oft-quoted rider . . . * But needst not strive officiously to keep alive* . . . If I really thought that I was either under a moral obligation to keep all my patients alive as long as possible, or under a legal obligation always to apply the textbook treatment for the textbook disease, I would give up medicine to-morrow!"

The statement indicates the vexation that besets the doctor when he faces the problem of prolonging a patient's life. Dr. Clark-Kennedy betrays a lack of complete understanding of the Catholic teaching in this matter; the Catholic Church does not demand that the doctor preserve life as long as possible.

However, the Doctor has very skillfully presented a legitimate problem; a problem which at times can be very disturbing to the physician. Science has progressed in the treatment of some diseases—only far enough, however, to prolong the patient's life, not cure the disease. Dr. Clark-Kennedy's statement also reveals that evidently there is no agreement among doctors themselves as to a course of action which might be called a general rule in this matter.

A similar statement has been made by an American general practitioner. Dr. Francis T. Hodges of San Francisco, California writes:

The hopelessly ill patient need not, through a distorted sense of professional duty, be subjected to heroic and extraordinary measures, whose only purpose can be prolongation of an existence that has become intolerable. But it must be the patient himself who declines the measures . . . Let us sense those times when we must not reach into the bottom of our medicine bags for agents to whip into a body tired unto death a final, additionally exhausting further fight against death, a death for which the patient is already prepared . . . There are times when the patient has legal, ethical, moral and religious justification of his request to be allowed to die in peace.⁴¹⁸

The medical profession itself realizes the problem, but ⁴ as yet there is no clear-cut professional standard regarding . . . the 'fine points' of care of the dying ». ⁴¹⁹ The medical profession may very well look to the moralists for the answer », just as Father Kelly has consulted doctors in order to attempt an appreciation of their ideals. However, when this problem of the doctor's obligation (arising from his duty to his profession and the common good) of using extraordinary means was discussed at the seventh meeting of the Catholic Theological Society of America, ⁴ it was generally felt that until more is known about the doctor's obligation to society no satisfactory and clear-cut statement of their duty to use extraordinary means can be drawn up*. ' Father Kelly notes that « among moral theologians a somewhat similar condition prevails; up to a certain point duties are clear and there is agreement on what must be done; beyond that point the rules of obligation become obscure and there is room for differences of opinion ». ⁴²¹

⁴¹⁸Dr. Francis T. Hodges, quoted in *Time*, (Atlantic ed.), January 9, 1956, p. 31.

⁴¹⁹Kelly, *Medico-Moral Problems*, V, p. 14.

⁴²⁰J. Goodwine, op. cit., p. 138.

⁴²¹Kelly, *Medico-Moral Problems*, V, p. 14.

⁴¹⁷A. E. Clark-Kennedy, «Medicine in relation to Society», *British Medical Journal*, March 12, 1955, pp. 620- 621.

Conceivably, the doctor may believe that the advancement of medical science requires him to do all in his power to prolong life and to attempt a cure even though at the time, all seems hopeless. Confronted with an apparently hopeless case, the doctor realizes that even the present advances of science do not enable him to cure his patient. Certainly, ordinary means will not cure the patient; perhaps even extraordinary means will not effect a cure. Yet, the doctor senses the ignominy of giving into death and he finds himself constrained to fight the disease to the best of his ability, perhaps even by employing insufficiently tested methods and procedures. He realizes that medical knowledge has grown over the years and in great measure this has been due to experience with patients. Hence, the doctor is not content to let his patient refuse the extraordinary means of conserving life. To do so, he considers a betrayal of his duty to the furthering of medical science.

Furthermore, the doctor may be confronted with a patient whose life he could almost surely save if the patient would accede to the use of extraordinary means. The doctor believes though that agreement with the patient's wishes is euthanasia and therefore, contrary to his professional oath and ideal.

Yet the doctor must realize that although the advancement of medical knowledge is good in itself, there are other factors that must be considered. The conquest of medical problems is not the only duty of the doctor. He has the primary duty of *treating the patient* lying before him—that human being weak with illness who wants his help and his services, but who perhaps does not want health at the price of using clearly extraordinary measures. The advancement of medicine is a worthy motive, but it is a motive clearly limited, and it can never justify the doctor's forcing a patient to the use of extraordinary means of conserving his life.

The doctor must use the ordinary means of conserving life. He must also use those extraordinary means which the patient wants to use. He must continually study and attempt to find a remedy to the disease which afflicts his patient, but he must also remember that his prime duty is to his patient, not to his profession. Hence, any extraordinary procedure which the patient refuses, or which the doctor believes the patient would refuse if he were able to understand the problem more competently, is not obligatory for the doctor because it is not obligatory for the patient, and the advancement of science or the doctor's professional ideal does not change that fact.

The duty of conservation of a patient's life rests primarily with the patient himself. Since the patient is not morally obligated to use an extraordinary means, it seems highly unlikely that a doctor's profession can make him force the use of an extraordinary means on a patient. Clearly too, the non-use of extraordinary means, when the patient refuses them, is not euthanasia.

This same manner of thinking must guide the doctor in treating a patient who cannot make a decision in regard to the use of extraordinary means, and who has no one to make the choice for him. The doctor should judge the case reasonably and decide what will effect the greater good for the patient and then act accordingly. But he should never judge that an unconscious patient, or a charity patient, or a mentally ill patient, whose lives are in extreme danger, should be given treatment by extraordinary measures merely for the advancement of scientific and medical knowledge, or because he believes his professional ideal requires him to fight death right to the end. The doctor should treat the patient, not just the disease. Euthanasia is illicit, but so also is surreptitious experimentation carried on by using extraordinary means of conserving life without the consent of the patient.

The doctor may also believe that the common good requires him to employ the extraordinary means of conserving his patient's life. However, the doctor must remember that while it is incumbent on all to work for the common good, in this problem we are dealing with the question of a man's life. The prime responsibility for the conservation of one's life rests with the individual. The individual, per accidens, may be peculiarly necessary for the common good, and thus, be bound to conserve his life even by using extraordinary means. In this case, the doctor would be bound to employ these extraordinary means. However, when the common good does not demand that the patient himself use the extraordinary means of conserving life, it is difficult to see how the doctor can be bound, on account of the common good, to employ extraordinary means when he is treating this same individual.

Father Paquin writes:

It is evident that the doctor must avoid the appearance of negative euthanasia, that he ought to avoid giving the impression of letting his patients die. But it is not opposed to the common good that a doctor, in certainly incurable cases, cease costly treatments which have no other effect than to prolong for a while a life, at times, already unconscious.⁴²²

In practice, therefore, a doctor should take his norm from the obligations of the patient himself. The doctor must employ the ordinary means of con-

⁴²²411 est evident que le medecin doit eviter l'apparence de l'euthanasie negative, qu'il doit eviter de donner (l'impression de laisser mourir ses malades. Mais le bien commun ne s'oppose pas a ce qu'un medecin, dans des cas certainement incurables, cesse des traitements couteux qu n'auraient pas d'autre effet que de prolonger tres peu une vie parfois déjà inconsciente».— Paquin, op. cit., p. 402.

erving life and then those extraordinary means which, *per accidens*, are obligatory for the patient or which the patient wants to use. He must never practice euthanasia and he must conscientiously strive never to give the impression of using euthanasia. Furthermore, he must strive to find a remedy for the disease. However, when the time comes that he can conserve his patient's life only by extraordinary means, he must consider the patient's wishes, expressed or reasonably interpreted and abide by them. If the patient is incurable and even ordinary means, according to the *general norm*, have become extraordinary for this patient, again the wishes of the patient expressed or reasonably interpreted must be considered and obeyed. Father Kelly gives this practical norm:

When a doctor and his consultants have sincerely judged that a patient is incurable, the decision concerning further treatment should be in terms of the patient's own interest and reasonable wishes, expressed or implied. Proper treatment certainly includes the use of all natural means of preserving life (food, drink, etc.), good nursing care, appropriate measures to relieve physical and mental pain, and the opportunity of preparing for death. Since the professional standards of conscientious physicians vary somewhat regarding the use of further means, such as artificial life-sustainers, the doctor should feel free in conscience to use or not use these things, according to the circumstances of each case. In general, it may be said that he has no moral obligation to use them unless they offer the hope of some real benefit to his patient without imposing a disproportionate inconvenience on others, or unless, by reason of special conditions, failure to use such means would reflect unfavorably on his profession.⁴²³

The common good and a doctor's professional ideal do oblige him to keep trying to find a remedy for disease. What we have said about the doctor's obligation to follow the wishes of the patient is, therefore, not to be interpreted as a hindrance to further medical knowledge. Hence, a doctor should not interpret this teaching as being opposed to the trial of new medical procedures or cures. Within certain limits, it is licit to attempt a cure with extraordinary means—even though they be entirely new. As a matter of fact, such a method of action oftentimes redounds to the good of the patient himself. Pope Pius XII, speaking on September 13, 1952, to the First International Con-

⁴²³Kelly, *Medico-Moral Problems*, V, pp. 14-15.

gress on the Histopathology of the Nervous System, said in regard to this point:

Without doubt, before the employment of new methods can be morally permitted, one cannot demand that every danger and every risk be excluded. This goes beyond human possibilities; it would paralyze all serious scientific research and would return, very often, to the detriment of the patient. The estimate of the danger ought to be left in these cases to the judgment of the experienced and competent doctor. There exists, nonetheless, and Our explanations have demonstrated it, a series of dangers which morality cannot allow to be caused. It can happen in some dubious cases, all known means having failed, that a new method, still insufficiently tested, will offer, besides the very dangerous elements, good probability of success. If the sick person gives his assent, the application of the procedure in question is licit. But this manner of procedure cannot be established as the norm of conduct for normal cases.'

Here again, we note that an essential factor in this problem is the necessity of obtaining the patient's consent. A doctor may use a new method when all known and sure methods have failed, provided that the new method offers some good probability of success and provided that the patient freely consents to the use of the new method. Furthermore, it is necessary to emphasize that the doctor must make the patient fully apprised of the risk and dangers involved in the new procedure before he obtains the patient's consent. If the patient refuses to submit to the new cure or the new medical procedure, then neither the doctor's professional ideal nor the common good requires him to employ such a new cure or procedure.

⁴²⁴«Sans doute, avant d'autoriser en morale l'emploi de nouvelles méthodes, on ne peut exiger que tout danger, tout risque soient exclus. Cela dépasse les possibilités humaines, paralyserait toute recherche scientifique sérieuse, et tournerait très souvent au détriment du patient. L'appréciation du danger doit être laissée dans ces cas au jugement du médecin expérimenté et compétent. Il y a cependant, Nos explications l'ont montré, un degré de danger que la morale ne peut permettre. Il peut arriver, dans des cas douteux, quand échouent les moyens déjà connus, qu'une méthode nouvelle, encore insuffisamment éprouvée, offre, à côté d'éléments très dangereux, des chances appréciables de succès. Si le patient donne son accord, l'application du procédé en question est licite. Mais cette manière de faire ne peut être érigée en ligne de conduite pour les cas normaux».—Pius XII, «Address to the First International Congress on the Histopathology of the Nervous System». The original text is taken from *Discorsi e Radiomessaggi di Sua Santità Pio XII* (Typographia Polyglotta Vaticana, 1953), XIV, pp. 329-330.

The doctor, therefore, stands between his patient and his profession. In the last analysis, however, it is his patient that should be his prime concern. The doctor should treat the human being. He should reasonably judge what will bring about the greater good for his patient in accordance with his professional ideal and the patient's wishes and then the doctor should feel free to follow out his judgment.

CONCLUSIONS AND RESUME

- 1) God retains the radical possession of the rights over man's life. Man has full rights to the *use* of his life but to this only. Hence, any form of non-conservation of self, directly intended by an individual on his own authority, is illicit.
- 2) Likewise, man has the serious positive obligation of caring for his bodily life and health.
- 3) It is possible that an individual could be invincibly ignorant, for a time, of this obligation but certainly not for any extended length of time. However, it is possible that one might realize his obligation to conserve his life, but err in the practical application of the obligation to his status here and now.
- 4) There is no licit application of epikeia in this matter. Neither is a dispensation possible. However, an individual could receive the command from God to take his own life by some form of non-conservation of self. In such a case, the individual would then have permission to exercise a faculty ordinarily reserved as a divine prerogative.
- 5) The obligation to conserve one's life, being an affirmative precept of the natural law, does not require fulfillment under all circumstances. Hence, a moral impossibility would excuse.
- 6) The means to fulfil this precept of self-conservation are obligatory. Those means binding everyone in common circumstances are ordinary means. Those means involving a moral impossibility are extraordinary means.
- 7) There is a clear distinction between *natural* means of conserving life and *artificial* means of conserving life, Natural means of conserving life are *per se* intended by nature as the basic means whereby man is to conserve his life, whereas artificial means of conserving life are *per se* intended by nature as a means whereby man can *supplement* the natural means of conserving life. Both the natural means and the artificial means of conserving life are obligatory if they are *ordinary* means of conserving life.

- 8) There is a clear distinction between the terms, « ordinary means of conserving life* and ordinary medical procedures* what is clearly an ordinary medical procedure is not necessarily an ordinary means of conserving life, in the theological sense.
- 9) The elements used by the moralists in their descriptions of the term, «ordinary means* are: spes salutis, media communia, secundum proportionem status, media non difficilia, and media facilia.
- 10) The elements used by the moralists in their descriptions of the term, « extraordinary means* are: quaedam impossibilitas, summus labor, media nimis dura, quidam cruciatus, sumptus extraordinarius, media pretiosa, ingens dolor, vehemens horror, and media exquisita.
- 11) A *relative norm* suffices in determining a means as an ordinary or an extraordinary means of conserving life.
- 12) There is no *absolute norm* according to which certain means of conserving life are clearly *ordinary* for all men. A relative norm must be applied.
- 13) It does seem that an *absolute norm* can be established according to which certain means of conserving life are clearly *extraordinary* means of conserving life.
- 14) It would be allowable to establish a *general norm* in regard to *ordinary* means, by which certain means of conserving life are characterized as ordinary means of conserving life for most men.
- 15) *Ordinary means of conserving life* may be defined as those means commonly used in given circumstances, which this individual in his present physical, psychological, and economic condition can reasonably employ with definite hope of proportionate benefit.
- 16) *Extraordinary means of conserving life* may be defined as those means not commonly used in given circumstances, or those means in common use which this individual in his present physical, psychological and economic condition cannot reasonably employ, or if he can, will not give him definite hope of proportionate benefit.
- 17) Ordinary means of Conserving life, understood according to the above definition, are always morally obligatory.
- 18) Extraordinary means of conserving life, *per se* are not morally obligatory, however, *per accidens*, a particular individual may be bound to employ such means.
- 19) Even though advances in the field of medical science have reduced greatly the risk involved in surgical interventions, nonetheless, the element of risk must still be considered today in determining surgical procedures as ordinary and extraordinary means, particularly in cases involving patients of advanced age and weakened physical condition.

20) From the aspect of operating technique alone: a) common surgical interventions, even though major surgical interventions, performed on patients of young age and relatively strong physical constitution, and in surroundings which offer the advantages of modern hospital skill, precautions and equipment are *generally* ordinary means of conserving life. b) Major surgical interventions, even though common surgical interventions, performed on patients of advanced age or of relatively weak constitution, cannot be classed *generally* as ordinary means of conserving life. c) Major surgical interventions, even though common surgical interventions, performed on the young or the old in surroundings which do not offer the advantages of modern hospital skill, precautions and equipment cannot be classed *generally* as ordinary means of conserving life. d) Radical surgery which involves great risk and danger, or which is still insufficiently known is an extraordinary means of conserving life both for the young and the old.

21) The amputation of a leg probably remains an extraordinary means of conserving life, due to subjective abhorrence. This is certainly true in the case of the amputation of both legs.

22) The basic medicines, intravenous feedings, insulin, the many types of antibiotics, oxygen masks and tents, preventative medicines and vaccines, and blood transfusions are *generally* ordinary means of conserving life.

23) *Per se*, the doctor has the obligation of using the ordinary means of conserving life when he treats a patient *ex caritate* or *ex justitia*. A proportionately grave inconvenience excuses from this obligation.

24) The doctor must employ the extraordinary means of conserving life which the patient, accepted *ex justitia*, is bound to employ or reasonably wishes the doctor to use.

25) Extraordinary means must be used by the doctor in the case of the patient *ex caritate* who needs and wishes such measures, provided the doctor can furnish them without a proportionately grave inconvenience to himself.

26) If the wishes of a patient *ex caritate* in regard to the use of extraordinary means are entirely unknown and a reasonable investigation will not reveal these wishes, the doctor need not employ the extraordinary means of conserving life.

27) If the wishes of a patient *ex justitia* in regard to the use of extraordinary means are entirely unknown and cannot be determined after a reasonable investigation, the doctor, in virtue of his contract with the patient, should make a prudent decision in this regard in the name of the patient which will effect the greater good for the patient.

28) The doctor should feel free in conscience to use or neglect, according to the circumstances of each case, relatively useless artificial life-sustainers.

29) The doctor does not have the obligation of using all means in his

power to sustain life, nor does he have the obligation in ^{all circumstances of} prolonging life until such prolongation is no longer possible.

30) The doctor must try to effect a cure as long as there is any reasonable hope of doing so.

31) The doctor must try to find a remedy for disease. Hence, he may employ extraordinary means of conserving life, even hitherto insufficiently tested procedures, provided that all known and secure measures have failed, and the new procedure gives good probability of success and the doctor obtains the patient's consent.

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