

PHILOSOPHY, LAW, AND THEOLOGY

Among articles of interest to those who work in the Catholic health care system, the first in importance this quarter will likely be "Private Religious Hospitals: Limitations on Autonomous Choices in Reproductive Medicine," by William W. Bassett, *Journal of Contemporary Health Law and Policy*, Vol. 17, No. 2 (Summer 2001). Bassett argues that refusals by religious institutions to carry out procedures deemed immoral by their sponsoring religious tradition should be overridden by law whenever patients do not have ready access to other providers who will carry out these procedures. This is a rather remarkable and even disturbing conclusion, especially in light of the various ominous legislative schemes around the country designed to deprive Catholic health care facilities of their right of conscience in matters of contraception, abortion, and physician-assisted suicide. By the end of his lengthy article, however, Bassett has modified his views somewhat and says that rights of conscience within religious facilities should only be ignored by the law when those institutions do not openly embrace their religious identity. The moral of the story seems to be that if you do not openly proclaim your affiliation with a specific religious tradition, you can expect to be deprived of your right of conscience.

Also in this issue is an excellent legal overview of the debate concerning embryonic stem cell research, by Sharon M. Parker, "Bringing the 'Gospel of Life' to American Jurisprudence: A Religious, Ethical and Philosophical Critique of Federal Funding for Embryonic Stem Cell Research." Though President George W. Bush has arrived at his decision on the matter, Parker provides a solid survey of previous case law concerning embryos, and also show how the reasoning of John Paul II's reasoning in *Evangelium vitae* might apply in this case.

The Rev. Kevin T. McMahon addresses recent efforts of the U.S. Catholic Bishops to revise the *Ethical and Religious Directives for Catholic Health Care Services* in "Revising the ERD's 94: Goals, Opposition and Resolution," *Linacre Quarterly*, Vol. 68, No. 2 (May 2001). The revision of the *Directives* occurred against a backdrop in which many Catholic health care facilities provide direct sterilization to patients, despite clear Catholic teaching in opposition, on the grounds of either mediate or immediate material cooperation. McMahon recounts the cool reception given to *Quaecumque sterilizatio*, a Vatican statement describing direct sterilization as intrinsically evil, and shows how the official *Commentary* written in the name of the National Conference of Catholic Bishops appeared to offer "official approbation" for illicit cooperation on material grounds. His is an impassioned examination of the various drafts of the *Directives*, with commentary and recommendations.

Edmund Pellegrino, M.D., has written a brief but powerful defense of his teleologically-based philosophy of medicine in "Philosophy of Medicine: Should It Be Teleologically or Socially Construed?" *The Kennedy Institute of Ethics Journal*, Volume 11, No. 2 (June 2001). Pellegrino remains the most able and successful defender of a realist and classically oriented bioethics that takes its bearings from the natural ends of medicine. In this article, Pellegrino responds to criticisms of his work advanced by the Rev. Kevin Wildes, S.J.

A particularly excellent issue of *The Journal of Medicine and Philosophy*, Vol. 26, No. 3 (June 2001), has appeared under the editorship of Hans-Martin Sass. Among the more illuminating articles are "Euroscreen 2: Towards Community Policy on Insurance, Commercialization and Public Awareness," by Ruth Chadwick, et al., which explores possible regulation of genetic testing within the European setting; "Commercialization, Patents and Moral Assessment of Biotechnology Projects," by Rogeer Hoedemaekers, which examines, from a utilitarian perspective, the panoply of moral issues that arise in the interim between discovery of a gene product, the granting of patent, and eventual commercial use; "New Developments in Dutch Legislation Concerning Euthanasia and Physician-assisted Suicide," by Bert Gordijn and Rien Janssens, which gives an important update on the Netherland's experiment in the legalized killing of innocent human beings; and lastly, "Perils and Deficiencies of the European *Convention on Human Rights and Biomedicine*," by Maurizio Moni and Demetrio Neri, which is particularly interesting because of its attack on the Convention for its reliance upon the principles of natural law and for its recognition, common within Western moral thought, that there is an enduring human nature that gives rise to certain immutable and unchanging human rights. The hostility of the authors to this ideal may be partially explained by their insistence that contemporary science must be free to explore "all possibilities, including that of directly modifying the human germ line."

Two intriguing articles have appeared in separate issues of the *Cambridge Quarterly*. The first, "Future Animal: Environmental and Animal Welfare Perspectives on the Genetic Engineering of Animals," Vol. 10, No. 3 (Summer 2001), by Lyle Munro, offers the public some moral observations that would need to be considered in any referendum calling for informed debate over the genetic engineering of animals. He is particularly concerned about the possibility of animal exploitation by biocapitalists, but more globally with the belief among many in the field that man has the power to improve upon nature. The second article, "Procreation for Donation: The Moral and Political Permissibility of 'Having a Child to Save a Child'," Vol. 10, No. 4 (Fall 2001), by Mark P. Aulisio, et al., advocates use of the "best interests of the donor standard" when parents choose to have a child in order to provide a tissue match for an already born child who will otherwise die without a transplant. The authors point out that this is already the standard for a minor donor who happens to be a match for a sibling conceived without any thought about the possibility of a donor match. The article will cause some careful thinking among those who hold, in principle, that it is self-evidently immoral to have a child in order to save a child.

Priscilla Alderson's "Prenatal Screening, Ethics and Down's Syndrome: A Literature Review," *Nursing Ethics*, Vol. 8, No. 4 (2001), points to certain screening services, and medical and ethics debates, that "far from being neutral" "sometimes support policies that are negative toward motherhood in general, and to disability and learning disability in particular." This may seem an understatement to many who work in this field, but the author is doing her best to find a path toward discussion that is not explicitly identifiable as either "pro-life or pro-choice." Most prenatal screening, of course, is done for the purpose of aborting "defective" children. What Alderson laments is the leading edge of the modern eugenics movement.

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