

A.I., as you may or may not know, is a capitalized abbreviation for artificial insemination. In the literature on the subject, it is rather commonly used, as likewise are two other capitalizations, A.I.H. designating artificial insemination from the husband, and A.I.D. designating artificial insemination from a donor. Should there be anyone here this morning who is overly sensitive about hearing ~~any~~ mention of this subject, who was misled by the announced topic and thought perhaps that I might be ~~talkin~~ going to ~~talk~~ <sup>discuss</sup> angelic influence or absolute indifference, and would now like to absent himself or herself, he or she should feel ~~most~~ free to do so.

The subject, I grant, is not one usually discussed from a pulpit. As a matter of fact, this is the one and only time, of which I am aware, that it has ever been done. Why, then, do I venture upon the subject? Not, I assure you, because I have any desire to be seemingly sensational, and not, I trust without the need of assuring you, because of salacious interest. ~~I am getting old, Father William~~ ~~much too old for ~~such~~ that kind of interest.~~ The subject, of course, does have its own points of interest, as part of the challenging history of medical-scientific development. Guttmacher of Johns Hopkins says that it was a known procedure in horse-breeding among Arab sheiks as early as 1322. In 1784, the Italian priest-scientist, Spallanzani, artificially impregnated a dog which bore three puppies. At about the same time, John Hunter, who was a teacher of Jenner, the discoverer of vaccination, succeeded in the artificial insemination of a

draper's wife in London. Here in America, the first successful procedure was reported by Dr. J. Marion Sims in the years immediately following ~~upon~~ the Civil War. But for some reason or other, Dr. Sims discontinued the procedure, leaving it as he said to others "who may have the curiosity, leisure, courage and perseverance to experiment further in this direction." There was little experiment further in this direction during the next several years. Then in 1907, the Russian physiologist, Ivanoff, published a monograph on the techniques of artificial insemination in animal husbandry. Here the interest was in animal breeding, and the intent was twofold: one, to allow control of known and selected strains of inheritance, and two, to permit a multiplication of herds far greater than the normal rate would allow. Following upon the publication of this monograph, there was renewed interest in the matter, not only as it related to animal breeding but also as it related to human infertility. During the past twenty years there has been a decided increase in the number of barren marriages that have been rendered fertile in this way. Exact figures are not available, largely due to reticence on the part of many if not most doctors, but they are up in a considerable number of thousands and the cases here in the United States appear to be a good deal more numerous than elsewhere. Among the most recent developments has been the discovery by animal breeders that spermatozoa can be successfully preserved in a frozen state for long periods. And doctors associated with Iowa State University have likewise shown that human semen can be frozen and preserved and can be used to produce pregnancies that result in

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normal babies. Thus the way is open for semen banks to be built up, just as we now have blood banks and the lesser development of eye banks.

Such historical-technical development, however, is not what causes me to make mention of the subject. Rather it is because it relates to human beings, and provides an answer in some ~~xxxxxxxxxx~~ proportion of cases to a human problem. The calculation is that in the United States, as also in Britain, ~~where like calculation has been made, xxxxx~~ at least one out of every ten married couples is involuntarily sterile. Such couples want children, but for one reason or another and involving either husband or wife or both of them, they are not able to have children in the manner customary with most people. There are <sup>at least theoretically</sup> several alternative courses open to them. They may submit to a life together without children, and they may still find much of richness and satisfaction. Or they may drift apart and through divorce and remarriage with another partner seek to fulfill the desire of parenthood. Or the wife, <sup>if not sterile,</sup> either with the husband's consent or on her own, may resort to extra-marital conception by adultery. Or they may adopt children, which is a morally lawful and emotionally successful solution in many cases. Or they may turn to artificial insemination from the husband in cases of impotence or some physiological difficulty, and from a "donor", some third party, in cases of incurable sterility in the husband.

This last alternative, still relatively new and practiced as yet by only a few physicians, has been heartily endorsed by some medical men. Dr. Alan Guttmach

er of Mount Sinai Hospital in New York, has said: "But for artificail insemin-  
 ation, motherhood would be denied the wife. Babies conceived in this man er are **e**  
 wanted children, often desperately wanted. I know of not a single case in my  
 practice where things have worked out badly." And the American Society for  
 the Study of Fertility, at a meeting held in Atlantic City in June of 1955,  
 approved by overwhelming majority vote, the following statement having to do  
 with A.I.D. : "If it is in harmony with the beliefs of the couple and the doc-  
 tor, donor artificial insemination is a completely ethical, moral and desirable  
**DR** of medical therapy.... Those physicians who have carried out donor insem-  
 ination for several decades can attest that in many cases it is a more desira-  
 ble procedure for acquiring a family than adoption. One great advantage of  
 donor insemination is that it provides the opportunity for the husband to  
 share the months of his wife's pregnancy and her childbirth. From observation  
 over many years the membership is impresssd by the almost universal good re-  
 sults achieved in respect to children and the entire family unit. The fact  
 that, in some instances, patients have returned for as many as four children  
 by donor insemination is further proof of the happiness it bestows."

Such medical opinion, however, is by no means the sole opinion. In some  
 quarters, A.I., and particularly A.I.D. is roundly <sup>condemned</sup> as immoral, unethical, and  
 socially harmful. It is not only the newest of various issues having to do  
 with birth, life, and death-- such as abortion, contraception, euthanasia, and

sterilization-- but it is also developing into one of the most controversial of all such issues. The matter, of course, is not just medical. It impinges upon numerous individual and social aspects of life, all of which are not unrelated to ethical considerations, and all of which give rise to a diversity of opinion. It is primarily with this aspect of the matter that I am concerned and interested. And in connection with this, I would commend to your attention two recent volumes, upon parts of which I am drawing heavily this morning. The first is "Morals and Medicine" by Joseph Fletcher, who is professor of ethics at the Episcopal Theological School in Cambridge, Massachusetts. The substance of this volume was first given as the Lowell Lectures at Harvard some seven or eight years ago. The other and more recent volume called "The Sanctity of Life and The Criminal Law" is by Glanville Williams, who is a professor of Jurisprudence at Cambridge University in England. This volume is an amplified version of the Carpenter Lectures delivered at Columbia in the spring of 1956, while Mr. Williams was Visiting Professor on the Faculty of Law of Columbia University. Both volumes cover much the same ground-- problems of abortion, contraception, euthanasia, suicide, and artificial insemination-- but with <sup>the</sup> Mr. Williams, as might be expected, bearing more heavily on the legal aspects. These two volumes constitute not only the fullest, but almost the only <sup>rounded</sup> non-Catholic ~~and~~ contribution that so far has been made to these subjects. These two books make a significant contribution, and they deserve attention far beyond the

ranks of the legal and medical professions and specialists in ethics and morals.

Looking first at the legal side of the matter, there are no particular problems involved with A.I.H., that is, with insemination obtained from the husband. Here the child is obviously legitimate, and almost without exception is held to be so. A problem has arisen when divorce or decree of nullity has been sought on the ground of non-consummation. In one English case a decree was thus granted. The Royal Commission on Marriage and Divorce, however, has since proposed that any ruling making such a decree possible in a case of A.I.H. should be altered. And irrespective of the decree, there are still statutes which hold the child or children of the marriage to be legitimate.

With A.I.D. the matter is much more complicated, and by and large the weight of legal opinion has been on the side of holding the child to be illegitimate, ~~and~~ thereby <sup>ing</sup> depriving it of the legal claims for support, inheritance, and the like. In a divorce action in England, it was decided that a wife who bears an A.I.D. child has no claim or right to demand legal benefits for her child from her husband, for "even with his full approval (she) has committed adultery..." In some North American judgments, the decisions have been somewhat equivocal. Thus, in a Canadian case of 1921, involving the claim that a child was born of artificial insemination, a plea for alimony was denied with the dictum, but not a ruling, that the criterion of adultery is not sexual intercourse but the volun-

tary surrender by a wife of her reproductive faculties to another person. Here, however, the judge appears to have held that the moral turpitude lay in the fact that the wife had so submitted her faculties to another "without her husband's consent", which provides us with no clear opinion that artificial insemination from a third person donor, is in and of itself, adulterous. In a Chicago case, it was ruled that such is not adultery, that "artificial insemination, even without the husband's consent, is not in itself grounds for divorce or a charge of adultery." On the other hand there was a judgement rendered by a Cincinnati court in 1947 which granted a divorce to a soldier who had returned from the war front to find his wife pregnant by insemination from a donor. The divorce was granted on the ground that it had been done without the husband's consent. Here <sup>however it was held that</sup> the moral turpitude lay in a breach of marital confidence, ~~not adultery~~, rather than in a claim of adultery, as in the Canadian case.

Toward a clarification of thought along this line, it would seem first of all, not unreasonable to regard the acceptance by a wife of A.I.D. without her husband's consent as a violation of the marital agreement and thereby a ground of divorce or judicial separation. And a proposal to this effect has been made in Britain by the Royal Commission on Marriage and Divorce. But conversely, where consent is given, it would seem not unreasonable that A.I.D. ~~cannot~~ <sup>should not</sup> be ~~made~~ a ground of divorce or ~~separation~~ <sup>award</sup> of maintenance. This, however, involves a more forthright understanding that A.I.D. is not adultery. All the tradition-

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al definitions of adultery presuppose an act of physical sexual intercourse with a third party, but this is wholly apart from the technical procedures involved in A.I.D. where there is no body contact with donor whatsoever and where the identity of the donor almost invariably remains hidden to the recipient. To stretch the interpretation of adultery to the point where it includes A.I.D. as an act of sexual intercourse, would seem to be stretching the interpretation to a point of absurdity. The absurdity is illustrated by the opinion which ~~holds~~ admits that the part played by the donor is too remote and too removed to be designated adultery, but then goes on to ~~argue~~ <sup>assert</sup> that it is the attending physician who is the real adulterer. If such were the case, and the physician were a woman, we would indeed have an interesting legal situation. In a debate in the House of Lords one of the participants forcefully, and as I believe, rightly described the interpretation of A.I.D. as constituting adultery as being "absolute nonsense."

Should it be finally determined, as one hopefully believes it will be determined, that A.I.D. is not an act of sexual intercourse and of adultery, there may still be incidental questions of criminal law remaining. One, ~~says Prof. Williams~~, is in relation to declarations of legitimacy-- though this is not a problem peculiar to the case of artificial insemination. Suppose, ~~he writes~~, that a married woman commits adultery (real adultery, not the stretched interpretation of artificial insemination being such) as a result of which a child is born; the husband forgives her (or at least is willing to accept the situation



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and registers the birth of the child with his own name as father. It may be that in so doing he technically commits the offence of making a false declaration. Although prosecution for the offence would not be very likely, it might occur in situations having to do with property, allowance, and tax concessions. And a like situation might even more readily occur in the case of a husband saying he was the father of a child actually born of A.I.D. One out from the possible offence of false declaration is suggested by the highly ~~xxxxxxxx~~ progressive Ontario Provincial Vital Statistics Act which became law in January 1949. Under this legislation, no indication of the paternity of a child is required in the registration of the birth of a married woman's child. All and any children are registered in the mother's name. She is required only to enter her husband's name in the registration, and the husband is presumed to be the father without the mother asserting that he is or is not. Thus all children born to married mothers are presumed to be legitimate. Advanced as such legislation may be in removing the stigma of illegitimacy and safeguarding the husband against the charge of false declaration, it is still held by Williams to be something less than fully protective. For, while it gives an answer to the problem of registration, it avoids specific mention of A.I.D. and leaves only a presumption <sup>removes stigma in public</sup> that the children of AID are legitimate. There is still a legal loop-hole where by the wife and/or the husband might be charged with false pretense or declaration.

There is of course an available complete legal out to the matter through the

procedure of adopting the child or children born of A.I.D. And, in the present state of the law, such is the surest and most effective procedure. There are drawbacks, however, to the adoption procedure for A.I.D. children. First of all, there is a decided awkwardness on the part of the mother who has borne a child, as well as the husband, on the part of to go through the somewhat lengthy procedure of legally establishing it as their own. To the mother it is already her own, nourished and born of her flesh. And to the husband, who has given consent, and certainly to the husband who really shares in the desire for a child, it is likewise already his own in terms of desire and love and accepted responsibility. To have to go through the procedure of adoption tends to undo the very emotional advantages given by artificial insemination as a near natural remedy for an involuntary childless marriage. Again, there is the related embarrassment of publicity about the matter, which at present and particularly in smaller communities, can turn into gossip and the assumption that this is not even a case of artificial insemination, but of concealed or attempted hidden adultery. This likewise can undo the emotional advantages given by artificial insemination. And still more is another disadvantage, namely that adoption requires, when available, the consent of the child's natural parent. This would make for a full knowledge of the identity of the donor, which might make for and emotional numerous psychological difficulties on all sides, and which would greatly antagonize medical men who are professionally as well as personally bent on

making the whole procedure as remote and impersonal and unknown as possible between donor and eventual recipient. Because of these drawbacks, it is held by Williams, as well as by numerous others, that the only completely satisfactory solution is legislation that will legitimize children born of A.I.D. with the husband's consent. Bills to this end have been introduced into several of the states' legislatures, including that of Minnesota, but so far they have all failed of adoption. This is a needed legislative victory yet to be won.

On the religious-theological side of the matter there is a division of opinion. The Protestant churches, by and large, have not reacted strongly against artificial insemination. This, in some measure, may be due to their reluctance to discuss the subject at all. If they have not come out in strong opposition to A.I., likewise they have not come out in strong support of it. Their opposition, when apparent, is more in the nature of suspicion and reservation, and rests upon grounds of expedience and the sake of custom rather than upon the idea that the practice is immoral as such. The Church of England, however, has taken a definite official position on the matter. In 1945, the Archbishop of Canterbury appointed a commission to study the matter. This commission, which included medical men and lawyers and was under the chairmanship of the Bishop of London, found no fault with A.I.H., but, with the sole dissent of the Dean of St. Paul's, it condemned A.I.D. as conduct inconsistent with "the nature of

marriage", and went so far as to suggest that (unlike traditional adultery) it should be made a criminal offence. And in a subsequent debate in the House of Lords, the Archbishop of Canterbury added his weight, saying that donor insemination is "wrong in principle and contrary to Christian standards." And even more pronounced is the dogmatic opposition of the Roman Catholic Church to artificial insemination. The Catholic opposition was officially pronounced as far back as 1897 when, to the question whether artificial fecundation of women is permissible, the cardinals with the approval of Pope Leo XIII made answer that it was not permissible. They gave no reasons why it was not. On September 29, 1949, Pope Pius XII ~~again~~ <sup>re-</sup>emended artificial insemination, and again he offered no particular reasons, beyond stating that it is "entirely illicit and immoral". Some provision is alone allowed for A.I. <sup>but</sup> ~~and~~ this only if it follows upon sexual union.

"It is a remarkable fact" writes Williams "that the Catholic and Anglican churches, which have made no pronouncement against the procreation of ... children doomed to serious congenital disability, gird themselves against donor insemination, which generally results in the birth of children above the average in their genetic endowment (since the donor is usually chosen with considerable care). Equally remarkable is the fact that although these churches have always been at pains to emphasize the view that the procreation and rearing of children is the principal if not the only legitimate end of mar-

riage, as well as a duty of marriage, they reject a procedure that science has devised to serve that very purpose."

The opposition to artificial insemination can, of course, and does fall back upon Scriptural passages and references. Thus the claim made by the Roman Catholic Church in particular that A.I.D is illicit because it involves an immoral act-- namely onanism or self-abuse on the donor's part,-- falls back upon the story of Onan in Genesis and St. Paul's remark in First Corinthians that "effeminate" and "abusers of themselves" shall not inherit the kingdom of God. However it is well agreed by Jewish and non-Catholic scholars that in the story of Onan, he was punished not for the method he used, but for his avoidance of the duty of the levirate. Through coitus interruptus he avoided conceiving a child for his dead brother's posterity. The failure to his dead brother's posterity was his guilt, and not the spilling of his seed upon the ground. Moreover, a reading of the story makes it quite clear Onan's act was coitus interruptus and not masturbation. Again, with reference to the Pauline text, scholars agree that the word translated "effeminate" in the King James Version is not a reference to masturbation. The original Greek word means literally what it says: males intercouring with males, and in the Revised Standard Version of the Bible the circumlocution used for the word in the King James's version is dropped, and the translation is candidly and rightly given as homosexuals. So, even if one were to grant a particular authority to Scripture, there is still nothing whatsoever in these references

which relates to A.I.D. and condems it as being illicit.

And likewise with the charge what AID is immoral because it is adultery which falls back upon the Seventh Commandment and a couple of Jesus remark about adultery. Here it is immediately obvious, but also well substantiated by scholars, that the meaning of adultery within the context of the Decalogue and within ancient Hebrew life was quite different in many ways from what is now understood and allowed by the term. Then a man could have several wives, even sisters as wives; a married man was required to beget children for his dead brother, with the dead brother's wife. And a wife finding herself childless, could advise her husband, as Sarah did with Abraham, to go in unto her maid, so that she might obtain children by the maid. Such acts were not considered adulterous then, but they would be regarded as adulterous today. The Seventh Commandment has never been a clear-cut, uniform, absolute standard, and the quoting of it no more constitutes a condemnation of A.I.D. than it constitutes an invitation to renew the ancient practices.

Again, with the statement attributed to Jesus that a man who puts away his wife and marries another commits adultery, as does a woman who puts away her husband and marries again, this is generally speaking ~~xxxx~~ not considered to be the case today even among Anglicans and Roman Catholics. While divorce is not commonly open to them, they can on the death of a marriage partner, remarry and do so without being charged with adultery. For others, marriage after di-

force is not regarded as adultery. It is hard to see how such a text can be interpreted to constitute a condemnation of A.I.D. As a matter of fact, if the text is taken to mean an emphasis on the permanence of marriage, then A.I.D. might be said to be in keeping with it, for AID, undertaken with the full consent and active desire of both spouses, and in many instances, does a great deal to strengthen and maintain the marriage relationship.

Furthermore, if the real objection to adultery is that it is a particularly gross kind of infidelity to the marital partner, this objection cannot very well be made to apply to A.I.D. Artificial insemination, mutually agreed upon by husband and wife does not involve any broken faith between them. And no personal relationship is entered into with the donor at all. In standard medical practice, A.I.D is quite at an opposite pole from being an act of infidelity. Its only intent by all parties is to turn a barren marriage into a fruitful one and thereby to replace frustration with a greater measure of happiness.

Among numerous other objections raised with regard to A.I.D., there are two or three that are somewhat indicative of what is a social concern rather than a theological-religious issue. One of these, briefly mentioned, is that A.I.D. would greatly increase the possibility of incest, that the children of AID, not knowing the identity of their true father, and their legal parents not knowing it either, might end up by unknowingly marrying one another. That there might be such an increased possibility cannot be denied. It is pointed out how-

ever that A.I.D. does not create or innovate this danger, since the risk is already and always present with foundlings and clandestine and adopted children, whose true parents are not known. Moreover, there are decided safeguards that can and already are being used with regard to children born of A.I.D. Among other things only infrequent donations are accepted from any one donor. And there is a policy of wide geographic distribution of the donations. With such safeguards, coupled with the relatively small number of A.I.D. children compared with the total birth rate, there is little likelihood that the possibility of incest will greatly increase. Moreover, behind this fear of possible incest is an assumption that in-breeding is biologically harmful. But this assumption, is, to say the least, debatable, and there is a considerable weight of evidence which indicates that it is not biologically harmful except among stocks which are eugenically too poor to stand an accentuation of their qualities. And over one or two generations, that would likely be the longest that any particular incestuous relationship lasted, there would not be much if any eugenic damage. And still more so, if as seems to be the case, the children of AID tend to be of better than usual genetic stock.

Another objection is that AID may upset the psychological balance of a marriage and that the husband may bear animosity against the child. However, as Williams points out, this is not borne out at all in the testimony of medical men. Even the Archbishop's Commission accepted without challenge the



medical opinion and evidence to the effect that "the couples who desire A.I.D. are of more than average intelligence, thoughtfulness, and responsibility", and that "it is usually the husband and not the wife who first comes to enquire about artificial insemination, and is eager that it should be tried; and is as delighted as she when it is successfully carried out." And doctors who have observed the family life in which A.I.D. children are being brought up report that the husband and wife quickly appear to assume the roles of normal parents and the episode of insemination soon becomes unimportant.

One other objection is to the effect that A.I.D. opens the way to unmarried motherhood, without violating the prohibition of adultery. And some women, particularly in England, who have been condemned by war to spinsterhood, have candidly embraced and advocated this policy and practice. This is undoubtedly the bristliest of all objections to A.I.D. It is all too easy, however to exaggerate this objection out of all proportion. With rare exceptions A.I.D. is provided only to married couples and with proof of the husband's existence and identity. Moreover, there is no indication that any great number of unmarried women have tried to embrace A.I.D. They would greatly prefer marriage if possible, and they are not blind to the problems involved in raising a child or children solely on their own. And if there are some who do embrace it, particularly those condemned by war to spinsterhood, then the greater problem that would seem to be in need of consideration, is the problem of

war.

A.I.D. like anything else, can be abused and misused, but it has many more safeguards and other safeguards built into it than do many other of the scientific developments that have taken place in our society. And whatever the abuse, it still does not invalidate the beneficial use that can and already has been made of this medical development. A fuller look at the subject, and a juster appreciation of what it has meant and can mean to many childless married couples, are a much stronger guard against abuse than much of the past attitude that has either sought to ignore it or has sought to smother it under charges of being illicit and immoral. What remains the central point of attention was expressed some years ago in these words. Artificial sterility enables us to heal cases of sterility, in which all other efforts have failed. Its use is strongly indicated in certain circumstances. In the interests of human happiness it is desirable that the prejudice which still exists on this subject, should give way to fairer understanding."