

DETRACTION IN PUBLIC LIFE

The term "detraction" was used by some of the older theologians¹ and even a few of the more recent authors,² to indicate the defaming of another, whether by truth or falsity. Specifically, the harm done is the same. The Salmanticenses³ refer to *detractio simplex* as the unnecessary revelation of true but hidden crimes. Alphonsus⁴ also distinguishes first between contumely and detraction, and includes calumny as a form of detraction.

Today, commonly, "detraction" has acquired a specific and fixed meaning, as opposed to calumny, the latter having the character of a lie, as well as an injury to another's reputation. Obviously, what is said here will apply *a fortiori* to calumny.

Detraction may be defined as follows: Detraction is the blackening of the good name of an absent person by unnecessarily revealing a true, hidden crime or defect.⁵ Blackening includes any dimming of the lustre; it does not require total destruction. The good name of a person may consist of either positive esteem or the negative aspect, the absence of unfavorable opinion. Detraction refers to an absent person; hence it excludes self-defamation or injury to one present, for this adds the note of contumely; this factor is not, however, of the essence of detraction. The person who is the victim of detraction may be either a physical or moral person, living or dead, known or unknown. The revelation must be unnecessary, that is, a reasonable cause for the revelation takes it out of the category of detraction. As indicated above, we restrict detraction to that which is true; if the defamation is false or exaggerated, it is calumny rather than detraction. The crime or defect which is revealed must have been previously unknown to the hearer, for there is no injury to a person's reputation through the discussion of what is already known.

¹ Cf. St. Thomas. *Summa Theol.*, II-II^{ae}, q. 73, a. 1.

² Cf. Merkelbach, *Summa Theol. Moralis*, II, n. 423.

³ Salmanticenses, *Cursus Theol. Moralis*, tom. 3, tr. 13, cap. 4, n. 31.

⁴ St. Alphonsus, *Theol. Mor.*, I, 966.

⁵ Kenneth Moore, O.Carm., *The Moral Principles Governing the Sin of Detraction* . . . (Washington: C. U. Press, 1950), 37.

A problem arises with reference to the revelation of defects or crimes which are juridically notorious, but do not enjoy publicity of fact. There is unanimous agreement that, if the ignorance is due only to the remoteness of place, there is no violation of justice in revealing a juridical condemnation of another person. The problem concerns ignorance of such condemnations which have been forgotten by reason of the passing of time. To reveal such forgotten offenses is certainly a violation of charity, unless there is some justifying cause. But is it a violation of justice? Traditionally, it was held that justice was not violated, principally because the judge deprives the condemned man of his right to a good name absolutely.⁶ Some authors, such as Vermeersch,⁷ Merkelbach⁸ and Genicot⁹ do not support this view. Rather, if the law concedes rehabilitation to the criminal, or does not intend to defame him perpetually, the guilty man may regain his reputation; then it would be a violation of justice to reveal a long-forgotten condemnatory sentence. Modern civil law in the United States does not seem to intend the criminal's perpetual defamation; hence, there is reason to hold that any unnecessary divulging of a forgotten juridical crime is, in our country at least, a violation of commutative justice.¹⁰

It is held by all theologians that an occult sinner, even though his fault is known with certainty by a few, has a right in justice to his good name. Lugo¹¹ explains why this is so: The right to one's good name (in this case) is founded on apparent goodness, that is, the person is thought to possess praiseworthy qualities, when in reality he does not; this right is conditional, so that a proportionately grave reason will permit the manifestation of the truth. Hence, this right is distinct from the absolute right founded on the actual possession of praiseworthy qualities; the absolute right obviously admits of no exception, because any defamation would be calumny. It is the

⁶ Noldin, *Summa Theol. Mor.*, II, n. 651; D'Annibale, *Summula Theol. Moralis*, II, n. 260; and others.

⁷ Vermeersch, *Theol. moralis . . .*, II, n. 558.

⁸ Merkelbach, *op. cit.*, II, n. 430.

⁹ Genicot—Salsmans, *Institutiones Theol. Moral.*, II, n. 422.

¹⁰ Cf. Moore, *op. cit.*, 145 ff.

¹¹ De Lugo, *Disput. Schol. et Morales*, tom. 5, disp. 14, sec. 5, 7.

conditional right, founded on apparent goodness, that provides the occasion for detraction.

At times, it is licit to reveal true, hidden crimes or defects; this is justified either on the principle of the double effect or on the principle that the whole is greater than any of its parts. It is to be noted that such revelations cannot be called detraction; the sin of detraction is committed only if the revelation is unnecessary.

The necessities, or proportionate goods, which make it licit to manifest another's hidden crime or defects, may be either the spiritual or temporal good of any one or more of the following: (1) the community; (2) the informant; (3) the delinquent; or (4) a third party.

The common good is preferred to the private good of the delinquent, when there is a conflict between the two. Thus, an incompetent doctor, posing as qualified when he is not, may be exposed because his practice of medicine is a danger to the community. Similarly, a public official who is secretly guilty of treason or corruption may be exposed because he threatens the welfare of the state. Such manifestations are licit only when ignorance of the crime or defect prevents the community from obtaining some good or hinders the community from avoiding some evil.

The good—spiritual or temporal—of a third party (that is, one who is neither the delinquent nor the informant) may make licit the revelation of hidden crimes or defects; there may be an obligation in charity to make such a revelation. The basic principle is that the right of an innocent person is to be preferred to the right of the guilty, if there is a conflict in proportionate goods. Thus, a woman should be informed that her intended spouse is afflicted with a venereal disease, if such be the truth. Again, the natural law demands the revelation of any impediment (diriment or prohibiting) which stands in the way of a proposed marriage.

The delinquent himself may be aided through the revelation of his crimes or defects. For instance, evil associations of another may be revealed to someone who can break up these harmful relations. The principle here seems to be a preference for the whole (spiritual or temporal welfare) over a part (reputation founded on falsity.)

Finally, if ignorance of the hidden fact would cause notable harm

to the informant, he is permitted to manifest the fact. The collision of rights can be solved in favor of the informant only if there is adequate reason to deprive another of his reputation. Such would occur, for example, if oneself were accused falsely of a crime; then one could, ordinarily, reveal the true offender.

In all of these situations, whoever is to be benefited, the principle of moderation in defense must be observed. When applied to revelation of another's hidden crime or fault, this principle demands: (1) that the revelation be no more damaging than necessary, nor to more persons than necessary; (2) that revelation be not made if other less harmful means are available; (3) that there be well-founded hope that manifestation will produce the desired effect; (4) that the person informed of the matter be bound to secrecy, if possible. All of these precautions are of strict obligation; to omit any of them leads to a violation of commutative justice. Even when strict justice may not be violated, it must not be forgotten that charity obliges one to refrain from that which will unnecessarily cause harm to one's neighbor.

Detraction has many forms. Father Gerald Kelly has written of these: "The most obvious and least skillful method of all the forms of blackening another's good name is the unadorned lie. . . . At the other end of the scale is unreserved truthfulness in revealing the neighbor's real, but hidden faults. . . . Between these two extremes are several methods which contain some falsity and some truth. . . . There is the method of exaggeration . . . damning with faint praise . . . questioning of motives . . . blackening by suggestion . . ." ¹² There is no doubt that unnecessary revelation by the use of general terms, innuendo and insinuation, to signify defects without specification, is detraction; such may be more damaging than specific revelations.

Theologians are unanimous in declaring that detraction is a violation of commutative justice.¹³ The reason why this is so presents a difficult problem. Most of the authors emphasize the social evil of detraction—an argument that tends to prove only a violation of

¹² Kelly, "Notes on Detraction," *Review for Religious*, V (1946), 381.

¹³ Cf. Moore, *op. cit.*, 54 ff.

legal justice. Moore presents a tentative solution to the problem.¹⁴ He argues first from a comparison between the right to private property and the right to possess a good name; both rights seem to stem from the same necessity, namely, the maintenance of the life of the individual on a plane worthy of a human being; the natural law obliges man to provide for his life and to live in a proper human way. A second suggestion of Moore, to establish the violation of commutative justice, is that those rights which society has by reason of the individual's obligation in legal justice become, by a devolutive process, rights in commutative justice when there is a question of the individual's obligation towards other individuals. Father Farraher, writing in *Periodica*, points out the need for a title on which the right to a good name may be based.

Public servants, and candidates for office, are frequently targets for criticism. Merkelbach¹⁵ points out that the editors of newspapers can disclose the faults of candidates who are seeking dignities or public office, provided this knowledge contributes to the public good. Others, including the rival candidate, may licitly do the same, with the same qualification, namely, when the secret faults render the candidate unfit for the office in question. Since the public good itself may be hurt by adverse criticism of an office-holder, more than by revelations concerning a candidate, and since the hope of successful defense of the public good is diminished after the public servant is in office, the occasions for such licit revelations will not occur as frequently for office-holders as for candidates. Furthermore, as Father Connell¹⁶ declares, it must be remembered that the revelation of some secret fault of the past which no longer affects a person's character is not allowed, even in the heat of a political campaign. Furthermore, there must be strict adherence to objective facts. Those who resort to whispering campaigns should realize that whether they use detraction or calumny, they are guilty of a grave sin of injustice against their victim, both by robbing him of his good name and by depriving him unlawfully of his chance of election.

Not only public officials, but also persons famous for activities

¹⁴ *Ibid.*, 68 ff.

¹⁵ Merkelbach, *op. cit.*, II, n. 429.

¹⁶ Connell, *Morals in Politics and Professions* (Westminster, Md.: The Newman Bookshop, 1946), 96.

of a wide variety, are subject to an invasion of their privacy; even the "average man" may have the spotlight of publicity turned upon him. The domestic problems of private individuals are no longer secret when they have become matters of public record of recent date; hence, such may be published without any commission of the sin of detraction. However, the unrestrained publication of private faults of prominent persons cannot be justified on the basis of a reporter's desire for a scoop. He is limited to the news that is fit to print; and detraction is not fit news. The freedom of the press is not a license to violate the moral law.

"A clever writer does not find it difficult to convey a false impression even while saying nothing that can be proved to be false. . . . The same procedure is sometimes adopted by sophisticated newspaper writers in their comments on the banning of a book or a play by a judge or a censor. This attitude of 'smartness' not only constitutes an act of injustice toward those whom it holds up to ridicule, but it also tends to lower standards of decency in the readers."¹⁷

Syndicated columnists and network broadcasters for radio or television must use special precaution, since even the justifiable revelation of secret faults is limited by the principle of moderation. What might be permitted when the audience is small could very well be forbidden when the number of readers or listeners is extensive, for revelation may not be made to any more persons than is necessary to accomplish the good purpose.

The Constitution of the United States grants immunity to Senators and Representatives; "for any speech or debate in either House they shall not be questioned in any other place."¹⁸ This is a legal privilege, granted to the members of Congress for understandable reasons. It would be an abuse of the privilege for anyone to extend it beyond the limitations of licit revelation, or to use the privilege without the proper precautions. The basic reason for the privilege is the protection of the common good by those who are specially charged with that obligation; to use the privilege for personal attacks, or for advancement of self or party, through unnecessary revelations, must be labeled detraction.

¹⁷ *Ibid.*, 97.

¹⁸ Constitution of the United States, Art. I, Sec. 6.

The investigative agencies of the government are entitled in most instances to receive information, which otherwise could not be divulged, relative to persons connected with government positions or applicants therefor, as well as concerning persons who constitute a threat to the common good. Sometimes the information is merely unfounded suspicion. Obviously, there is great need for secrecy in the use of such files, according to principles already seen. Hence, unnecessary revelations from these files makes the revealer (not the "informer") guilty of detraction.

There is currently much discussion of the investigations and revelations made by the junior senator from Wisconsin. The coined word "McCarthyism" has been given a significance far beyond the activities of the senator. An attempt to evaluate the situation objectively indicates that Senator McCarthy has been the victim of detraction and calumny, rather than its promoter.

Since the sin of detraction is a violation of commutative justice, there is no doubt that one who has unjustly injured the good name of another is bound to make restitution. St. Thomas¹⁹ and some others hold that, if restitution cannot be made in the same order of goods, compensation must be made in another form. Thus, if one cannot restore another's good name, he would be bound to make restitution in money, honor, or some other goods. St. Alphonsus²⁰ and the majority of theologians disagree with that view; a strict comparison, they say, cannot be made between goods of different orders, hence, if one cannot make restitution in the same order as the injury, one is not obliged to substitute goods of a different order; only a judicial decree could demand such compensation. Therefore, one who has unjustly injured the good name of another can make restitution only by dispelling the bad opinion which others have of the detracted person. This obligation extends only to the detractor's immediate audience, unless he has urged or induced further dissemination of the detraction. Of course, if he foresaw and intended loss of goods of fortune (or other evils) through the detraction, there would be an obligation of restitution for any harm done in that order of goods.

¹⁹ St. Thomas, *Summa*, II-II^{ae}, q. 42, a. 2.

²⁰ St. Alphonsus, *Theol. Mor.*, I, n. 1000.

The obligation to make restitution is *per se* grave, if there has been grave injury to another's reputation. This injury may be grave either by reason of one serious offense, or by the coalescence of several minor detractions.

There are, however, causes excusing from the obligation of restitution, as well as temporary suspensions of the obligation. The excusing causes include: (1) previous recovery of his good name by the detracted party; (2) condonation by the detracted party; (3) common knowledge of the injurious fact, through means other than the detraction. Moral or physical impossibility suspends restitution.

The specific means to be used in reparation of detraction can be reduced to three: (1) a frank admission of guilt in detracting, together with a request that the hearers disregard what has been said; this method has little, if any, practical value; (2) a friendly attitude toward the detracted party, general praise of him, or even praise in the particular aspect in which he was detracted; these procedures will do no more than partially aid in restoring the good name, and specific praise with reference to the aspect in which he was detracted may well be untruthful; (3) the use of such expressions as "I was mistaken," "I was wrong," or "I lied," despite the arguments and authority of the Salmanticenses,²¹ the view that such expressions may be used does not appear to be solidly probable. The difficulty in making adequate restitution is an added reason for avoiding detraction.

Those who hear detraction have an obligation in justice or charity to correct the detractor (or, if possible, to anticipate the detraction and prevent it). The obligation in justice binds the superiors of the detractor or of the one detracted, for such have an obligation *ex officio* to prevent spiritual or temporal harm to their subjects.²² The pastor has an obligation to correct prudently the erring;²³ however, he must not dabble in politics.²⁴ Charity includes within its obligations fraternal correction; theoretically there exists a grave obligation of correction when the offense (detraction) is grave, but

²¹ Salmanticenses, *op. cit.*; cf. Moore, *op. cit.*, 97 ff.

²² Cf. Billuart, *Summa Sancti Thomae*, tom. 4, diss. 15, a. 2, n. 6.

²³ Canon 467.

²⁴ Cf. III Baltimore, 83.

in practice a private person is rarely bound to correct his equal, and almost never is he bound to correct his superior.²⁵

Civil law gives no protection against detraction, but usually restricts its protection of the reputation by laws against libel. The defendant is exempt from civil responsibility if he establishes the truth of the matter charged as defamatory. Since the law does not provide any means for restricting those guilty of detraction in public life, it is suggested that protests to the detractors themselves be the first effort to terminate their defamations unjustly afflicted on others. If such protests prove ineffective, the sponsors (advertisers) of broadcasters (columnists) would probably heed large-scale protests from listeners or readers. If those guilty of detraction are public officials, effective opposition may have to be postponed until the time of elections; then, however, their misuse of power would be adequate justification for opposition to their candidacy for re-election. These obligations seem to have their roots in legal justice and charity.

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DIGEST OF DISCUSSION:

Father Sheridan, S.J., opened the discussion by disputing the limitation of revelations concerning candidates for office to faults which "render the person unfit for the office in question." He held that a candidate offers himself on the basis of his whole life and integral character. No virtue can be possessed in a high degree unless all virtues are possessed to some degree. The presence of a fault may not render the candidate unfit for the particular office, but there would appear to be tacit condonation of the fault if it is not revealed, in order that a man of superior merit may be selected. Father Connell, C.S.S.R., pointed out that this was true when the fault still affected the candidate, but a fault which was completely of the past would not have a bearing on the candidate's present fitness, and so could not be revealed; the only effect of revelation would be to hurt the candidate's chance of election.

Father Connell went on to present the case of a renegade Cath-

²⁵ Cf. St. Alphonsus, *Theol. Mor.*, I, n. 979.

olic running for office; could the fact of his defection from the faith be revealed if it were not already known? Father Murphy, in replying, distinguished between the Catholic who abandoned the faith in adult life, and one who was merely baptized a Catholic and reared outside the Church; the first situation could be revealed as a continuing fault, whereas the latter would usually not render the candidate unfit.

Father Kelly, S.J., suggested that the candidate for office gives an implicit permission to his opponents to reveal all of his faults; this is the *de facto* situation, though not, perhaps, *de jure*. But, he asked, where can the line be drawn? Father Murphy and Father Connell attempted to draw the line by restricting the revelations to faults which affect the candidate at the present time, and render him unfit for the office in question. Father Goodwine and Father Van Antwerp, S.S., held that candidates, by putting their whole favorable record of the past into the campaign, imply that their complete past history (including forgotten faults) is the basis for judgment.

Father Sheridan pointed out that a real defect of the past constitutes a presumption against the candidate, and only his subsequent record can overcome that presumption. Father Duhamel, S.J., supported the position that totality of character is not considered if the office calls for only special qualifications, such as competency as an engineer. Father Connell and Father Murphy asked whether moral character would not have a bearing even in this case; for the engineer must be possessed of the virtues of justice, temperance, etc., in order to meet the qualifications of office.

Father Ford, S.J., returned to Father Kelly's distinction between the *de facto* and *de jure* situation; politicians themselves, he said, make a similar distinction between "dirty" politics and "clean" politics; in offering themselves as candidates, they give permission only for the latter.

Father Hennessy, C.P., proposed that candidates resent, and so do not give permission for, injection into the campaign of factors which they consider moral but which others may consider immoral, such as divorce; they feel that only formal guilt, not possible material error, should be a basis for judgment. Father Connell answered that ignorance of God's law, even if there is no formal guilt, can be

detrimental to the public; Father Murphy and Father Lawrence Riley illustrated this point by the case of a politician who considers graft legitimate; his lack of formal guilt does not make him a fit candidate, and the public must be protected against him. Father Ford added the argument that the distinction between formal and material sin is not practical because formal guilt may be absent not only because of ignorance, but also because of passion and other factors that would still make a candidate unfit.

Father Sweeney, S.J., and Father Connery, S.J., added that politicians do not give permission for revelation of their faults; that such is not the question at issue; rather, such revelations are permitted on the principle of the double effect, because the electorate has a need and right to know those things which render the candidate unfit for office. Father Connell related an instance in which a candidate himself revealed a past fault, and used it to win votes; for the people, being sometimes poor judges of morality, may approve an offense which is committed for a good motive.

Questioning the adequacy of Moore's theory of the right to a false reputation, Father Duhamel indicated a preference for the approach made by Farraher; that in order to have a right to reputation, the right must be based on a recognized title. An offense, for example adultery, which is revealed, blackens the reputation far beyond the particular virtue involved. Restoration of the good name does not come through a denial of the offense; rather, the right comes from the need of the individual, and the title is founded on his building up of good points. There is no right of an individual to reputation for any virtue, but there is a need of any individual for a good name to lead his life. Father Hennessy asked why there is a need for a title, if man has a right to a good reputation by nature. Father Kelly, pursuing the need for title, suggested that possession might be the title; that man, by reason of his external conduct, has possession of reputation, even though it might be a false reputation.²⁶ Father Murphy pointed to the distinction between possession and dominion, for possession is not a right but a mere fact.²⁷

Father Kelly remarked that use of the principle of double effect

²⁶ Cf. Billuart, *op. cit.*, n. 2.

²⁷ Cf. Noldin, *op. cit.*, II, n. 363.

could be questioned in the licit revelation of a secret fault; for if there is a right to reveal secret offenses, there is no application of double effect, but rather of the principle of totality, i.e., of subordination of the part to the whole. The principle of double effect is alleged too often when it does not apply, e.g., in amputations.

The discussion terminated with a comment by Father Ford, relative to Merkelbach's argument that man has need of his good reputation in order to save his soul. This would seem to argue to no more than an obligation in charity on the part of others; yet all authors say that the right to a false reputation is one founded on justice.