

THE CHANGING CONCEPT OF SERVILE WORK

Although the term, "servile work," has been used by the Church for centuries, it has never been defined. Definitions are to be found in customs, the decrees of particular councils, and in the teaching of theologians, which the Church accepted and continues to accept. Since the Code also refrained from defining the term, we can presume, according to Canon 6, that the Church desires to retain the discipline in effect prior to the Code. As a matter of fact, most of the post-Code writers make their treatment of servile work merely a matter of restating the teachings of approved pre-Code writers. Father Vincent Kelly, to whom the present speaker owes very much in the preparation of this summary, well points out that such uniformity as is found in most of the manuals is not readily justified nor does it stand unquestioned at the present time. Brother F. James observes that "the number and titles of articles on the topic of works forbidden on Sunday, and the regularity with which they have been listed in the *Catholic Periodical Index*, in the past ten years, is sufficient to demonstrate the timeliness of the problem."

The definition of servile work found in most manuals today contains these notes: servile work is corporal work; it is done for the advantage of the body; and it is such as was formerly done by servants and now done by day-laborers. Almost all these writers insist that the determining factor is the nature of the work alone, the *finis operis*, and not any extrinsic circumstance, such as the purpose of the agent, the *finis operantis*, or the fatigue attending the work, or its duration.

Servile work was little spoken of in the first two centuries, in an effort, perhaps, to break away entirely from Judaism. Leviticus 23, 7, ordered "that the first day shall be most solemn; thou shalt do no servile work thereon." The early Christians abstained as far as possible from those occupations which impeded the fitting and proper worship of God. Tertullian testifies that the faithful of his day spend Sunday in rest and quiet, and Constantine forbade forensic

proceedings and mechanical arts, but permitted farm-work when the inclemency of the weather necessitated it. The Council of Laodicea in its 29th canon decreed that the faithful should especially reverence the day of the Lord and that, if possible, they should not work. In the sixth century, Sunday became as it were the continuation of the Jewish Sabbath and therefore a day of bodily rest, and the term "servile" was naturally applied to those works which seriously prevented the sanctification of Sunday. This strict interpretation was soon mitigated by the Council of Orleans, but the distinction between servile and non-servile works everywhere continued and is today confirmed by the Code.

St. Martin of Braga, who died in 580, seems to have been the first writer to use the term "servile" in its present theological sense, but he did not define it, merely listing for us a number of works he thought included under the term: "opus servile, id est, agrum, protum, vineam, vel si qua gravia sunt, non faciatis in die Dominico." Although these were usually the work of slaves, all persons of whatsoever condition were forbidden to perform them, and many writers believe the chief reason for their banning was the maternal solicitude of the Church for the slaves.

St. Thomas repeated the reason for abstaining from servile work given in Leviticus. "Two things are to be observed in the hallowing of the Sabbath. One of these is the end; and this is that man occupy himself with Divine things. . . . For in the Law those things are said to be holy which are applied to Divine Worship. The other thing is cessation from work, and is signified in the words, 'thou shalt do no work.' The kind of work meant appears from Leviticus 23, 7, 'thou shalt do no servile work on that day'. . . . Wherefore . . . those works are called servile whereby one man serves another. . . . Those works are called servile (which are) contrary to the observance of the Sabbath, in so far as they hinder man from applying himself to the Divine Things." 2-2, q. 122, a. 4. ad 3.

Monsignor Knox says that the sense of the Hebrew text of Leviticus 23, 7, is that the people are to gather in solemn assembly on feast days, and hence nothing is to prevent one from giving himself to the service of God. To St. Thomas the important factor which determined the character of the work was to be found in the

work itself. Hence servile work is corporal work proper to those who serve. Zalba says that St. Thomas was not alien to the concept of servile labor dependent upon gain, and that he expressly admitted that the works considered in se could be changed by exigencies of time and place.

The followers of St. Thomas explicitly emphasized the nature of the work, maintaining that it matters little whether the work be done for money or for pleasure, whether it be greatly or slightly fatiguing. Thomists say that servile work is done principally by bodily effort, that it is ordained principally for the good of the body, that it is work usually done by those in the service of others. They distinguish liberal works, also, which primarily exercise the faculties of the soul, and common works, which are advantageous to both body and soul, and which are performed by both slaves and freemen. These theologians did not agree, however, in categorizing several particular works, placing a work now in one group, and again in another.

Zalba says St. Bonaventure more clearly considered those works especially servile by which a man was occupied for worldly gain and which prevented the worship of God. To him, the really important factor is the end intended by the worker, especially the motive of gain and the effect the work has on him himself. For the Seraphic Doctor, works that prevent keeping the sabbath holy are servile works indeed, and despite the distinction between servile and liberal works, he declared that those works are especially forbidden by the Church by which a man strives for earthly gain, and which are not necessary, and which greatly occupy the soul with lower things, so that it does not consider itself or God. St. Bonaventure was thus the first to link up the motive of gain expressly with the prohibition of work on Sunday.

Another Franciscan, Richard of Middletown or Villa Media, who flourished at the end of the 13th century, gave the theory of gain its fullest development, for according to him there are three kinds of servile work; materially servile only, any work which is corporal and external; formally servile only, any non-servile work which is done for gain; and materially and formally servile, a corporal work properly so-called done for gain. Richard forbade as servile only

works which were both materially and formally servile, but he did counsel against the performance of the other two types of work on the day of rest. And it is well to note that even those writers who adhered most closely to the teaching of St. Thomas were affected by recourse to the motive of gain at this time. St. Antoninus and St. Raymond forbade, for example, even writing when it was done for gain. The Fathers of the Sorbonne followed the same opinion, adding to the fundamental teaching of St. Thomas two elements which tended to restrict the number of forbidden works; all works must be omitted which would distract us from the service of God; and servile works must be omitted if performed with a view to temporal gain. As Father Vincent Kelly remarks, this would seem to allow those not done for gain.

Despite the divergency of views and the emphasis placed by some on the motive of gain, that definition prevailed which stressed the *finis operis*. McReavy, in the *Clergy Review*, declares this tradition became the standard doctrine of modern times. Cajetan, considered the leader of the reaction, was most explicit in showing that St. Thomas never considered the motive of gain, and he maintained that works are not servile nor do they become servile simply because they are done for gain. Suarez considered the theory of Richard of Middletown, which had been adopted by some few writers, on the whole as superfluous, especially the second part, that a work otherwise liberal could become servile from the formality of the intention, adding that no work can become servile from the intention with which it is done if that work of its nature is not servile. Suarez considered servile work as mechanical work, corporal not only on the part of the agent, but also on the part of the approximate effect to which by its nature it is ordained or by virtue of its institution. He further declared that the amount of labor, or the fatigue encountered, or the amount of time entailed, by no means entered into the consideration of the determination of the work. Both Cajetan and Suarez, however much they would, did not settle the dispute, because the question of gain and of the intention of the worker in performing the work were to rise again many times in the discussion of the true nature of servile work.

The Salamancans followed St. Thomas' definition, which they

considered the true definition. They based their determination of what is servile on the intrinsic nature of the work, and they considered all works of the mechanical arts as violations of the law. They gave us the verse, "rus, nemus, arma, rates, vulnera, lana, faber," indicating the works they considered forbidden, unless excused by necessity, dispensation or legitimate custom.

It was, however, Busenbaum who was to exercise the greatest influence on the current definition of servile work, that which is found in almost all the manuals. Busenbaum, having carefully studied Laymann, Suarez, Filiucci and others, embodied his conclusions in the definition found in his manual, that servile work is that work which is concerned with some external matter, mechanical or non-liberal, or which requires only the labor of the body and which is usually performed by servants or laborers. Three great moralists took Busenbaum's manual as their text, commenting on it in their learned volumes, La Croix, St. Alphonsus, and later Ballerini. They incorporated his definition into their texts, and this definition has been generally adopted down to our own times, although some writers did make concessions to common estimation, or apply some external norm, such as gain or the end of the law, in order to determine certain works considered of doubtful character. Although St. Alphonsus took over Busenbaum's definition, he added his own arguments and authority to his teaching. Very little original matter has been added since then to the treatment of the problem. Berardi in his *Praxis* tried to modernize the matter, and Bucceroni introduced a norm partially intrinsic and partially extrinsic. He said that both the nature of the work and common custom and estimation could be used as a criterion. Lehmkuhl also insisted on this double norm, and many modern writers refer to the importance of custom in determining certain doubtful works. Although few, if any, determined just what that custom is, Berardi believed that custom considered works otherwise liberal if done for gain as servile.

Dignant in his work on the Virtue of Religion, 1901, stressed the purpose or the intention of the agent, forbidding certain works otherwise doubtful when these were done for gain, and permitting them when done for recreation. Following him, others have retained the

accepted definition of servile work, but have used the motive of gain to decide the character of certain works. Thus Slater would forbid a professional photographer from practicing his art on Sunday while he would permit an amateur photographer to follow his hobby for recreation. Tanquerey, dealing with works of themselves doubtful and determinable only by circumstances and custom, permitted embroidering, fishing and even type-setting, when done for recreation, but, if done for gain, he considered such works servile. Prümmer, while stressing the *finis operis* and by no means the *finis operantis*, would allow the making of rosaries from devotion but not for gain, and Vermeersch deemed the motive of gain the determining factor in many doubtful works.

Since almost the turn of the century there has been much discussion among the theologians with regard to the definition of servile work, especially in the theological journals, and various writers have suggested various definitions. Some however still hold the common teaching that the *finis operis* determines the work, while others have taken a new approach. It can hardly be expected that all will be affected or influenced by the opinions suggested. Father Vincent Kelly admits that he himself has been influenced by some of the articles recently published, since it is now his studied opinion that these writers, influenced deeply by the social and religious changes in their respective countries, have given serious consideration to these changes in drawing up their definitions of servile work.

Berte who studied thoroughly the motive of gain as the determinant of servile work, while refraining from defining the same, declared that more attention should be given to the motive of gain. McReavy sees no serious obstacle in limiting the term servile work to those manual and corporal tasks which, alike materially and formally, are really work, i.e., toil, to the exclusion of those light manual occupations which materially are perhaps work, but formally are neither work nor menial, but the recreation of a freeman. Mahoney feels we are bound to abstain from those servile works which in the sound judgment and practice of Christians are opposed to the purpose of the precept which is to secure a weekly rest in order best to serve God. Noldin-Schmitt state that today there arises and grows the tendency on the part of many writers, in

determining works which are forbidden on feast days, of not attending to the nature of the work, but rather to this, whether the works leads man into servitude, in so far as it is an impediment to the cult of the soul, the family and of God. Ballerini-Palmieri say that common sense and custom coming therefrom well explain the law and better define the term than any description laboriously excogitated by the doctors.

Father Connery feels that man is absorbed in the daily struggle for existence, and thus distracted from the ultimate; that this pre-occupation is interrupted by Sunday rest. Hence today, it is not so much what a man does on Sunday as why he does it. Father Geraud thinks that particular cases should be judged in the light of the religious and social characteristics of Sunday rest, which is religious in so far as it is conducive to living a profoundly Christian and integral life on that day, thus assuring the fitting celebration of divine worship, and social in so far as it will change and evolve in its secondary interpretations, controlled and guided by the moralists so that the essential end of the law will always be attained regardless of the intervening changes in social life. It is Father Vincent Kelly's conclusion that the definition of servile work which makes the work to be avoided the work one does for his living has sufficient approbation, if not in the manuals, at least in the periodical literature of the past few years, the authors of which have striven to interpret prevailing customs. He further points out that most of the works which should be included under the term "servile work" will be included under this norm, while at the same time such a definition can give a reasonable explanation for permitting recreational work such as gardening, knitting, "do-it-yourself" work, and the like, Sundays.

Brother James writes that an adequate solution to a particular problem on servile work would seem to involve a judgment based both on the nature of the work, and on the end of the law and the intention of the worker. Merely to insist that all work not a part of a man's usual livelihood is allowed on Sunday is an oversimplification of the problem. So also would be to maintain that the nature of the work alone is the only standard for measuring and determining servile work. To him neither of the above approaches judges

a particular work according to the strict definition of servile work, for those theologians who stress the nature of the work do consider the end of the law under custom as an excusing cause, and those who emphasize the end of the law and the intention of the worker also consider the nature of the work. These latter would not permit heavy manual labor without necessity, because by its very nature such work is an impediment to the worship of God and the care of one's soul, and because such work is adverse to the freedom necessary for enjoying a little well needed relaxation.

Father Zalba believes that some evolution in the concept of servile work is both inevitable and desirable; that we should consider whether the work impedes worship; and that we should pay less attention to the nature of the work, for in itself it contains nothing dishonorable before God, even though it have some servile connotation. He feels that there should be suppressed on feast days occupations which men were induced to carry on, either by other men after the manner of ancient slaves, or by their own avarice, that is, the continuance on Sundays and holydays of their daily occupations, even though the labor is materially a liberal work, but one which cannot be performed without some hindrance or restriction of the liberty necessary for worship and for the care of their own and of their families' welfare. On the contrary, he would permit certain light occupations, which are materially useful and even in se servile, but which will distract one from his daily cares, and be conducive to family life and restful for the mind. By such work family life is fostered and spiritual dangers can be overcome. Hence in doubtful cases, we should be prone to confirm and promote such works as gardening, sewing, knitting, and the like, so that time may be well spent in something that is useful, if not in actual works of mercy. We should be, on the other hand, severe in forbidding doubtful occupations, such as typing, compositing, photography, etc., when done for money, since these can impede worship, family life and relaxation. Father Zalba would have us freely approve of the growing tendency to interrupt on feast days those liberal occupations which can scarcely be separated from the profane, because by them we continue on Sunday our weekly labor and occupations.

It is needless to remark that no attention has been given to the

number and variety of causes admitted by moralists as excusing from the observance of the law of Sabbath rest, for they definitely are not included in the scope of this discussion. A writer recently remarked in the *Boston Pilot* that it is no exaggeration to say that the reasons for which this particular law may be temporarily disregarded are far easier to find than in the case of any other law of Holy Church.

JOSEPH A. M. QUIGLEY,
St. Charles Seminary,
Philadelphia, Penna.

Digest of the discussion that followed the paper on Servile Work given by Father Joseph Quigley of St. Charles Seminary, Overbrook, Philadelphia.

Father Joseph Farraher, S.J. (Alma College) questioned the possibility of seeking clarification of the law forbidding servile work from the bishops of our country.

Father Francis J. Connell, C.S.S.R. (Catholic University) posed the question as to whether sufficient probability is had to follow in practice the theory proposed by Father Quigley. Father Quigley and Father Connell feel a man could work on Sunday on his own home. However, it would not be well for him to play golf on Saturday and work at home on Sunday. Father Connell thinks that we must still keep to the idea of the nature of the work.

Father John A. Connery, S.J. (West Baden College) suggested that if we defined servile work as "manual work for profit or gain" it would give more uniformity to the application of principles.

Father Matthew Herron, T.O.R. (Steubenville College) mentioned that Father Joseph Sullivan had defined it as "work you do for someone else for profit"—in a doctoral dissertation approved at the Angelicum.

Monsignor William A. Bachmann (Cleveland Seminary). Would it be advisable to teach publicly the permissibility of doing a heavy type of work as long as it was done as recreation.

Father Alphonsus Thomas, C.S.S.R. (St. Alphonsus Seminary, Woodstock, Ontario) asked: Does Father Zalba indicate that work that man could do in Sunday garb would be permitted?

Father Robert Springer, S.J. (Woodstock College) asked: Do we have enough information on the subject for a doctrinal interpretation? Father Quigley, referring back to his talk, pointed out that the Church uses the term "servile work" but has never definitively defined it.

Father John Harvey, O.S.F.S. (Hyattsville, Md.). Even if the concept of servile work proposed by Father Quigley is sufficiently probable, would not pastoral prudence suggest curtailment in spreading the information unless the bishops care to make a definite statement. Pastoral prudence would recommend that the more probable opinion be given—although it is the more strict view.

Father Quigley thought that the more liberal opinion should be used in judging penitents in confession.

Father Francis Sweeney, C.S.S.R. (Mt. Alphonsus Seminary): Doesn't the Church Law sanction the old interpretation—in virtue of Can. 6?

Father Kenneth Moore, O.Carm. (Whitefriars Hall, Washington) held the same application of Canon 6. The traditional view would seem, therefore, to indicate that the nature of the work is the first consideration.

Father Gommar DePauw (Mount St. Mary's, Emmitsburg). Father Quigley, I feel that your opinion undermines the sanctity of the Sunday observance.

Father Farrar mentioned that in teaching students he exhorts them to avoid servile work but he doesn't bind them under strict obligation.

Father Connery. Would it help for us to use a more positive definition?

Father Herron. What about the other end of Sunday, i.e. fostering family life? The terms heavy and light—are these terms to be considered in a relative or absolute sense.

Father Connell, C.S.S.R. was interested in knowing what theologian definitely states that a person is free to do any work as long as it is not done during the week as a means of livelihood and not done for money.

Father DePauw asked Father Ford about the element of scandal in doing servile work. Father Ford did not think it too important because the person might have an excusing cause and people today are not apt to take scandal from it.

Father Stephen Hartdegen, O.F.M. (Holy Name College, Washington) pointed out the significance of Divine Revelation in regard to the moral precept in the observance of the Sabbath. Man acknowledges the absolute sovereignty of God by proper observance. It is the spirit of the Scriptural teaching that should be observed. Shouldn't the spirit of the Old and New Testament be brought out in our instructions of our people in regard to Sunday observance so that they are not satisfied merely with a twenty-five minute Mass.

Father Ford. Father Hartdegen indicates the need of a positive approach to our people. However, the matter we are discussing is concerned with an ecclesiastical law and must have meaning if it is going to be the basis of accusing one of sin.

Father Leander Hartdegen, O.F.M. Saint Theresa had refused to follow the advice of her confessor and then was asked to do it in honor of

the Holy Ghost, which she did. Should we not ask our people to be more fervent in observance of the traditional teaching of the Church in regard to servile work.

Father Connery. Father Gerald Kelly, S.J. has suggested that the whole matter of servile work be considered as a matter of counsel rather than of precept.

Father Moore asked whether the priests present would be willing to abstract completely from the nature of the work and permit it as long as it was not for gain. They were not willing.

Father Robert M. Kelly, S.J. (St. Mary's, Kansas) closed the discussion period with the thought that in some cases the work might be done to save money but not for any recreational end.

REV. WILLIAM J. KING
St. Elizabeth's College
Convent Station, N. J.