A politician is a man who thinks he is in possession of the truth and knows what needs to be done; thus his only problem is to persuade people to do what needs to be done. Scientists rarely think that they are in full possession of the truth, and a scientist's aim in a discussion with his colleagues is not to persuade but to clarify. It was clarification rather than persuasion that we needed in the past to arrive at the solution of the great scientific problems.²

I cannot help thinking that the greatest satirists share something of the character Szilard attributes to the scientists. They employ their unusual art not in the service of that persuasion which leads only to uncritical conviction but to produce the unsettling condition of curiosity which leads to inquiry. This, perhaps, is why, in The Voice of the Dolphins, a distinguished scientist has written distinguished satire.

EDWARD ROSENHEIM, JR.*

² P. 26.

* Associate Professor of Humanities, University of Chicago.


The sub-title of this book is "Law and Christian Morals in England and the United States." Problems of life and death are of course prime areas in which to study the relation of law and morals. The first problems chosen relate to life's inception: artificial insemination, contraception, and sterilization; the last two deal with acceleration of death: suicide and euthanasia. Homosexuality is sandwiched in between, presumably because this problem has sparked much controversy about the relation between law and morals.

St. John-Stevas writes as a British Roman Catholic and invokes the spirit of Lord Acton, hoping to resolve in some measure the tension between the traditions of Catholicism and of English liberalism. He deals ably and candidly with the contemporary ambivalence of Catholicism towards religious liberty. He brands as "crude impudence" the view that religious toleration is merely a temporary expedient to be abandoned when Catholic majorities make feasible the use of state power to check the propagation of error.¹ He summarizes the liberal views of Maritain and Fr. John Courtney Murray and sees support for them in the 1953 address of Pius XII to Italian jurists: "The duty of repressing moral and religious error . . . must be subordinate to higher and more general norms, which in some circumstances, permit and even perhaps seem to indicate as better policy toleration of error in order to promote a greater good."² St. John-Stevas concedes that this statement "leaves a num-

¹ P. 26.
² P. 27.
ber of questions open." He should therefore realize that the "crude impudence" has practical significance not only as "a weapon in the armory of contemporary Protestant polemics" but also as explaining, if not justifying, the continuing distrust of Rome on the part of believers in religious liberty.

In his opening chapter, the author summarizes traditional Catholic and Protestant theories of the state and contemporary views of the relation of law and morals. He is highly successful in his sketch of the Thomistic theory of natural law. Similar success could not be expected in an attempt to summarize so briefly the varying and elusive Protestant doctrines. And probably the author should not have attempted a criticism of contemporary secular theories. It is scarcely adequate to dismiss Professor Herbert Hart's analytical positivism with a comment that it is unrealistic. And it is quite unwarranted to suggest that Professor Fuller's anti-positivist theory is divorced from a consideration of ends.

Attempting to mediate among all these divergent views, the author asserts that "a principle limiting enforcement of morals by the law can be erected, a principle derived deductively from the nature of both, and inductively from the experience of the common law, namely that those moral offenses which affect the common good are fit subjects for legislation." One has a sense of letdown as one reaches the end of this sentence, and the ensuing general discussion of "what constitutes the common good" is no more satisfying. Much more rewarding are the subsequent chapters in which the author explores in the context of particular matters of controversy his hope that there is "common ground in the common good."

I take the chapter on contraception as typical. It is well written and absorbing. It presents a wealth of well-documented detail on the history and extent of contraceptive practices, the English and American law, the arguments of moral theologians, and the official positions of Christian churches. The premise of the Roman Catholic position is that by nature the act of coitus has as its primary end the procreation of children. This is widely disputed by Anglican and Protestant theologians, who assert that "henosis," the union of man and wife, and the expression and promotion of mutual love are not mere subordinate ends. These views are fully presented, together with similar pre-1944 statements of Roman Catholic moralists. One senses that the author might have found them attractive had they not been formally repudiated by the Vatican in 1944. He seems to prefer a different reason for condemning contraception. "Even if relational and conceptual ends of marriage are placed on an equal basis, the condemnation of contraceptives is not excluded, for coitus can still be treated as a given act, the intrinsic nature of which is the giving and receiving of seed. Unless it is this, then neither its conceptual nor relational ends are achieved, and it becomes an onanistic act of self love, ontologically

3 P. 26.  
4 P. 17.  
5 P. 37.
distinct from true coitus." Against the Anglican position in particular, he argues that if any fundamental variation in coitus is admitted, unlimited variation (including sodomy) must logically be allowed.7

Now that the Roman Catholic Church (with the Eastern Orthodox Churches) stands alone in the general condemnation of contraception, an important question for Catholics is whether they should seek the maintenance or enactment of laws prohibiting the distribution of contraceptive information and appliances. St. John-Stevas argues that while the natural law is binding on all men, it does not follow that all acts contrary to natural law should be forbidden by positive law. To maintain civil peace in a pluralist society, Catholics are advised to treat their condemnation of contraception as a private judgment. Elsewhere the author has even stated that the Connecticut statute which forbids the use of contraceptives "violates Catholic principles of jurisprudence."8 This is the statute which the Supreme Court declined to review on the ground that no real threat of its enforcement had been shown.9

The author prescribes a principle of "neutrality" for problems like that of contraceptive services in public hospitals. This principle is deemed satisfied by the New York compromise permitting the giving of contraceptive advice where health is endangered but not otherwise. Similarly, neutrality is deemed to require rejection of proposals for study of the problem by United Nations agencies. One may question whether these policies illustrate neutrality or hostility to contraception. In many areas of government action (including the financing of education) neutrality is difficult to achieve.10

WILBER G. KATZ*

6 P. 86.
7 Pp. 77, 86 n.2.
8 Birth Control and Public Policy 77 (1960). This is a "Report to the Center for the Study of Democratic Institutions," consisting of Chapter Two of the present book with a list of conclusions from which the quotation is taken.
* Professor of Law, University of Wisconsin.