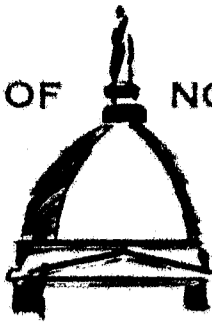


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OBSCENITY AND THE LAW

Legality and morality are frequently confused. People sometimes don't want to accept the responsibility for their own morality, so they want immoral actions declared illegal -- as a protection. On the other hand, they sometimes justify immorality because it isn't illegal. Both of these mentalities are in evidence with regard to obscenity, particularly in printed matter. Yet in this area, in view of the position taken by the Supreme Court, it is important that the distinction between legality and morality be made.

Judge Roger J. Kiley of the United States Court of Appeals of the Seventh District, a Notre Dame graduate of the class of 1923, has recently published two articles in which he sets forth the position of the courts with regard to obscenity. One article was written for New City (October 1, 1963) -- "Obscenity and the Courts" -- and the other appeared in The Critic (October-November, 1963) -- "Obscenity and the Supreme Court."

Excerpts from The Critic article clearly set forth the Court's attitude and show how Supreme Court decisions place greater responsibility for morality on the people themselves. Judge Kiley is writing specifically about the decision which made it legal for Herman Womack of Manual Enterprises, Inc., to circulate three of his publications through the mails.

"The justices said the magazines were 'dismally unpleasant, uncouth, and tawdry,' and Justices Harlan and Stewart, who joined in the majority opinion, were careful to pin down their disfavor: 'In
(continued on page three)

MISSION SUNDAY

Sunday is Mission Sunday. Let your appreciation of the gift of Faith be measured by your generosity in the collection basket. The entire collection goes to the Society for the Propagation of the Faith.

"We are not Christians for ourselves alone, but also for others, in order to save our brethren. All Christians are in fact called to spread their Faith by helping the missionaries in charge of founding the Church amongst pagan populations. The Council will certainly lay the maximum stress on the Church's missionary vocation." --Pope Paul VI

• **RALLY AT 7:30 P.M. FRIDAY** •

WEST MAKES A RUSSIAN POPE Someone has called Morris West the Catholic answer to Lloyd Douglas. One doesn't have to read very far into The Shoes of the Fisherman* to discover traces of the soap-operatic: "Cardinal Leone threw back his great mane and laughed." "Chiara felt again the pang of treacherous pity for George Faber and his puzzled middle-aged heart."

The man in the Fisherman's shoes in this novel is Kiril the First, a Russian with a black Byzantine beard who fictitiously here becomes Pope after the death of John XXIII. Having been imprisoned for seventeen years in Russia, Kiril knows intimately the Russian Premier, Kamenev -- Kamenev having been at one time his torturer in prison. Actually in the end, it was Kamenev who effected Kiril's escape from behind the Iron Curtain. These two Russians, Kiril and Kamenev, are going to help all men escape from behind their Iron Curtain of Fear today.

Cardinal Ottaviani, who is the villain in a number of books on the market this fall, is also a quasi-villain (as Cardinal Leone) in this novel. "Leone lived up to his name," West tells us in this story. "He had a white lion's mane and a growling temper. He was, moreover, a Roman, bred-in-the-bone, dyed-in-the-wool. Rome was for him the center of the world, and centralism was a doctrine almost as immutable as that of the Trinity and the Procession of the Holy Spirit. With his great eagle beak and his jowly jaws, he looked like a senator strayed out of Augustan times, and his pale eyes looked out on the world with wintry disapproval. . . Innovation was for him

*Morrow and Co., 1963, \$4.95

the first step toward heresy, and he sat in the Holy Office like a grizzled watchdog, whose hackles would rise at the first unfamiliar sound in doctrine interpretation or practice."

West, naturally, finds the world in a perilous state at the beginning of his story, but moves his chessboard characters swiftly to check the threat of catastrophe.

In one chapter, here, an unnamed doctor delivers a woman of a monster in a tenement house close to the Pantheon. He immediately asphyxiates the child. West likewise delivers us from, and asphyxiates, our monstrous fear of the Russians in these pages. If any more monsters, moreover, are produced by the thalidomide-isms of our day, we are confident that our man West will be well able to deal with them.

Anyone who enjoys such novels as The Robe and The Big Fisherman will probably also like The Shoes of the Fisherman.

--Claude L. Boehm

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Gregory Cardinal Agagianian was born in Russia, in 1895. He is one of the four moderators of the Council and Prefect of the Congregation for the Propagation of the Faith.

OBSCENITY(continued from the front page)

conclusion, nothing in this opinion of course remotely implies approval of the ...magazines,...still less of the sordid motives' of Mr. Womack. The Court thought, nevertheless, that the magazines were not obscene under the current legal test of the famous Roth case of a few years ago. Under that test two elements have to be present in challenged material before it can be declared obscene. The dominant theme of the material has to appeal to the pruriency of the average person in the community, and secondly, must clearly offend against contemporary community standards.

"So the Court said it would not be enough under the test that Mr. Womack's three magazines had prurient interest appeal; the magazines also had to be 'on their face' so offensive in portraying their contents as to be unacceptable under our contemporary mores...

"...If we have been content to look the other way while our mores were slipping, we cannot restrain Mr. Womack from his progressive enterprises in the sexual interests of his...readers...

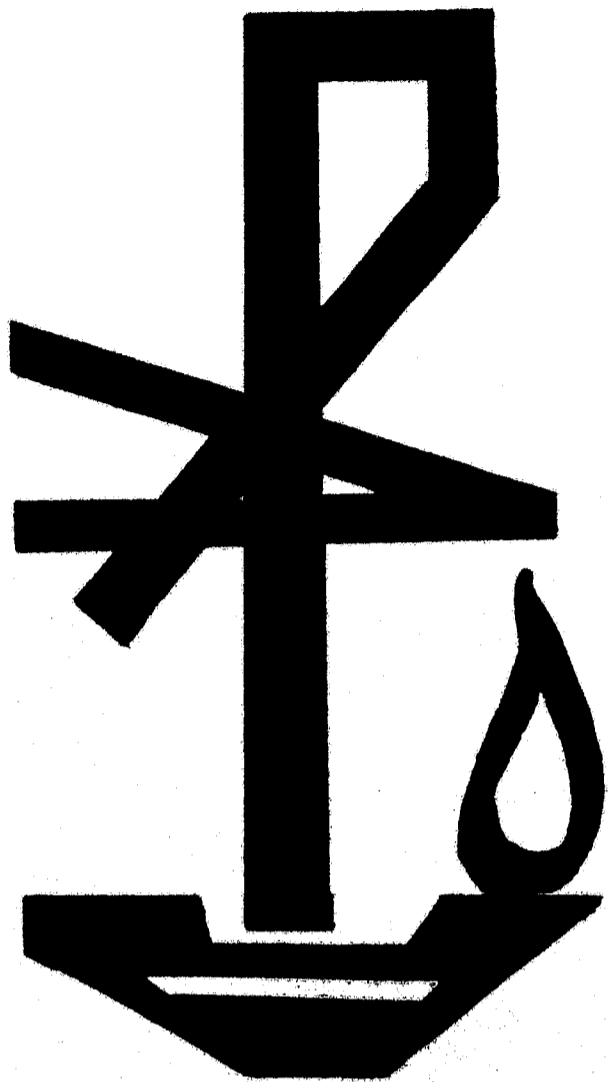
"The marginal obscenity industry has developed by winking and leering the susceptible segment of our national community to ever coarsening literary frontiers...Now and then the censors in the community are startled into action, and members of the marginal obscenity industry are arrested and brought to court. At the trial they use the constitutional right of freedom of expression as a shield to ward off the slings and arrows of the outraged censors. Victorious, the industry renews its winks and leers, with promise of greater titillation than before. The excited susceptible audience follows to the next frontier, and new arrests bring new victories...

"So it goes. And where it will end nobody knows...The national community has already been taken so far, the Supreme Court thinks, and our society has been so cheapened and vulgarized that we must accept Mr. Womack's publications.

"...The Court has repeatedly held that the Constitution does not protect obscenity. In deciding what material is obscene the Court has been faithful to the liberal spirit which inspired the constitutional freedoms of speech and of press. 'Ceaseless vigilance is the watchword to prevent their [freedom of speech and press] erosion by Congress or by the states.' The Court in each obscenity case balances the danger to freedom in expressing ideas --even unorthodox, unconventional and abhorrent ideas -- against the danger to public morality from obscenity...

"We ought to dwell on Socrates' notion that 'the life which is unexamined is not worth living.' Perhaps reflection upon this admonition would disclose that the Supreme Court had no alternative... if we want our obscenity law tidied up, we had better first tidy up our life."

WHERE ARE WE GOING?



You may notice a few changes in our liturgical life here at Notre Dame this year. Actually, this is nothing new for Notre Dame since the University has been recognized as one of the leaders in the liturgical movement here in America. Our summer sessions give ample testimony of this.

In recent years much has been said and done about the liturgy on all levels ranging from the well-known papal encyclicals and reforms to vital discussion and interest in the parochial unit. This exchange of views has been (and continues to be) lively -- at times there are a few sparks! Gradually, though, a meaningful reform has taken place in many areas, and one of the first concerns of the Council has been to evaluate this movement and to revitalize our worship in terms of its extension into our daily life.

What is happening here at Notre Dame to many is not drastic or even impressive. The changes this year are slight when compared with the eventual reforms which are being planned by the Council Fathers and theologians at the urging of zealous laymen throughout the world. Cardinal Frings, Archbishop of Cologne, expresses well the feeling of the great majority of those taking part in the discussions in Rome when he states that the liturgical movement is of capital importance to the whole Christian world. He clearly sees that it is now possible for many to rediscover the Church in a way which was not altogether possible in past years -- Sacred Scripture and the Fathers of the Church are now the nucleus of that life which the Holy Spirit is engendering in directing us to Christ, our Mediator.

We sincerely hope this year to seek and find greater depth for the religious program here at the University by gradually applying some of the newer principles of liturgical worship where possible. A fairly large number of students have taken the initiative to implement this participation. We feel, however, that there could be a corresponding growth in our basic understanding of what we are trying to bring about. Do we really comprehend our Mass? Do we correctly evaluate our own function as members of a community which lives, works, recreates, and prays together? These are some of the things we hope to investigate this year from week to week, trusting that we can discover together that Christ, our Mediator, is not only the "Christ of yesterday" but the Christ who "is the same, yesterday and today, yes, and forever." (Heb. 13:8)

--Father Berg